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Tenth Session

SUMMARY RECORD OF THE FOUR HUNDRED AND SEVENTIETH MEETING

Held at Headquarters, New York,
on Friday, 9 April 1954, at 2.50 p.m.

CONTENTS

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; E/CN.4/L.363, 364, 375,
376/Rev.2 and 377) (continued)

PRESENT:

<u>Chairman:</u>	Mr. CASSIN	(France)
<u>Rapporteur:</u>	Mr. INGLES	Philippines
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. LABARCA	Chile
	Mr. CHENG PAONAN	China
	Mr. GHORBAL	Egypt
	Mr. JUVIGNY	France
	Mr. CARYANNIS	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
	Mrs. LORD	United States of America
	Mr. RODRIGUEZ FABREGAT	Uruguay

Representatives of specialized agencies:

Mr. MANNING	International Labour Organisation
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization
Mrs. MEAGHER	World Health Organization

Representatives of non-governmental organizations:

Category B and Register:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Miss McGILLICUDDY	International Federation of University Women Liaison Committee of Women's International Organizations

Representatives of non-governmental organizations (continued):

Category B and Register (continued):

Mr. HARIMOND	National Baptist Convention Inc.
Miss SCHAEFFER	World Federation of Catholic Young Women and Girls
Mr. JACOBY	World Jewish Congress
Mr. RONALDS	World Union for Progressive Judaism

Secretariat:

Mr. SCHWELB	Deputy Director of the Division of Human Rights
Mrs. ERUCE) 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; E/CN.4/L.363, 364, 375, 376/Rev.2, and 377)(continued)

Mr. RODRIGUEZ FABREGAT (Uruguay) announced that he had just handed in a second, revised version of his amendment. Bearing in mind the comments made during the previous meeting, especially by the Belgian and French representatives, he had specified in the new text, which he read out, that the study should be carried out on a global basis in accordance with article 2, paragraph 2 of the Universal Declaration of Human Rights. The principle which his delegation had wished to safeguard was therefore maintained, and he hoped that the new version would meet with the approval of the delegations which had objected to the original version.

Mr. JUVIGNY (France) recalled that he had said on several occasions that he saw no necessity for the specific formulation introduced by the Uruguayan amendment. He was grateful, however, to the Uruguayan representative, for having amended the text and having dissipated the misgivings which the original version had caused the French delegation. Thus, although his delegation had strongly objected to the first version, it would be able to support the new text proposed by Uruguay.

Mr. NISOT (Belgium) endorsed the French representative's remarks.

Replying to Mr. NISOT (Belgium), Mr. MOROZOV (Union of Soviet Socialist Republics) and Mr. BIRECKI (Poland), the CHAIRMAN announced that he would suspend the meeting until the delegations had received the written text of the Uruguayan amendment in its revised form. Representatives could, of course, comment on that text before the Commission took a vote, if they so wished.

The meeting was suspended at 3.2 p.m. and resumed at 3.15 p.m.

The CHAIRMAN called upon members of the Commission to submit any comments they thought desirable on the new version of the Uruguayan amendment, the text of which had been circulated to them (E/CN.4/L.376/Rev.2).

Mr. WHITLAM (Australia) wished, before giving his opinion on the present wording of the Uruguayan amendment, to explain the attitude which his delegation would adopt respecting the various texts submitted to the Commission.

His delegation had announced during the discussion that it would vote against any text which seemed to place the ILO in an inferior position or not to recognize the value of the work done by that organization. Moreover, the members of the Commission, including even those - and in particular the Philippine representative - who would prefer to leave the responsibility for the study with the Sub-Commission, seemed on the whole to agree in recognizing that there could be no question of making the ILO play a part in any way subordinate to the Sub-Commission. As the ILO was perfectly able to consider the problem of discrimination in employment and occupation and to carry out the study relating thereto, that study should be entrusted to it. That did not, of course, prevent the Sub-Commission from drawing conclusions and framing recommendations, which was precisely its essential function. His delegation regarded the ILO and the Sub-Commission as two distinct units with well-defined powers, and it was that consideration which, in its opinion, governed the co-operation which should exist between them.

