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	Mr. ORTEGA	Chile
	Mr. CHENG PAONAN	China
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	Mr. GREEN	United States of America
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Representative of a specialized agency:

	Mr. MANNING	International Labour Organisation

Representatives of non-governmental organizations:

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Mr. LEWIN	Agudas Israel World Organization
Mrs. GIROUX	Catholic International Union for Social Service
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. LONGARZO	International Conference of Catholic Charities

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	Mr. HARDMOND	National Baptist Convention Inc.
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	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 and Corr.1, paragraph 123; E/CN.4/L.363, 364, 375-377) (continued)

Mr. JUVIGNY (France) endorsed the United Kingdom representative's remarks on Economic and Social Council resolution 502 H (XVI) and said that the USSR representative's speech had not convinced him. There could be no doubt that the interpretation which resolution C of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/703 and Corr.1, paragraph 123) gave to that Council resolution was not in accordance with either its spirit or its letter. Besides establishing co-operation between the specialized agencies and the Sub-Commission, the Council had aimed at avoiding duplication of effort and had therefore been guided by a concern for technical and legal areas of competence. It was obvious that the ILO had particular competence in respect of some social rights. The USSR representative had quoted paragraph 4 of Council resolution 502 H (XVI) out of its context. Restored to its context, the importance of the word "however" in that paragraph was seen, while the inclusion of the word "normally" implied that the general rule - to which it was true, exceptions could be made - was that the studies in question should be carried out by the specialized agencies or the bodies within whose scope they fell. If that rule did not apply to such a clear case as the present one, there would be reason to wonder how paragraph 4 could take effect. He felt, therefore, that the possibility of exceptions was inapplicable in the present case. That did not in any way imply that the Sub-Commission should not study the question, since it was called upon to concern itself with discrimination in general. When the Sub-Commission had before it a study on discrimination it was its function to make a synthesis of all the aspects of the problem, and when a particular study came before it, the Sub-Commission could analyse it for the purpose of drawing conclusions, i.e. of framing recommendations. That division of work was in keeping with the division of competences and prevented any duplication

of effort. It was essential, therefore, that the Sub-Commission should avoid adopting a confused procedure which would make it difficult to perceive who was responsible for the study. Hence it was necessary that the ILO should have full responsibility for the study in question, the Sub-Commission's responsibility being to draw practical conclusions from that study. That being so, his delegation could not support the Polish amendments (E/CN.4/L.375), which expressly approved the provisions of the Sub-Commission's resolution C.

He endorsed the Greek representative's observations on the Uruguayan amendment and was surprised at the inclusion of the word "also", since sub-paragraph (a) of the United States draft resolution (E/CN.4/L.363) related to the subject of the study, whereas the Uruguayan amendment related to its territorial scope. Moreover, the scope of the study was world-wide; if it were not so, the study would have a discriminatory character and would certainly be opposed under Article 2 (7) of the Charter. It therefore seemed that the Uruguayan amendment was either redundant or was prompted by the motives which the Greek representative had outlined. He pointed out that if the amendment was prompted purely by emotion, other delegations might also submit other proposals of that kind. He quoted, by way of example, a passage on page 221 of an ILO report on indigenous populations which was certainly likely to arouse an emotion comparable to that which the Uruguayan representative seemed to have felt.

Mr. ORTEGA (Chile) felt that there was a contradiction between paragraphs 2 and 5 of the operative part of the Sub-Commission's resolution C, since paragraph 2 mentioned a study to be undertaken by the ILO, while paragraph 5 mentioned studies previously made by that organization. In his opinion that contradiction persisted in the documents which were before the Commission, as was apparent from sub-paragraph (b) of the operative part of the United States draft resolution, the second Polish amendment and, more particularly, sub-paragraph (a) of the ILO letter to the Secretary-General (E/CN.4/L.364). He would like the matter to be clarified, but, although he did not wish to adopt a definite position forthwith, he felt that he could approve sub-paragraphs (a) and (c) of the operative part of the United States draft resolution and the

third Polish amendment, under which it would be possible to avoid giving the contemplated study a purely administrative character. His delegation also approved of the Uruguayan amendment, in which the word "also", far from detracting from the general nature of the study, was designed to ensure that the case of the Non-Self-Governing Territories would not be neglected.

