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Chairman: Mrs. Georgette CISELET (Belgium).

**AGENDA ITEM 35**

Draft Convention on Freedom of Information (A/AC.42/7 and Corr.1, annex, A/3868 and Add.1-8, A/4173 and Add.1-2, A/C.3/L.826, A/C.3/L.830/Rev.1, A/C.3/L.831-832, A/C.3/L.834, A/C.3/L.839 and Add.1, A/C.3/L.841) (*continued*)

**ARTICLE 1**

1. Mr. REVOL (France) explained that the only purpose of the French amendment (A/C.3/L.830/Rev.1) to the existing sub-paragraph (a) of article 1 of the draft Convention on Freedom of Information (A/AC.42/7 and Corr.1, annex) was to enable the Committee to decide whether or not it wished to make a distinction between freedom to impart opinions and freedom of information; once article 1 had been adopted, such a choice would no longer be open to it. As the French delegation had already pointed out (972nd meeting), opinions were subjective, whereas information in the narrowest sense, was objective. The two cases were different, therefore, so far as limitations were concerned. It might be objected that it was difficult in practice to distinguish between opinions and information; but that distinction was already implicit in the preamble, which now included the seven-Power amendment (A/C.3/L.840 and Corr.1) laying down special standards for information that did not apply to opinions.

2. The new sub-paragraph which the French delegation proposed for insertion in article 1 (A/C.3/L.830/Rev.1) was essential because the existence of different sources was a guarantee of both veracity and freedom of information. Objective truth was difficult to establish, and could emerge only from a multiplicity of reports and accounts which, taken by themselves, would have little value. To ensure that there should be different sources of information was to guarantee the right of every user of information to be accurately informed; and it was also a guarantee of his freedom. For if an individual was not able to choose, he was not free; if he could not learn the facts as seen from different angles, he could not form an opinion freely, and therefore did not enjoy full freedom of information. It might be argued that some countries could not afford to give their peoples a choice between different sources of information; but in many cases radio broadcasting could make up for inadequate national information media. Moreover, the Convention was ob-

viously not intended to establish a right arbitrarily, and the contracting States would not be required to respect and protect the right of every person to choose between several different sources of information unless they had the means to provide such sources. The primary objective of the assistance that the United Nations was planning to give the underdeveloped countries in the field of information should be to enable those countries to acquire more sources of information. The guarantee of the right laid down in the new sub-paragraph proposed by France had a psychological value, also, which was far from negligible. If there was only one source of information, however perfect, providing it with news, the public would inevitably feel cheated, and feel that there were things it was not being told. In its existing form, the draft Convention aimed mainly at protecting professional journalists. The purpose of the French amendment was to extend that protection to the users of information. By requiring the contracting States to "respect" and "protect" the right referred to, the amendment would protect the public from any pressures that might be exercised either by the authorities or by certain interest-groups, and give it a weapon of self-defence against anyone who tried to foist inaccurate information on it.

3. The arguments which had been advanced against the amendment to the preamble proposed by Belgium, Guatemala, Iceland and Italy (A/C.3/L.837) did not apply to the text proposed by France. The issue in the case in point was not the insertion in the preamble of a phrase which, according to some delegations, related only to details of application, but the enunciation, in the first of the substantive articles of the Convention, of an essential principle which governed all the others. To vote against the right of every person to choose between different sources of information would be to vote against the only fair and effective way of ensuring accurate and undistorted news, and therefore against real freedom of information, which included not only the right to inform but also the right to be informed.

4. Mr. COX (Peru) said that the Peruvian delegation had submitted its amendment (A/C.3/L.834) to sub-paragraph (a) of article 1 because it felt that it was essential to provide a link between article 1 and article 2. Obviously, information media should not be subjected to censorship or to unjustified restrictions. However, some restrictions, such as those specified in article 2, were essential to the enforcement of an international instrument. They should therefore be referred to in article 1. Some might perhaps feel that it would be wiser to make no reference to provisions which had not yet been adopted. His own view was that the draft Convention should be viewed as a whole. If article 2 was subsequently deleted, the text as modified in accordance with the Peruvian amendment could be reconsidered. In any event, he would be willing to change the form of his amendment and make

a separate sub-paragraph of it, if some delegations thought that it overloaded sub-paragraph (a).