His delegation shared the United Kingdom representative's opinion that, whether the study in question had or had not been appropriately approved, the fact remained that the Governing Body of the ILO had already made the necessary arrangements for preparing the study, and, that being so, the Commission should confine itself to noting that fact. His delegation was therefore prepared to support the United Kingdom amendment, which would leave resolution C as it stood, without passing judgment on its value.

In the circumstances, the Commission would not be required to vote on the Uruguayan amendment unless that part of the United Kingdom amendment which called for the deletion of sub-paragraph (a) was not adopted. He would, for the reasons expounded by the United Kingdom representative, prefer sub-paragraph (a) to be deleted, but if the Commission decided otherwise, he would support the Uruguayan amendment, since he felt that the new version was a considerable improvement on the original. He could not have supported the first version, because, in his opinion, it was incomplete and discriminatory in its express reference to one class of territories and seemed to imply that other classes would be excluded from the scope of the proposed study. He was grateful to the Uruguayan representative for having considered the comments made on the amendment and for having modified it accordingly.

From the remarks which he had just made, it was clear that his delegation's inability to approve resolution C, which as it stood, gave rise to certain objections, would prevent his delegation from supporting the Polish amendment.

Mr. INGLES (Philippines) said that his delegation was anxious to maintain resolution C in the form in which it had been unanimously adopted by the Sub-Commission and would be guided by that consideration when a vote was taken on the various texts.

The first United Kingdom amendment proposed that there should be added to the preamble of the United States draft resolution a sub-paragraph which, although referring to Council resolution 502 H (XVI) and embodying its paragraph 4, would distort the sense of that resolution since it failed to recall the substance of paragraph 6, sub-paragraph (b), under which the Sub-Commission had the right to decide which of the studies should be undertaken by specialized agencies. The Sub-Commission had taken a decision precisely by virtue of the powers thus vested in it, and that decision should be respected.

He had already stated that the proposed study should be approved by the Commission on Human Rights, and not by the Council, but that did not mean that the Commission must reiterate the approval it had already given the previous year. He would therefore have preferred that sub-paragraph (a) of the United States draft resolution, instead of appearing in the operative part, should constitute the second paragraph of the preamble, subject, of course, to the necessary drafting changes. If, however, the United States would not consider recasting its draft in that way, he would support the United Kingdom amendment calling for the deletion of sub-paragraph (a).

With regard to sub-paragraphs (b) and (c) of the United States draft resolution, he again pointed out that he hoped the Commission would adopt a text reproducing the provisions of resolution C. In that connexion he regretted that paragraph 2, sub-paragraph (b), of the Polish amendment omitted to mention paragraph 4 of that resolution; for that reason, and unless the Polish representative agreed to remedy that omission, he would be obliged to vote against that sub-paragraph. He would support paragraph 3 of the Polish amendment, as he thought it essential that the Sub-Commission should have access to the actual sources of the material necessary to the study.

Mr. MOROZOV (Union of Soviet Socialist Republics) said he had felt some disappointment upon reading the new version of the Uruguayan amendment. It should, however, be recalled that the Uruguayan representative had upheld most brilliantly and most vigorously, the cause which the United Nations should champion and had stressed the importance of the prevention of measures which, for various reasons, and more particularly for those of race or nationality, deprived human beings of an elementary right enunciated in the Covenants on Human Rights and in the Universal Declaration of Human Rights, namely the right to work and to equal pay for equal work. That being so, the Uruguayan representative might have been expected to submit a text vigorously supporting resolution C, but he had confined himself to submitting an amendment to the United States draft resolution and

seemed to be preparing to give his support to that draft, which, in the opinion of many delegations, compromised in certain respects the studies which the Sub-Commission wished to undertake. That divergence between the words and the attitude of the Uruguayan representative had surprised Mr. Morozov and had caused him disappointment and misgivings. He hoped that his misgivings would prove unfounded when the vote was taken.

