



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/8036
25 August 1970

ORIGINAL: ENGLISH

Twenty-fifth session
Item 52 of the provisional agenda

FREEDOM OF INFORMATION

Note by the Secretary-General

(a) Draft Declaration on Freedom of Information

1. The question of a draft Declaration on Freedom of Information was considered by the Economic and Social Council at its twenty-seventh and twenty-eighth sessions, in 1959. By resolution 732 (XXVIII) of 30 July 1959, the Council invited Member States to communicate to the Secretary-General by 1 January 1960 their comments on the desirability of the adoption by the United Nations of a Declaration on Freedom of Information and on the draft text of such a declaration which was annexed to the resolution, and requested the Secretary-General to prepare a consolidated report embodying the comments received.

2. The comments, which Governments forwarded pursuant to Council resolution 732 (XXVIII), were reproduced in document E/3323 and Add.1-5. In the light of these comments the Council, at its twenty-ninth session, considered and completed the text of the draft Declaration on Freedom of Information. By its resolution 756 (XXIX) of 21 April 1960, the Council decided to transmit the draft Declaration to the General Assembly for its consideration. The text of resolution 756 (XXIX) is reproduced in annex I of the present document and that of the draft Declaration in annex II.

3. The item "Draft Declaration on Freedom of Information" has been on the agenda of the General Assembly since its fifteenth session. At that and subsequent sessions the General Assembly was not able to consider the item. On the recommendation of the Third Committee, the General Assembly, in resolution 2596 (XXIV) of 16 December 1969, decided to give priority to the consideration

of the item on freedom of information at its twenty-fifth session and requested the Secretary-General to provide it, at that session, with all the relevant information available concerning the draft Declaration on Freedom of Information.

(b) Draft Convention on Freedom of Information

4. The draft Convention on Freedom of Information has been on the agenda of the General Assembly since its fourteenth session. At that session, the Third Committee adopted the preamble and article 1; at the fifteenth session article 2; and at the sixteenth session articles 3 and 4 of the draft Convention. The preamble and articles 1 to 4 of the draft Convention, as adopted by the Third Committee, are contained in documents A/4341,^{1/} A/4636,^{2/} and A/5041.^{3/} For the convenience of delegations they are reproduced in annex III of the present document, and articles 5 to 19 of the draft Convention, which are still to be discussed by the Third Committee, are reproduced in annex IV.

5. From the seventeenth to the twenty-fourth sessions of the General Assembly, the Third Committee was not able to continue its consideration of the draft Convention. On the recommendation of the Third Committee, the General Assembly, in resolution 2596 (XXIV) of 16 December 1969, decided to give priority to the consideration of the item on freedom of information at its twenty-fifth session, and requested the Secretary-General to provide it at that session also with all the relevant information available concerning the draft Convention on Freedom of Information.

6. The text of the draft Convention on Freedom of Information^{4/} submitted to the General Assembly was formulated by an ad hoc Committee on the Draft Convention on Freedom of Information established by the General Assembly under resolution 426 (V) of 14 December 1950, which had before it, inter alia, the original text of

1/ Official Records of the General Assembly, Fourteenth Session, Annexes, agenda item 35.

2/ Ibid., Fifteenth Session, Annexes, agenda item 35.

3/ Ibid., Sixteenth Session, Annexes, agenda item 36.

4/ Ibid., Seventh Session, Annexes, agenda item 29, document A/AC.42/7 and Corr.1, annex.

the draft Convention proposed by the United Nations Conference on Freedom of Information (E/CONF.6/79/Annex A) held in Geneva in 1948. Pursuant to resolutions 1189 A (XII) of 11 December 1957 and 1313 C (XIII) of 12 December 1958, a number of States made comments or proposals on specific articles of the draft Convention, which are to be found in documents A/3868 and Add.1-8 and A/4173 and Corr.1 and Add.1-3. For the convenience of delegations, the comments or proposals on articles 5 to 19 of the draft Convention, which have not yet been discussed by the Third Committee, are reproduced in annex V of the present document. An amendment to article 6 of the draft Convention, submitted at the fourteenth session of the General Assembly, appears in document A/C.3/L.343^{5/} and is reproduced in annex VI.

5/ Ibid., Fifteenth Session, Annexes, agenda item 35, document A/4401, para. 3.