5. Mr. SAHNI (India) felt that there was a difference of meaning between the words "seek" and "gather" which was none the less real for not being obvious at first glance. The two verbs applied to different activities, or at least to activities which were envisaged from different standpoints. He quoted the definitions of the words "seek" and "gather" in the Oxford Dictionary. Although it was current usage to speak of "seeking the truth", it was more usual to say "gathering information"; and the verb "to gather" was more correct from a technical point of view, being the one used by journalists themselves. Such were the considerations which had prompted the five Powers to submit their amendment (A/C.3/L.831); they should ensure it the Committee's approval.

6. Mr. VAN REMOORTELT (Belgium) said that he had listened with interest to the Indian representative's statement; but the arguments advanced did not seem convincing. Assuming that people should have access to as much information as possible, the word "seek" was the obvious choice, as it implied a positive attitude on the part of the individual, who had the right to obtain information by all the means at his disposal. The word "gather", on the other hand, implied that the public should merely take note passively of information supplied by others. There was no real freedom of choice unless individuals and communities could seek information and opinions for themselves. He was therefore unable to support the joint amendment.

7. Mr. BAROODY (Saudi Arabia) felt that the new sub-paragraph proposed by France (A/C.3/L.830/Rev.1) should be more clearly worded, so as to preclude any possibility of divergent interpretations. It was true that the facts were seldom seen in the same light by everyone; if several people witnessed some incident, they would each give different descriptions of it according to the circumstances in which they had seen it, and according to their temperament and personalities. The French delegation's intention was apparently to guarantee everyone the right to form an opinion by obtaining information from different sources; but the wording of the text it was proposing was not entirely satisfactory. First, it was questionable whether the words "respect" and "protect" should both be used; when a State respected a right, it was bound to ensure the protection of that right, and if it did not respect it, it would naturally not protect it. The French delegation had perhaps wished to give special emphasis to the idea contained in its amendment; but it would be better to use only one of those verbs. Again, if the word "several" was used, the possibility of information being obtained from only two sources was ruled out. The word "different" was in any event not very precise: it could mean "divergent"—in which case the word "several" was unnecessary—or "diverse"—the facts and opinions transmitted to the public being comparable in substance but presented differently. There was an even more serious difficulty. Every individual had the right to choose his opinions, but it might be dangerous to guarantee him the right to choose between several sources of information. Some might invoke such a provision to justify malpractices. A journalist could easily obtain information from a single source disseminating inaccurate information and refuse to obtain information else-

where; for instance, he might use only inaccurate information provided by some Government for propaganda purposes. What should be said was that every individual had the right to sift information from different sources.

8. In reply to the Belgian representative, he emphasized that the word "gather" implied a choice; the attitude it implied was therefore not passive. The word "seek" had the disadvantage of suggesting some sort of inquisition. The Committee should therefore adopt the five-Power amendment (A/C.3/L.831).

9. Mr. KETRZYNSKI (Poland) said that the French amendment to sub-paragraph (a) raised a complex problem. The word "opinion" appeared four times in the French text of article 2; to delete it in article 1 might therefore prejudice future action. So far as the five-Power amendment was concerned, he pointed out that there was only a very fine shade of meaning between the words "gather" and "seek". He himself would on the whole prefer the verb "to gather", which was broader and meant not only to collect information but also to make suitable use of it, in other words to arrange and present it, whereas to seek information was merely to endeavour to obtain it. His delegation would support the Peruvian amendment (A/C.3/L.834).

10. With regard to the new sub-paragraph proposed by France, he observed that the Committee was preparing a Convention, in other words, an instrument imposing certain obligations on contracting States. States had to know exactly what commitments they were entering into and what responsibilities they were assuming. It was of course essential to respect the average citizen's right to form his opinions; but article 1 of the draft Convention was sufficiently explicit on that point. Moreover, the text submitted by the French delegation included some ambiguous expressions. It was not clear, for instance, exactly what was meant by the word "several". Apart from the fact that for technical and financial reasons it was difficult for some countries to give the public the opportunity to obtain information from several sources, no Government could undertake to comply with an obligation expressed in such vague terms. Normally, sources of information meant news agencies; it might be asked how many such agencies a country had to possess to meet the proposed conditions. Similarly, it might be asked whether a country had to have several television or broadcasting networks. The word "different" was also ambiguous. There was not a single country in the world in which different opinions were not expressed either in the Press or on the radio or television. Consequently, the French amendment could only refer to the sources of information themselves; which brought one back to the problem of the news agencies. Lastly, the word "protect" also raised a problem of interpretation. In many countries, news agencies were privately owned, so that the opportunity to express an opinion in the Press depended on certain economic circumstances. He asked whether the French amendment was to be interpreted as meaning that the public authorities were required to assist groups which could not afford to publish a newspaper. In view of those difficulties, it would be preferable to retain the original text of article 1, which defined the obligations of contracting States in general terms without going into details.