Reverting to the actual text of the revised Uruguayan amendment, he recalled that when that amendment had originally been submitted the Polish representative had rightly pointed out that in view of the provisions of resolution C, paragraph 3, which invited attention to the general principles enunciated in resolution B, it had been understood that the proposed study on employment and occupation should be undertaken on a global basis and should deal with all forms of discrimination condemned by the Universal Declaration of Human Rights, a fact which rendered pointless a specific reference to the Non-Self-Governing Territories. However, in consequence of the Uruguayan representative's comments, the Polish representative, desiring to meet the Uruguayan representative's wishes, had stated that he was willing to incorporate the Uruguayan amendment in his own.

The initial text had at least had the merit of being clear, and there could be no doubt that its sole purpose was to set forth, even more clearly, the principle of the universality of the study by specifying that the latter should also include the Non-Self-Governing and the Trust Territories. In its new form, however, it was much vaguer, since it merely mentioned article 2, paragraph 2, of the Universal Declaration of Human Rights and, as a result, there was a possibility that countries other than those represented in the Commission might one day contest the interpretation given to that amendment. Since, in particular, there was no longer any question of expressly drawing attention to the Non-Self-Governing and the Trust Territories, the result was a mere reiteration of the principle already enunciated in the resolution of the Sub-Commission that the study should be carried out on a global basis and deal with all forms of discrimination. The revised version thus no longer had any value and even gave grounds for wondering whether its effect was not to weaken the provisions of the Sub-Commission's resolution.

The USSR delegation, which of course had no objection to article 2, paragraph 2, of the Universal Declaration of Human Rights, which it had always defended and respected, accordingly considered that the new version of the Uruguayan amendment no longer reflected the stated intention of its sponsor and it would therefore continue to support the original version.

Mr. HOARE (United Kingdom) stated, in reply to the representative of the Philippines, that he had no objection to a reference to paragraph 6, sub-paragraph (b), of resolution 502 H (XVI) being included in the first paragraph proposed by him for addition to the preamble. He still thought that such a reference was unnecessary, but the United Kingdom had no intention of distorting the meaning of the Council's resolution and, to dispel any doubts in that regard, he was prepared to include such a reference if the representative of the Philippines wished.

The Uruguayan amendment did not affect the United Kingdom amendment, as it related to sub-paragraph (a) of the United States draft resolution which the United Kingdom had proposed should be deleted as unnecessary in view of the invitation which would be addressed to the ILO by the Council. The revised version of that amendment, however, did not, in the opinion of the United Kingdom, give rise to the objections inherent in the initial version, since it no longer tended to give the draft resolution a discriminatory character but simply reiterated the principle of the universality of the study, which nobody contested and to which the United Kingdom delegation attached great importance. Moreover, unlike the USSR representative, he did not think that the text was lacking in clarity. Hence, if in the case of the deletion of sub-paragraph (a), as proposed in the United Kingdom amendment, the Uruguayan representative wished the Commission to take a decision on his text and accept it as an amendment to the United Kingdom amendment, Mr. Hoare would not oppose the Uruguayan amendment and would abstain from voting on it. If the United Kingdom amendment were adopted with this amendment, he would vote for the draft resolution as a whole.

Mr. GHORBAL (Egypt) invoked rule 48 of the rules of procedure.

Mr. BIRECKI (Poland) and Mr. RODRIGUEZ FABREGAT (Uruguay), supported by Mr. MOROZOV (Union of Soviet Socialist Republics), asked to be allowed to furnish explanations or reply to questions before the Egyptian representative's motion was put to the vote.

Mr. GHORBAL (Egypt) agreed to postpone the presentation of his motion.

Mr. NISOT (Belgium) asked the Uruguayan representative whether he wished to have his amendment put to the vote if the United Kingdom amendment proposing the deletion of paragraph (a) of the United States draft were adopted.

Mr. BIRECKI (Poland) explained to the representative of the Philippines that the first Polish amendment did not rule out any provision of the Sub-Commission's resolution C and he was surprised that the representative of the Philippines did not approve the amendment. He agreed to insert the figure "4" between the figure "3" and the word "and" in his delegation's second amendment.

In addition, the arguments put forward by the representative of Uruguay in favour of the amendment previously proposed by his delegation (E/CN.4/L.376/Rev.1) had led the Polish delegation to incorporate that amendment at the end of the text of the first Polish amendment.

