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Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SIXTY-SEVENTH MEETING

Held at Headquarters, New York,
on Thursday, 8 April 1954, at 11 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. CASSIN	(France)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France
	Mr. ROUSSOS	Greece
	Mr. RAJAN	India
	Mr. PIRACHA	Pakistan
	Mr. BIRECKI	Poland
	Mr. ASIROGLU	Turkey
	Mr. SAPOZHNIKOV	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV	Union of Soviet Socialist Republics
	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
	Mr. GREEN	United States of America
	Mr. RODRIGUEZ FABREGAT	Uruguay

Representative of a specialized agency:

Mr. MANNING	International Labour Organisation
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Representatives of non-governmental organizations:

<u>Category B:</u>	Mrs. GIROUX	Catholic International Union for Social Service
	Mr. LONGARZO	International Conference of Catholic Charities
	Miss RANDALL	International Federation of Business and Professional Women
	Mr. SLESZYNSKI	<u>Nouvelles equipes internationales</u>

Representatives of non-governmental organizations:

Category B (continued): Mr. JACOBY World Jewish Congress
 Mrs. POLSTEIN)
 Mr. RONALDS) World Union for
 Mr. PENCE World Alliance of Young
 Men's Christian
 Associations

Secretariat:

 Mr. SCHWELB Deputy Director of the
 Division of Human
 Rights
 Mrs. BRUCE)
 Mr. DAS) Secretaries of the
 Commission

REPORT OF THE SIXTH SESSION OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES: STUDY OF DISCRIMINATION IN EMPLOYMENT AND OCCUPATION (E/CN.4/703, paragraph 123 and Corr.1; E/CN.4/L.363, 364, 375 and 376) (continued)

Mr. SCHWELB (Secretariat) replied to the Philippine representative's question whether it was necessary for the Commission to ask the Council to invite the Secretary-General to make material relating to discrimination in employment and occupation available to the Sub-Commission. The Secretary-General felt that it would be his obvious duty to put at the disposal either of a specialized agency or of an organ of the United Nations engaged in a study on discrimination in employment and occupation any pertinent materials relating thereto that he might have in his possession and he did not think that it would be necessary for either the Commission or the Council to adopt any resolution authorizing him to do so.

Mr. RODRIGUEZ FABREGAT (Uruguay) introduced his amendment (E/CN.4/L.376) to the United States draft resolution (E/CN.4/L.363), to add the words "that study to be carried out also in the Non-Self-Governing Territories". The amendment was self-explanatory; nevertheless, there were other points in the United States draft which were open to criticism. The letter from the International Labour Office to the Secretary-General (E/CN.4/L.364) contained the provision that the Governing Body should reserve until the autumn session its views concerning the most appropriate form of future co-operation with the United Nations in regard to the matter. That seemed to be unduly dilatory and the whole question of the time element should be taken into account. A resolution on such an important study should be as clear and comprehensive as possible.

Mr. BIRECKI (Poland) introduced his amendments (E/CN.4/L.375) to the United States draft resolution. His delegation had welcomed the submission of the draft resolution, which constituted a basis for an exhaustive debate on an

important question relating to discrimination as a whole and especially to economic discrimination. Nevertheless, the draft contained several weaknesses, which his delegation hoped to eliminate by its amendments.

The Commission's purpose should be to render the study as sound and comprehensive as possible and to ensure that it would be carried out within the shortest possible time. Those elements were unfortunately lacking in the United States text. The Polish delegation had therefore proposed, in point 1 of its amendment, that an express reference should be made to the Commission's approval of the Sub-Commission's internal resolution C, in which not only the choice of a study, but also its stages and scope and the time element were included. A reference to the procedure by which the Sub-Commission should study the question would indicate that the Commission had taken a positive stand on the matter. The Sub-Commission's general rules and methods for the study were similar to those it had adopted in internal resolution B on the study of discrimination in education; those methods had been approved by the Commission when it had adopted draft resolution A.

He was not opposed to the Uruguayan amendment, but considered that the principle of geographical scope would be taken into account satisfactorily among all the principles contained in internal resolution C.

The purpose of point 2 of the Polish amendment was to clarify the fact that collaboration between the Sub-Commission and the ILO should be carried on along the lines proposed by the Sub-Commission in internal resolution C. The Sub-Commission had proposed that the ILO should undertake a preparatory study, on the assumption that the Sub-Commission would be able at its seventh session to deal with the problems relating to the final study on the basis of the ILO's preliminary work.