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ANNEXES

- I. Resolution adopted by the Economic and Social Council at its 1111th plenary meeting, on 21 April 1960
- II. Draft Declaration on Freedom of Information
- III. Preamble and articles 1 to 4 of the draft Convention on Freedom of Information, as adopted by the Third Committee
- IV. Articles 5 to 19 of the draft Convention on Freedom of Information, not yet considered by the Third Committee
- V. Comments and proposals on articles 5 to 19 of the draft Convention on Freedom of Information (A/3868 and Add.1, 2 and 8 and A/4173 and Add.1 and 2)
- VI. Amendment to the draft Convention on Freedom of Information, submitted by Colombia, Ecuador and Venezuela (A/C.3/L.843)

ANNEX I

Resolution adopted by the Economic and Social Council at its
1111th plenary meeting, on 21 April 1960

756 (XXIX). Draft Declaration on Freedom of Information

The Economic and Social Council,

Recalling its resolutions 720 (XXVII) of 24 April 1959 and 732 (XXVIII) of 30 July 1959,

Having in mind General Assembly resolution 1459 (XIV) of 10 December 1959,

Desiring to ensure freedom of information as a fundamental human right,

Recognizing the great importance of freedom of information in the development of friendly relations among peoples and nations and in the fulfilment of the purposes of the Charter of the United Nations,

Being aware that the General Assembly is engaged in considering the draft Convention on Freedom of Information with a view to its early adoption,

Noting that nothing should be allowed to interrupt, hinder or prejudice General Assembly action in achieving this task as soon as possible,

Having considered and completed a draft Declaration on Freedom of Information in the light of the comments submitted by Member States in accordance with Council resolution 732 (XXVIII), with the hope that it will promote the realization of freedom of information and assist the General Assembly in the completion of its work in this field,

Decides to transmit to the General Assembly for its consideration the text of the draft Declaration on Freedom of Information annexed to the present resolution.

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ANNEX II

Draft Declaration on Freedom of Information

Preamble

Whereas the development of friendly relations among nations and the promotion of respect for human rights and fundamental freedoms for all are basic purposes of the United Nations,

Whereas the Universal Declaration of Human Rights affirms: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers",

Whereas freedom of information is essential to the respect for other human rights and fundamental freedoms, since no other liberty is secure if information cannot be freely sought, received and imparted,

Whereas freedom of information is also fundamental to peaceful and friendly relations between peoples and nations, since the erection of barriers to the free flow of information obstructs international understanding and thus impairs prospects for world peace,

Whereas newspapers, periodicals, books, radio, television, films and other media of information play an important role in enabling people to acquire the knowledge of public affairs necessary for the discharge of their responsibilities as citizens, and in shaping the attitudes of peoples and nations to each other, and therefore bear a great responsibility for conveying accurate information,

Now, therefore, the General Assembly,

Desiring to reaffirm the principles which should be upheld and observed and which domestic law and international conventions and other instruments for the protection of freedom of information should support and endeavour to promote,

Proclaims this Declaration on Freedom of Information in proof of its determination that all peoples should fully enjoy free interchange of information and access to all media of expression:

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Article 1

The right to know and the right freely to seek the truth are inalienable and fundamental rights of man. Everyone has the right, individually and collectively, to seek, receive and impart information.

Article 2

All Governments should pursue policies under which the free flow of information, within countries and across frontiers, will be protected. The right to seek and transmit information should be assured in order to enable the public to ascertain facts and appraise events.

Article 3

Media of information should be employed in the service of the people. No Government or public or private body or interests should exercise such control over media for disseminating information as to prevent the existence of a diversity of sources of information or to deprive the individual of free access to such sources. The development of independent national media of information should be encouraged.

Article 4

The exercise of these rights and freedoms entails special responsibilities and duties. Those who disseminate information must strive in good faith to ensure the accuracy of the facts reported and respect the rights and the dignity of nations, and of groups and individuals without distinction as to race, nationality or creed.

Article 5

The rights and freedoms proclaimed above should be universally recognized and respected, and may in no case be exercised contrary to the purposes and principles of the United Nations. They should be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of national security, public order, morality and the general welfare in a democratic society.

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ANNEX III

Preamble and articles 1 to 4 of the draft Convention on Freedom
of Information, as adopted by the Third Committee

Preamble

The States Parties to this Convention,

Bearing in mind the Charter of the United Nations and the Universal Declaration of Human Rights,

Considering that freedom of expression, information and opinions are fundamental human rights,

Considering that the free interchange of accurate, objective and comprehensive information and of opinions, both in the national and in the international spheres, is essential to the causes of democracy and peace and for the achievement of political, social, cultural and economic progress,

Considering that freedom of information implies respect for the right of everyone to form an opinion through the fullest possible knowledge of the facts,

Desiring to co-operate fully with one another to guarantee these freedoms and to promote democratic institutions, friendly relations between States and peoples and the peace and welfare of mankind, and

Recognizing that in order to achieve these aims the media of information should be free from pressure or dictation, but that these media, by virtue of their power for influencing public opinion, bear to the peoples of the world a great responsibility, and have the duty to respect the truth and to promote understanding among nations,