Mr. RODRIGUEZ FABREGAT (Uruguay) regretted that the representative of the USSR had been disappointed, but there was nothing in that fact to shake the faith which had upheld him during the debate. The word "also" in the amendment previously submitted by his delegation (E/CN.4/L.376/Rev.1) should have read "in particular"; thus the substance of the present version of that amendment had not changed and no delegation should regard as a drawback the reference to the Universal Declaration of Human Rights, the almost sacred character of which could not be contested. He asked that his amendment should apply not only to operative sub-paragraph (a) of the United States draft resolution but also to all the proposals before the Commission dealing with the study of Discrimination in Employment and Occupation.

The CHAIRMAN declared the discussion closed and suggested that the proposals before the Commission should be voted on in the following order: preamble of the United States draft resolution, first United Kingdom amendment, sub-paragraph (a) of the second United Kingdom amendment, first Polish amendment incorporating the first revision of the Uruguayan amendment, the Uruguayan amendment if necessary, the second Polish amendment sub-paragraph (b) of the second United Kingdom amendment, the Uruguayan amendment if not voted on previously, sub-paragraph (b) of the United States draft resolution, third Polish amendment, the Uruguayan amendment if not voted on previously, sub-paragraph (c) of the United States draft resolution and finally the United States draft resolution as a whole.

Mr. MCROZOV (Union of Soviet Socialist Republics) pointed out that the first Polish amendment went further than sub-paragraph (a) of the second United Kingdom amendment, since it provided not only for the deletion but also for the replacement of sub-paragraph (a) of the United States draft resolution. That, apart from the fact that it had been submitted first, was an additional reason for putting it to the vote before the United Kingdom amendment. If the latter were adopted, the members of the Commission could not take a decision on the Polish amendment unless the Commission decided that if the United Kingdom amendment were adopted, the Polish amendment would then be put to the vote.

The CHAIRMAN asked the Commission for its opinion on the request by the USSR representative.

Mr. HOARE (United Kingdom) felt that the United Kingdom amendment which provided for a deletion was entitled to be put to the vote before the Polish amendment, which proposed a replacement, but he was prepared to waive his delegation's rights in the matter because he had no desire to prevent the Commission expressing itself on the Polish amendment.

Mr. BIRECKI (Poland) approved the remarks of the USSR representative and preferred that his delegation's amendment should be put to the vote before that of the United Kingdom.

It was so decided.

The preamble of the United States draft resolution (E/CN.4/L.363) was adopted by 13 votes to 1, with 3 abstentions.

The CHAIRMAN stated that the first sub-paragraph of the first United Kingdom amendment was not modified and did not repeat the wording of paragraph 6, sub-paragraph (b), of resolution 502 H (XVI) of the Economic and Social Council, as the representative of the Philippines had not submitted any formal request to that effect.

The first United Kingdom amendment (E/CN.4/L.377) was adopted by 8 votes to 5, with 4 abstentions.

Mr. INGLES (Philippines) asked that the Commission should take a separate vote on the first Polish amendment, beginning with the text of the sub-paragraph and disregarding the first revision of the Uruguayan amendment which the representative of Poland had decided to incorporate in his text during the present session.

The beginning of the first Polish amendment was rejected by 8 votes to 6 with 3 abstentions.

The CHAIRMAN stated that in those circumstances it was not necessary to put to the vote the second part of the first Polish amendment which repeated the text of the first revision of the Uruguayan amendment.

The second United Kingdom amendment (E/CN.4/L.377) was adopted by 10 votes to 3 with 4 abstentions.

The second Polish amendment (E/CN.4/L.375) was rejected by 8 votes to 6, with 3 abstentions.

At the request of Mr. RODRIQUEZ FABREGAT (Uruguay), the CHAIRMAN said that he would put to the vote the second revision of the Uruguayan amendment as an addition to sub-paragraph (b) of the second United Kingdom amendment, without settling the question whether it was an amendment or an amendment to an amendment.

The Uruguayan amendment (E/CN.4/L.376/Rev.2) was adopted by 13 votes to none, with 4 abstentions.