Mr. MOROZOV (Union of Soviet Socialist Republics) felt that the observations of the United Kingdom and French representatives on the relationship between the Sub-Commission's resolution C and Economic and Social Council resolution 502 H (XVI) had thrown light on the problem, and he was surprised that the French representative had not endorsed his own observations. The important provision of the Sub-Commission's resolution C was that under which, after the ILO had completed its work, the material so compiled would be transmitted to the Sub-Commission; hence the discussion which had taken place previously on that subject had no further purpose. There was no contradiction as to substance between the Sub-Commission's resolution C and Council resolution 502 H (XVI). It was quite natural to entrust the study in question to the ILO and there could therefore be no divergence of views in the Commission except in relation to the programme and nature of the study.

In regard to the period of time to be allowed to the ILO, he understood the surprise which the Chilean representative had expressed concerning the letter from the ILO (E/CN.4/L.364), and he drew attention to paragraphs 104, 105 and 109 of the Sub-Commission's report. No United Nations body had the power to direct the activities of a specialized agency and it was therefore for the ILO to decide whit it should do. That did not, however, prevent the Commission from expressing its wishes by asking the ILO to undertake the study and by indicating that it would be desirable for the study to be given the scope outlined by the Sub-Commission. The Commission could not, however, impose its will in that respect. He felt, therefore, that paragraph 3 of the operative part of resolution C was perfectly justified. The essential thing was to know whether the Commission approved the Sub-Commission's resolution C; since the United States draft resolution skilfully avoided that question, it was necessary to incorporate the Polish amendments in it.

As paragraph 123 of the Sub-Commission's report showed, resolution C had been adopted unanimously by experts from various countries throughout the world. It was true that government representatives were not bound by the experts' opinion but there was no doubt that that opinion reflected the general opinion in the countries concerned. The Commission had before it the United States draft resolution, which, retaining certain items and eliminating others, would destroy resolution C. Addressing himself more particularly to the United States, United Kingdom and French delegations, he asked whether they would agree to accept resolution C or some parts of it. He felt that the Polish amendments were admirable, because they explicitly approved resolution C. The reference in the second of those amendments to paragraphs 2, 3 and 5 of resolution C should not be construed as imposing any obligation whatever on the ILO. It merely served to express a desire which was supported only by the moral authority of the body which framed it. Nor did the time it mentioned impose any time-limit on the ILO, which was quite free to suggest another date or even to refuse to undertake the study. Nevertheless, recognition of the ILO's rights should not be used by the Commission as a pretext to relinquish its own duties. His delegation would support the Polish amendment and, consequently, the Sub-Commission's resolution C.

The Polish representative had helped to clear up a misunderstanding by agreeing to include the Uruguayan amendment in his own. The members of the Commission who approved the Sub-Commission's resolution, particularly the Uruguayan representative, should favour that solution. In reply to an objection by the Uruguayan representative, he pointed out that the Polish amendment, by the very fact that it approved resolution C, approved paragraph 4 of that resolution. He pointed out in that connexion that paragraph 4 was based on the draft amendment to paragraph 2 of the resolution referred to in paragraph 118 of the Sub-Commission's report.

Mr. ASIROGLU (Turkey) stressed the importance of a study of discrimination in employment and occupation. His delegation could not, however, accept the preamble of the United States draft resolution, because it did not accept the principle of the method proposed by the Sub-Commission in paragraph 3 of resolution C. He recalled that Turkey had stated its opposition to the study of specific cases of discrimination in the field of education; it felt that an

unwise choice might cause harm to some minorities by accentuating the differences which divided them from the dominant group.

With regard to the operative part of the United States draft resolution, he suggested that the French text of sub-paragraph (a) should be amended to read: "D'approuver l'étude proposée concernant les mesures discriminatoires dans le domaine de l'emploi et de la profession". The wording adopted by the Commission should not be such as to cause the ILO to make a selection and to study individual cases of discrimination, a procedure which would be inadmissible. He had no observations to make on the subject of sub-paragraphs (b) and (c).