11. Mr. RULLI (Italy), referring to the five-Power amendment, suggested that the word "seek" should

be retained, the words "and gather" being inserted after it.

12. Mr. VAN REMOORTEL (Belgium) strongly supported that suggestion.

13. Mr. REY (Venezuela) said that in the English text the word "gather" seemed to him preferable. "News gathering" was a stock phrase, and it had a precise meaning in journalistic parlance. On the other hand, in Spanish the word "buscar" was more suitable than "recoger". The word "buscar" suggested positive action, and was more appropriate to the journalist's role, which was to seek and solicit information. However, in addition to information which was sought, there was also information which was gathered: Press releases, for instance. The formula suggested by the Italian representative therefore appeared to be the best.

14. The wording of article 1 was satisfactory. However, he would vote for the new sub-paragraph proposed by France. It was the logical consequence of the fourth paragraph of the preamble, which had been inserted on the proposal of France. The addition would make the text of article 1 clearer and more precise. As regards the Polish representative's comments, he pointed out that sources of information meant neither news agencies nor broadcasting networks, but any individual or public or private agency which a journalist could approach in order to obtain information.

15. Lady PETRIE (United Kingdom) said that "gathering" implied collecting something already available, "seeking" involved looking for it when it might be hidden; one sought knowledge or truth, one did not gather them. Moreover, gathering information was limited to the journalistic profession, while seeking it was an activity of any member of the public.

16. She took it that the Convention, and article 1 in particular, dealt with people in general and not just journalists; that indeed was a reason for supporting the French amendment (A/C.3/L.830/Rev.1). It was notable that the phrase "seek, receive and impart" occurred both in the Universal Declaration of Human Rights and in article 19 of the draft Covenant on Civil and Political Rights,<sup>1/</sup> from which that passage in the draft Convention was derived; indeed, the phraseology of all three instruments was nearly identical and it was clear that they must all be speak-

ing of the same thing—the right of everyone to freedom of information, not simply the right of journalists to gather information. It would thus be unwise to introduce new shades of meaning.

17. Mr. LOPEZ (Philippines) said that while the word "seek" was used in the Universal Declaration of Human Rights and in the draft Covenant on Civil and Political Rights, the word "gather" appeared in the title of the Convention on the Gathering and International Transmission of News drafted by the Geneva Conference. In a convention, it seemed better to use the word "gather", which was more technical and had a precise meaning for specialists in journalism and information media. The verb "gather" did not imply a purely passive attitude and did not rule out selection. As to the Italian representative's suggestion, the use of two words was only justified when there was a distinct difference in meaning between them; that was not so in the case under consideration.

18. He had no objection to the Peruvian amendment (A/C.3/L.834), which would provide a closer link between articles 1 and 2. The French amendment to sub-paragraph (a), calling for the deletion of the words "and opinions" raised an important point of substance. It seemed difficult to treat information and opinions separately. In actual fact, the two concepts could not be dissociated, and information was frequently accompanied by interpretation. The deletion of the words "and opinions" might well cause difficulties.

19. As to the new sub-paragraph proposed by France, he pointed out that the reader did not necessarily make a choice between different sources of information, but could draw on all of them. He therefore suggested that the words "to choose between several different sources of information" should be replaced by the words "to have at his disposal various sources of information." The adjective "various" would have broader implications than "several" and "different". It would mean the largest possible number of sources, whether the information given was identical or different. He was opposed to the use of the verb "protect", if it was to be understood as meaning that it was the Government's duty to set up or to finance information services. On the other hand, he would willingly accept it if the intention was to prevent Governments from establishing a monopoly, to the detriment of existing sources of information.

The meeting rose at 1 p.m.

<sup>1/</sup> Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7, annex I B.