Sub-paragraph (b) of the second United Kingdom amendment (E/CN.4/L.377), as amended, was adopted by 11 votes to 3, with 3 abstentions.

The third Polish amendment was rejected by 8 votes to 8, with 1 abstention.

Sub-paragraph (c) of the United States draft resolution (E/CN.4/L.363) was adopted by 11 votes to none, with 6 abstentions.

The United States draft resolution as a whole, as amended, was adopted by 11 votes to 3, with 3 abstentions.

Mr. PIRACHA (Pakistan) explained the vote of his delegation and, not having participated in the discussion, reviewed its position with regard to the various drafts and amendments. The United States draft resolution, which had seemed at first to be a simple proposal dealing only with a question of procedure, had on the whole appeared to be acceptable. However, various interpretations had been put on the draft resolution and with some of them the Pakistan delegation could not agree. It, therefore, had to reconsider the whole position and to take into account the amendments that had been proposed. His delegation welcomed the Polish amendments, which brought the United States draft resolution closer to the terms of resolution C. The United Kingdom amendment had then been distributed and had appeared to be a more satisfactory compromise. The first two sub-paragraphs of the preamble had set forth facts and were therefore acceptable; the same was true of the third sub-paragraph, although the drafting could have been improved. The gap created by the deletion of sub-paragraph (a) of the United States draft proposal had been partially filled by the provision

in the proposal intended to replace sub-paragraph (b) to invite the ILO to undertake a study of discrimination in the field of employment and occupation, since that provision could have been interpreted as indirect approval of the study in question.

With regard to the Uruguayan amendment, the Pakistan delegation, while approving the purpose of the amendment, had not been able logically to vote for its inclusion in sub-paragraph (a), because it had voted for the United Kingdom amendment to delete that sub-paragraph; however, it had voted for the addition of the Uruguayan amendment to sub-paragraph (b). Finally, as it had decided to vote for the United Kingdom amendments, it had not been able to vote for the Polish amendments and had abstained from the vote on them.

In voting for the United Kingdom amendments and the draft resolution as amended, the Pakistan delegation believed that the carrying-out of the study by the ILO did not in any way affect the Sub-Commission's freedom of action or detract from its responsibility with respect to the study.

Mr. MOROZOV (Union of Soviet Socialist Republics) recalled that throughout the debate on the measures to be recommended for the prevention of discrimination in employment and occupation, the USSR delegation had supported the Sub-Commission's decisions. As a result of a whole series of individual decisions, some of which had been adopted by only a slight majority, and of those in particular by which the Commission had rejected the Polish amendments, the text finally adopted amounted to a rejection of important decisions taken by the Sub-Commission. That had been the determining factor in the vote of the USSR delegation on the resolution as a whole.

He recalled further that the Commission had rejected the provision in paragraph 6 of resolution C which invited the Secretary-General to place at the

disposal of the Sub-Commission all materials available to him relating to discrimination in employment and occupation and that by 8 votes to 8 with 1 abstention, it had declined to adopt the Polish amendment to reinsert that provision in sub-paragraph (c) of the United States draft resolution. Such disregard of the Sub-Commission's efforts was to be deeply regretted, and he thought that the delegations voting against the Polish amendment would themselves later help to correct the unsatisfactory situation that had resulted. The Commission had similarly declined by a small majority to approve paragraph 7 of resolution C and had indeed been hostile to that entire resolution and in particular to the general principles adopted by the Sub-Commission to guide the study of discrimination in employment and occupation. In the circumstances, the USSR delegation had had to vote against the entire United States draft resolution as amended.

Mr. RAJAN (India) said that his delegation would have preferred to vote for the United States draft resolution with the Polish amendments. However, once those amendments had been rejected, the Indian delegation had voted for the United Kingdom amendments, which set forth certain indisputable and useful facts. Those amendments did not necessarily imply a division of responsibility between the Sub-Commission and the ILO in connexion with the study of discrimination in employment and occupation, especially with respect to conclusions and recommendations. The Sub-Commission renounced none of its prerogatives, irrespective of the nature of the study submitted to it by the ILO. With regard to the distribution of responsibility between the ILO and the Sub-Commission, the Indian delegation maintained the position it had taken at an earlier stage in the debate. Its vote should not be interpreted as implying disapproval of resolution C of the Sub-Commission.