With regard to the Uruguayan amendment, he agreed with the representative of Greece that there was no need to make special mention of the Non-Self-Governing Territories, since it was agreed that the study was to be universal in scope. While approving of its purpose, therefore, his delegation would abstain from voting on the Uruguayan amendment.

With regard to the amendments submitted by the Polish delegation, his delegation could not accept paragraphs 1 and 2, because the former paragraph requested the Economic and Social Council to approve resolution C, while the latter referred to paragraph 3 of that resolution, which recommended the adoption of the same methods of study, which were incompatible with the principle that such studies should be made on a global basis.

His objections were solely concerned with the methods proposed in the resolutions for the study of discrimination in the field of employment and occupation. His delegation attached great importance to such studies and was firmly convinced of their value.

Mr. WHITLAM (Australia) observed that the procedure of recommending that the Economic and Social Council should approve the proposed study as suggested in the United States draft resolution, had been one of the most discussed questions. In contrast to some delegations, his delegation did not think that Council resolution 502 H (XVI) already implied such approval. Even had it contained such an implication, however, that would not be a reason for objecting to the United States proposal. It was of vital importance that the relations between the United Nations and the specialized agencies should be very clearly defined. In that connexion he recalled the fruitful co-operation

which had taken place between the Commission on Human Rights and the specialized agencies in the drafting of the international covenants on human rights and observed that such co-operation was required by Chapters IX and X of the Charter, and particularly by Article 58. He referred also to the agreements between the United Nations and the various specialized agencies, especially the ILO. The special place of the Economic and Social Council had, in his opinion, always been recognized. It was true, as the Soviet Union representative had observed, that the specialized agencies had special competence, in that they were composed mainly of experts; however, their significance lay not alone in the fact that they were composed of expert individuals, but that each of the specialized agencies was an expert corporate body upon whose assistance the United Nations could call within their special areas of competence. There were some indications in resolution C that the Sub-Commission wished to place the ILO in the position of an assistant, but that was not how the ILO regarded its part in the matter. In his opinion, the study the ILO was to undertake would be its own and the ILO should not be regarded as merely playing the part of Rapporteur to the Sub-Commission or the Commission. The Sub-Commission would naturally examine the study and arrive at its own conclusions and recommendations, but the study itself would not be that of the Sub-Commission.

Mr. JUVIGNY (France), explaining the French delegation's attitude, said that the Sub-Commission could not be denied the right to formulate recommendations but that, on the other hand, the ILO could not be regarded as a clerk to the Sub-Commission. The International Labour Office was to undertake a study for which it would be fully responsible; that study, together with the ILO's conclusions, would be transmitted to the Sub-Commission, which could draw up recommendations.

Mr. NISOT (Belgium) said that he would vote in favour of the United States draft resolution but against the Polish amendment. The United States draft resolution provided that the study would be universal in scope; he wondered therefore, what was the purpose of the Uruguayam amendment and what considerations had prompted it. If the Uruguayan representative's idea was to alleviate human misery, his examples, colonies, were of doubtful choice. Without crossing an

ocean he could have referred to people living in some metropolitan countries whose sufferings were better suited to move him to compassion and to arouse his sense of social justice.

Mr. RAJAN (India) thought that the meaning of resolution 502 H (XVI) was not as clear as the United States representative claimed: divergent views had emerged and the United States representative himself did not accept the Sub-Commission's interpretation. He recalled that resolution C had been adopted unanimously; he did not think that resolution 502 H (XVI) should be interpreted as laying upon a specialized agency entrusted with a study the responsibility, not only of establishing the facts and analysing the information obtained, but also of passing an evaluation judgement. In his opinion, the specialized agency should, as it were, fulfil the functions of a rapporteur; responsibility would thus be shared between the specialized agency and the Sub-Commission.

The reason which made it necessary to entrust the preliminary study to the ILO was that the question was so complicated that it must be dealt with in stages. When the first stage was completed, the second could be initiated. Without wishing to limit the functions of the ILO in the matter of research into the facts, he considered that the Sub-Commission should not limit itself to receiving a completed report. Nor should the functions of the two sides be too rigidly fixed. In his opinion the United States draft resolution gave the Sub-Commission too secondary a role and the adoption of the draft resolution as it stood might be taken to imply that the Commission disapproved of resolution C. The Indian delegation would therefore vote in favour of the Polish amendment.