The United States draft resolution also omitted any reference to collaboration between the ILO and the Secretary-General; that reference was included in the Polish amendment to the United States sub-paragraph (b). The amendment also referred to paragraphs 2, 3 and 5 of internal resolution C as a basis for the ILO's preliminary study. Those paragraphs related, respectively, to the preparatory study, the general principles adopted by the Sub-Commission

to guide the Special Rapporteur on discrimination in education, and the time element. The letter from the International Labour Office showed that anxiety with regard to that element was justified, since, if the Governing Body was to wait until its autumn session to express its views on the nature of the report, it was hardly likely that the Sub-Commission would have a preparatory study as a basis for its work at its seventh session. Furthermore, in sub-paragraph (a) of the letter, the Governing Body decided that the Office should undertake a preparatory study; it had therefore accepted the principle that its work in that connexion should be preparatory and there was no need to change the terminology, as did sub-paragraph (b) of the United States draft resolution.

His delegation had proposed point 3 of its amendment, to sub-paragraph (c) of the United States draft, because it considered that all the available material should be placed also at the disposal of the Sub-Commission, which could not do concrete work without full documentation.

Mr. HOARE (United Kingdom) said that the Polish representative had raised an important point of principle. Paragraph 4 of Council resolution 502 H (XVI) which was referred to in an incomplete form in the fifth preambular paragraph of resolution C (E/CN.4/703/Corr.1) expressed the Council's belief that future studies which fell within the scope of specialized agencies or other bodies should normally be carried out by the specialized agencies or other bodies directly concerned; the appointment of the Rapporteur on discrimination in the field of education had been approved as an exception. The Council had obviously intended that the Sub-Commission itself should undertake only such studies as did not fall within the competence of a specialized agency. The statement in the sixth paragraph of the preamble to resolution C referring to the "assistance" of specialized agencies and other bodies would not be objectionable if it were only a broad general statement, but to state in that particular context that the function of the specialized agencies was to give assistance to the Sub-Commission was to misrepresent the clear meaning of Council resolution 502 H (XVI).

In operative paragraph 2 resolution C referred to a "preparatory" study of discrimination in employment and occupation to be undertaken by the ILO and in

paragraph 7 it placed the undertaking of a study as an item on the agenda of the Sub-Commission's seventh session. The effect would be that the ILO would merely collect and collate the basic documentation and the Sub-Commission would make its own study on that basis. That was a flat contradiction of the Council resolution, under which the competent specialized agency should make the study, although the Sub-Commission would naturally be able to comment on it and make any recommendations to the Commission it thought fit. The Polish amendments were unacceptable, inasmuch as they too conflicted with Council resolution 502 H (XVI).

It was somewhat curious that in other fields the Sub-Commission had gone out of its way to suggest that the work should be done by special rapporteurs or independent experts, a method repugnant to the Soviet Union and other delegations, but, precisely when there was a competent specialized agency prepared to undertake the study, should decide to do the work itself, leaving the experts merely to collect the material. Not only was the ILO by its constitution and practice competent to study discrimination in employment and occupation, but by its tripartite structure it was peculiarly well fitted to do so and, more especially, to evaluate the results. It was essential that that should be made entirely clear; the United States draft resolution to some extent failed to do so. At the same time, the United States draft did not as did the relevant Polish amendment refer to "a preparatory study".

It had been argued that in its letter (E/CN.4/L.364) the ILO had offered to make a preparatory study in the sense in which the Sub-Commission appeared to use the words, but that interpretation would not stand a comparison between paragraphs (a) and (c) of the letter. Paragraph (c) clearly referred to the completion of a final report after the Governing Body of the ILO had examined the preparatory study; in other words, the study was to be completed in two stages. There would not be so much delay as the Uruguayan representative feared.

The third Polish amendment was unacceptable because under it the Sub-Commission would duplicate the ILO's examination of the material and because it placed the Sub-Commission and the ILO on an equal footing, whereas under the Council resolution the ILO should be responsible for the study.

Mr. GREEN (United States of America) said that the Uruguayan amendment was pertinent rather to resolution C than to the United States draft resolution, which did not deal in any way with the scope or substance of that resolution. The scope had been indicated in paragraph 71 of the Sub-Commission's report and in the pilot resolution B.

He would agree with the representative of the Secretary-General that the Council's authorization was not required for an invitation addressed to the Secretary-General by the Sub-Commission if it concerned only a simple project undertaken by the Sub-Commission itself, but resolution C was a complicated matter involving the Secretariat, the ILO and non-governmental organizations. He realized that the ILO was already at work, but it was probably advisable that the Council should approve the project as a whole.

The main objection to the Polish amendments was that they were cumbersome. The United States draft resolution was brief and simple. Sub-paragraph (a) merely recommended approval of the study itself and did not require the Commission to pass on the merits of resolution C. The Commission had indicated a preference for merely noting the internal resolutions without approving or disapproving them. Similarly, sub-paragraph (b) obviously referred to resolution C, as the ILO would certainly understand. The United Kingdom representative's criticism of the third Polish amendment had been apposite. All the documentation should be transmitted to the ILO, which was preparing the study for the Sub-Commission.