Mr. CARYANNIS (Greece) recalled that his delegation had already given its views on the United States draft resolution and the Polish amendments. It had voted for the United Kingdom amendments because they had made some useful

changes in the original wording. Although his delegation had previously indicated that the Uruguayan amendment did not appear to be essential since it was obvious that the study was to be global in scope, it had had no difficulty in voting for the second revision of that amendment.

Mr. GHORBAL (Egypt) observed that in casting his vote he had been guided by the principle that the proposed study should be undertaken jointly by the Sub-Commission and the ILO. Similar studies had been carried out in the past, as for example on the delicate matter of forced labour, and the results of such joint studies had been satisfactory. The Egyptian delegation had voted for the Uruguayan amendment. It had abstained from the vote on the resolution as a whole because the new sub-paragraph (a) of the text finally adopted failed to indicate that the Sub-Commission would work in close co-operation with the ILO. The sub-paragraph merely invited the ILO to keep the Sub-Commission informed, and that, in the Egyptian delegation's view, was not enough. In that respect, the Polish amendment would have been preferable.

Mrs. LORD (United States of America) welcomed the constructive character of the discussion on the study of discrimination in employment and occupation. She had at first felt that her delegation's draft had been sufficiently clear, but the discussion had soon shown that it might be more so. The United States delegation had accepted the amendments proposed by the United Kingdom and Uruguay and looked forward with confidence to the results of the proposed study.

Mr. BIRECKI (Poland) said that he had voted against the United States draft resolution as amended by the United Kingdom. The Polish delegation had been chiefly concerned with speeding the work of the Sub-Commission in the field of discrimination. It was essential to recognize the fact that the study of

discrimination in employment and occupation was not a theoretical matter but should pave the way for specific recommendations. The Polish amendments in support of resolution C of the Sub-Commission had sought to introduce a greater accord between the United Kingdom text and the Sub-Commission's decisions. They had thus served the cause of the prevention of discrimination in employment and occupation. There had already been examples of co-operation such as that proposed in resolution C of the Sub-Commission and resolution C was actually a summary of past experience in the matter of co-operation between the International Labour Organisation and the Sub-Commission. Unfortunately, the Polish amendments had been rejected, and the United Kingdom amendment had weakened still further the United States text, which failed to give the Sub-Commission the support it needed.

Mr. JUVIGNY (France) noted with satisfaction that the resolution which had been adopted was wholly in accord with the provisions of Council resolution 502 H (XVI) with respect to the methods which should guide the work of the Sub-Commission, that it was based on respect for the competence and standing of the members of the United Nations family and that it would serve the cause of the Sub-Commission itself.

Mr. HOARE (United Kingdom) pointed out that the reason why his delegation had abstained on the preamble of the United States draft resolution was that although that draft would have been acceptable in the context of the United Kingdom amendments, it might not have been so if the amendments had not been accepted. His delegation had abstained from the vote on the Uruguayan amendment not for any reason of principle but simply because the original wording had seemed more acceptable; however, once the Uruguayan amendment had been adopted, his delegation had not hesitated to vote for the amended version.

Mr. WHITLAM (Australia) expressed satisfaction at the results of the vote and the high level of the debate. The text the Commission had just adopted clearly recognized the respective functions of the Sub-Commission and the ILO and could not fail to promote fruitful co-operation.

Mr. SAPOZENIKOV (Ukrainian Soviet Socialist Republic) fully shared the views of the USSR and Polish representatives. The text finally adopted by the Commission failed to mention some important principles set forth in resolution C of the Sub-Commission, in particular in paragraphs 2, 3, 5 and 7. The Polish amendments would have brought about a greater accord between the United States draft resolution and the Sub-Commission's decisions and would have facilitated the work of the Sub-Commission. His delegation had voted against the preamble and sub-paragraph (b) of the United Kingdom amendment, which would have a contrary effect, and against the whole of the United States proposal as amended, which distorted the intentions of the Sub-Commission.

The meeting rose at 5.40 p.m.