Mr. BIRECKI (Poland) pointed out that if the United States representative's intention had been to avoid bringing the substance of the Sub-Commission's resolution C into question again, his draft resolution had certainly failed of its purpose. In fact, it was those who were opposed to resolution C who had supported the United States draft resolution. The only course open to the United States delegation and to all those who wished to accept the resolution adopted unanimously by the Sub-Commission was to support the Polish amendment.

With regard to an observation the Uruguayan representative had made concerning the geographic scope of the study proposed, he drew attention to paragraph 71 of the report, in which the Sub-Commission stated that dependent territories should not be excluded from the study of discrimination in education. If the Commission approved the Sub-Commission's resolution C, the principles to guide the study in the field of education would automatically apply to the study on discrimination in employment and occupations. The Polish delegation supported the Uruguayan amendment, which might with advantage mention also the Trust Territories. He did not agree with the French representative that the study should be entrusted entirely to the ILO. The ILO's study should be preliminary only; it was for the Sub-Commission to make recommendations and draw conclusions, for it was the responsibility of the United Nations to draw up recommendations for the prevention of discrimination. The work of the Sub-Commission would be greatly facilitated if the Commission approved resolution C.

Mr. INGLES (Philippines), replying to the Chilean representative, who had seen a contradiction between paragraphs 2 and 5 of resolution C, explained that the study referred to in paragraph 5 was the preparatory study mentioned in paragraph 2. Furthermore, paragraph 5 referred to the previous studies of the ILO on the same subject because as a member of the Sub-Commission had already pointed out, in the course of its studies the ILO had acquired great experience in that field and for that very reason could justifiably be expected to complete the new study in time for consideration by the Sub-Commission at its seventh session, as paragraph 5 stated. He recalled that the Sub-Commission had agreed that the piecemeal studies previously made by the ILO were inadequate and that for that reason the ILO should be asked to undertake a new and more comprehensive study to serve as a basis for the work of the Sub-Commission.

Some representatives had raised objections, during the discussion, to the idea of the ILO's study serving as a basis for the Sub-Commission's work - in other words, of its being regarded as merely preparatory, and had felt that the ILO should itself carry out the proposed study and formulate conclusions and recommendations.

The Sub-Commission had never suggested that the ILO should not formulate its own conclusions if it so wished. The ILO representative had in fact told the Sub-Commission that his organization would be prepared not only to assemble the material, but also to evaluate that material. Nevertheless, it seemed that the role of the ILO should be similar to that of UNESCO in the matter of the study of discrimination in education, namely, to compile documentation and the requisite information, and that the Sub-Commission should do the work of a rapporteur. It must be borne in mind, moreover, that the ILO was more concerned with questions of employment and occupation in general and might therefore approach the matter from a slightly different angle from that with which the Sub-Commission was concerned, namely, discrimination in employment and occupation. That method, which the Sub-Commission considered best, would not prevent the ILO's making its own conclusions if it so wished. In any event, in so far as the members of the Commission on Human Rights appeared to be agreed that it was the Sub-Commission's responsibility to reach conclusions and make recommendations, there was no need to discuss whether or not the study entrusted to ILO should be called preparatory, as indeed the International Labour Office had called it in its letter to the Secretary-General. The Sub-Commission would formulate its own conclusions and recommendations, which might or might not coincide with those of the ILO.

On the other hand, it had been alleged by some that the Sub-Commission had incorrectly interpreted Council resolution 502 H (XVI). Paragraph 4 of that resolution laid down the principle that future studies falling within the scope of specialized agencies or other bodies should normally be carried out by the specialized agencies or other bodies directly concerned. Under paragraph 6, however, the Sub-Commission itself was to determine which of the studies should be undertaken by the specialized agencies and which directly by the Sub-Commission. Consequently, if some delegations did not agree with the Sub-Commission's decision they could take the view that the decision had not been well-founded but they could not assert that the Sub-Commission had misinterpreted the Council's resolution, in view of the fact that it had merely made use of its explicit prerogative under paragraph 6 of the Council's resolution. Moreover, the interpretation of paragraph 6 could be made even broader: it was clear from the wording that the studies were the responsibility of the Sub-Commission, except that in some cases they might be carried out indirectly by the specialized agencies and not directly by the Sub-Commission.