Mr. RODRIGUEZ FABREGAT (Uruguay) complained that the United States representative had implied that the Uruguayan amendment was not pertinent to the United States draft resolution and related rather to resolution C. The United States draft resolution was socially and geographically vague and attempted to condense the whole of resolution C into one brief procedural paragraph. The Uruguayan amendment would give that paragraph a specific content and would prevent the possibility of a limited interpretation. He would press it despite the Polish representative's contention that the geographical scope was defined in paragraph 71 of the report. Paragraph 71 dealt only with education and UNESCO,

not with economic discrimination. Economic rights were the prerequisite for cultural rights. The reference to the geographic scope should in any case be made in the resolution itself, not merely in a single brief paragraph in the body of the report. Resolution C and the United States draft resolution were good, but needed to be completed. Indeed, amendments similar to that he had submitted in connexion with resolution C should be made to all the resolutions concerning discrimination.

He did not agree with the United Kingdom representative that there would not be undue delay. When the ILO Governing Board met in the autumn, all that it would do was to discuss the most appropriate form of future co-operation with the United Nations and the nature of the report. In view of the world's pressing needs and the impatience of public opinion, that was a paltry result of so many years' work. A mere study of existing legislation was not enough; the ILO might waste its time finding countries, such as Uruguay, where there was no discrimination and fail to take action where discrimination was rampant. Tangible results were urgently required. Particular attention should be paid to the Non-Self-Governing Territories, since it was in them that discrimination often appeared in its ugliest form.

Mr. BIRECKI (Poland) remarked that he had been very easily convinced by the Uruguayan representative's remarks of the appositeness of the Uruguayan amendment and was prepared to incorporate it in his own amendment.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that at the present stage of the debate he would confine his observations to the texts before the Commission.

The United States draft resolution was based on the assumption that the action proposed by the Sub-Commission in its resolution C required the approval of the Economic and Social Council. While reserving his final position, he was inclined to agree with those delegations which held that the Commission itself was competent to settle the matter. That view was supported by paragraph 6 (e)

of Council resolution 502 H (XVI), which requested the Sub-Commission to report on the proposed study direct to the Commission, implying that no further action by the Council would be needed.

There was a sharp divergence of views with regard to the Sub-Commission's resolution C. The United Kingdom representative had opposed the Polish amendments on the grounds that asking the ILO to undertake a "preparatory study" was contrary to Council resolution 502 H (XVI). The point was not well taken. Paragraph 4 of that resolution merely said that studies which fell within the scope of the specialized agencies should "normally" be carried out by those agencies; exceptions to that rule were not excluded. Moreover, in paragraphs 6 (c) and 6 (d) the Sub-Commission was given certain functions with regard to those studies. It was generally admitted that there should be close collaboration between the United Nations and the specialized agencies, and he failed to see why objections should be raised to a United Nations organ engaging in such collaboration. The United Kingdom representative seemed to wish to erect an artificial barrier between the Sub-Commission and the ILO, because he was opposed to the Sub-Commission's view that the ILO study should be a preparatory one and should be only one of several documents on the basis of which the Sub-Commission would prepare its recommendations.

Mr. ROUSSOS (Greece) said that, as other delegations had already raised objections to the Polish amendments, he would comment only on the Uruguayan amendment. The United States draft resolution in no way limited the scope of the proposed study, which was general and universal. The Uruguayan amendment was therefore superfluous. Moreover, it would be better for Non-Self-Governing Territories if the United States draft resolution, which excluded no territory, were adopted with the support of colonial countries than if the Uruguayan amendment were adopted without their support.

Mr. GREEN (United States of America) remarked that, even though the Uruguayan amendment in fact applied to the Sub-Commission's resolution C, rather than to the procedural action proposed in the United States draft resolution,

the amendment was entirely in order. He felt, however, that the amendment was unnecessary; it was clear from paragraph 3 of resolution C that the study was to be undertaken on a global basis, which naturally included Non-Self-Governing Territories.

He was glad that the USSR representative still had an open mind regarding which body should take the action proposed in the United States draft resolution. He hoped that the debate would convince that representative that the proper body was the Economic and Social Council, since relations between the United Nations and the specialized agencies were involved and since that subject was clearly within the Council's competence.

Mr. HOARE (United Kingdom) remarked that the USSR representative's only argument with regard to paragraph 4 of Economic and Social Council resolution 502 H (XVI) had been that it laid down a rule to which exceptions were possible. There must, however, be a justification for every exception and in the present case there appeared to be none, since there could be no doubt that the proposed study fell within the scope of the ILO and the ILO alone.

The meeting rose at 1.5 p.m.