Turning to the various drafts submitted to the Sub-Commission, he said that his delegation would have no hesitation in supporting the Uruguayan amendment. It should not be forgotten that the information that would be submitted to the ILO by governments might very well be incomplete, in the sense that the conventions drawn up by the ILO, as also its own constitution, contained a colonial clause, of which some governments might avail themselves, in order not to transmit information concerning the Non-Self-Governing Territories for which they were responsible. It was true that the ILO could obtain from the Secretary-General the information transmitted under Article 73 e of the Charter, seek the assistance of non-governmental organizations and draw upon the works of reputable scholars and experts. It was also true that to the extent that the ILO was guided, as resolution C prescribed, by the general principles laid down in the resolution concerning the study of discrimination in education, it would deal with the problem on a global basis, including the Non-Self-Governing Territories. Nevertheless, the Uruguayan amendment would only give more weight to that general directive of the Sub-Commission. In any case, he did not see why, if there was no opposition to extending the study of discrimination in education to the Non-Self-Governing Territories, a different attitude should be adopted in the case of the study of discrimination in employment and occupation.

He could not support sub-paragraph (a) of the United States draft resolution, because he did not think that it was for the Council to give its approval to any proposed study to be undertaken by the Sub-Commission. At its last session, the Commission on Human Rights had approved the work programme submitted by the Sub-Commission and had not deemed it necessary to ask for the Council's approval; indeed, the Council had noted the work programme of the Sub-Commission as approved by the Commission. There was therefore no reason to ask the Council to take a decision in the specific case of the study of discrimination in employment and occupation. It was not even for the Commission on Human Rights to take a further decision in the matter, since at its last session it had approved the idea of the Sub-Commission's undertaking the study in question.

In presenting his draft resolution, the United States representative had explained that his delegation had no intention of amending the substance of resolution C. There were, however, a number of omissions in the draft resolution which made it quite different from the text of the resolution: sub-paragraphs (b) and (c) did not provide for the co-operation of the Secretary-General or for the transmission of material to the Sub-Commission and the ILO simultaneously. If the United States representative really wished to dispel the doubts which his amendment had raised in the minds of some delegations, he should be able to accept such amendments as would harmonize the United States text and the Sub-Commission's resolution. For his part, he would vote in favour of the Polish amendments in so far as they tend to achieve that concordance.

Mr. HOARE (United Kingdom) agreed with the USSR representative that some of the differences of opinion between the United Kingdom and USSR delegations concerning the interpretation of paragraph 4 of resolution 502 H (XVI) seemed to have been dispelled. Nevertheless, he did not feel that the situation was as clear as the USSR representative appeared to think, since an examination of the paragraph of resolution C in which the Sub-Commission had endeavoured to interpret the Council's resolution showed it to be drafted in very ambiguous language. He did not, as the Indian representative had suggested, assume that the Sub-Commission had come unanimously to an incorrect interpretation of the Council's resolution; he felt rather that it might be asked whether all the members of the Sub-Commission had given that particular paragraph of resolution C the same meaning. He could not support the argument of the Indian representative, who thought that the proposed study should be undertaken jointly by the Sub-Commission and the ILO. Nor could he accept the interpretation of the Philippine representative that the function of the ILO would be analogous to that of the Secretary-General, while the Sub-Commission would fulfil the role of rapporteur; it was the ILO which should fulfil the latter role. In his own view, any other conception of the division of responsibilities would amount to an incorrect interpretation of resolution 502 H (XVI). In other words, the United Kingdom delegation could

not agree that the study entrusted to the ILO should be defined as a "preparatory" study. Moreover, in view of the care with which the ILO carried out its studies, it was difficult to see how the work would do in the present case could be regarded as some kind of a rough draft. Any conclusions the ILO might reach should be given all the importance and attention they deserved.

The USSR representative had asked what exactly were the United Kingdom delegation's objections to resolution C. In addition to those he had just mentioned; his delegation had the same objections in principle to resolution C as it had had to resolution B: resolution C referred the ILO to the general principles set forth in resolution B as a guide to the rapporteur in charge of the study of discrimination in the field of education. As in the case of that study, he felt that the employment and occupation study should be undertaken on a global basis and should take into consideration all forms of discrimination condemned by the Universal Declaration of Human Rights and there was every reason to believe that the ILO would adopt that standard; but it was inadmissible that the ILO should concentrate on specific instances of discrimination or that it should point out the discriminatory practices "resulting from a policy evidently intended to originate, maintain or aggravate such practices".

If the Commission had to take a decision on resolution C, the positions of the various delegations would probably be the same as they had been with respect to resolution B, and if resolution C was adopted, the delegations which objected to it would wish to raise the matter again in the Council. The letter addressed to the Secretary-General by the International Labour Office showed, however, that the ILO had already considered the Sub-Commission's resolution and that preparations for the proposed study had already been initiated. In the circumstances, the problem before the Commission amounted to a simple question of procedure: there was no need for the Commission to take a decision on resolution C; it could simply note the fact that the ILO had already been informed of the views of the Sub-Commission. That was why the United Kingdom delegation was submitting for the Commission's consideration the amendments in document E/CN.4/L.377, which, by a purely procedural approach would enable the Commission to do away with the difficulties confronting it.

In conclusion, he pointed out that no one had ever suggested that the Non-Self-Governing Territories should be excluded from the scope of the proposed study; that being so, he did not understand why the Uruguayan delegation had seen fit to introduce the unnecessary precaution contained in its amendment. He wondered whether it would not consider withdrawing that document.

Mr. NISOT (Belgium) was glad to hear that the Philippine representative would vote for the Uruguayan amendment. In that case it was to be hoped that details would be supplied concerning the fate of the very backward populations under Philippine administration, which should be a matter of concern to the United Nations and about which no information reached the Organization, despite the provisions of Article 73 e of the Charter. The following were some of the populations to which he was referring: Moros, Igorots, Tinggians, Negritos, Dumagats, Llongots, Mangyans, Manobos and Bogobos.

Mr. JUVIGNY (France) reiterated that his delegation did not deny the competence of the Sub-Commission but that it would not consent to the ILO's being given the part of "librarian" or "cataloguer". The Philippine representative had drawn a parallel between the role of UNESCO in the study on discrimination in education and that of the ILO in the study under discussion. He himself thought that the ILO, whose technical competence could not be questioned, should not confine itself to the collection of data and statistics, i.e. to a role similar to that of UNESCO, to judge from paragraph 59 of the report which he read out. It was the responsibility of the ILO to carry out the study and even if it so desired to make recommendations.

In connexion with the question of Non-Self-Governing Territories, it was true that the ILO constitution contained a colonial clause but he wished to draw the Philippine representative's attention to paragraphs 1, 2, 4, 5 and 8 of article 35 of that constitution,which imposed certain obligations on States that had not extended, or had extended only in part, those provisions to the territories for which they were responsible. Moreover, if particular mention was to be made of Non-Self-Governing Territories, allegedly to avoid any misunderstanding, many

other possible misunderstandings should also be avoided, as for example in the matter of States Members of the United Nations and non-members of the ILO, and vice versa, or of States which were not members of either organization, or even of groups that were in a special position, such as emigrants. It was therefore far better to adhere to the principle that the study should be universal in character, lest it should appear to be discriminatory.

Mr. INGLES (Philippines) pointed out that the Sub-Commission was already in possession of information concerning the populations mentioned by the Belgian representative which was, however, voluntarily furnished by the Philippine Government and not as a result of an obligation under Article 73 c of the Charter which was applicable only to Non-Self-Governing Territories and not to independent countries. He would be glad if the Belgian Government did not invoke Article 7, paragraph 7, of the Charter in order to refrain from furnishing information on the territories for which it was responsible.

Mr. GHORBAL (Egypt) wondered whether it would not be useful to consider limiting the number and length of statements, in order to expedite the work of the Commission and avoid having to conclude the session before examining the question of the right of peoples to self-determination.

The meeting rose at 5.50 p.m.