Have accepted the following provisions:

Article 1

Subject to the provisions of this Convention,

(a) Each Contracting State undertakes to respect and protect the right of every person to have at his disposal diverse sources of information;

(b) Each Contracting State shall secure to its own nationals, and to such of the nationals of every other Contracting State as are lawfully within its territory, freedom to gather, receive and impart without governmental interference,

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save as provided in article 2, and regardless of frontiers, information and opinions orally, in writing or in print, in the form of art or by duly licensed visual or auditory devices;

(c) No Contracting State shall regulate or control the use or availability of any of the means of communication referred to in the preceding paragraph in any manner discriminating against any of its own nationals or of such of the nationals of any other Contracting State as are lawfully within its territory on political grounds or on the basis of their race, sex, language or religion.

Article 2

1. The exercise of the freedoms referred to in article 1 carries with it duties and responsibilities. It may, however, be subject only to such necessary restrictions as are clearly defined by law and applied in accordance with the law in respect of: national security and public order (ordre public); systematic dissemination of false reports harmful to friendly relations among nations and of expressions inciting to war or to national, racial or religious hatred; attacks on founders of religions; incitement to violence and crime; public health and morals; the rights, honour and reputation of others; and the fair administration of justice.

2. The restrictions specified in the preceding paragraph shall not be deemed to justify the imposition by any State of prior censorship on news, comments and political opinions and may not be used as grounds for restricting the right to criticize the Government.

Article 3

Nothing in the present Convention may be interpreted as limiting or derogating from any of the rights and freedoms to which the present Convention refers which may be guaranteed under the laws of any Contracting State or any convention to which it is a party.

Article 4

The Contracting States recognize that the right of reply is a corollary of freedom of information and may establish appropriate means for safeguarding that right.

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ANNEX IV

Articles 5 to 19 of the draft Convention on
Freedom of Information, not yet considered
by the Third Committee

Article 5

Each Contracting State shall encourage the establishment and functioning within its territory of one or more non-official organizations of persons employed in the dissemination of information and opinions to the public, so that such persons may thus be encouraged to observe high standards of professional conduct and, in particular, the moral obligation to report facts without prejudice and in their proper context and to make comments without malicious intent, and thereby to:

- (a) Facilitate the solution of the economic, social and humanitarian problems of the world as a whole, by the free exchange of information bearing on them;
- (b) Help to promote respect for human rights and fundamental freedoms without discrimination;
- (c) Help to maintain international peace and security;
- (d) Counteract the dissemination of false or distorted reports which offend the national dignity of peoples or promote hatred or prejudice against other States, or against persons or groups of different race, language, religion or philosophical conviction; or
- (e) Combat any form of propaganda for war.

Article 6

Nothing in the present Convention shall affect the right of any Contracting State to take measures which it deems necessary in order to safeguard its external financial position and balance of payments.

Article 7

Nothing in the present Convention shall affect the right of any Contracting State to take measures which it deems necessary in order:

- (a) To develop and protect its national news enterprises until such time as they are fully developed;
- (b) To prevent restrictive or monopolistic practices or agreements in restraint of the free flow of information and opinions;

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(c) To control international broadcasting originating within its territory, provided that such measures may not be used as a means of preventing the entry, movement or residence of nationals of other Contracting States engaged in the gathering and transmission of information and opinions for dissemination to the public.

Article 8

Nothing in the present Convention shall prevent a Contracting State from reserving under its legislation to its own nationals the right to edit newspapers or news periodicals produced within its territory, or the right to own or operate telecommunication facilities, including radio broadcasting stations, within its territory.

Article 9

(a) Nothing in the present Convention shall limit the discretion of any Contracting State to refuse entry into its territory to any particular person, or to restrict the period of his residence therein.

(b) The present Convention shall not apply to any national of a Contracting State who, while not otherwise admissible into the territory of another Contracting State, is nevertheless admitted conditionally, in accordance with an agreement between that other Contracting State and the United Nations or a specialized agency thereof, or pursuant to a special arrangement made by that other Contracting State in order to facilitate the entry of such national.

Article 10

As between the Contracting States which become parties to any general agreement on human rights sponsored by the United Nations and containing provisions relating to the freedom of information, in so far as any provision of the general agreement relates to the same subject matter, the two provisions shall, whenever possible, be treated as complementary so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of incompatibility the provisions of the general agreement shall prevail.

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Article 11

(a) In time of war or other public emergency, a Contracting State may take measures derogating from its obligations under the present Convention to the extent strictly limited by the exigencies of the situation.

(b) Any Contracting State availing itself of this right of derogation shall promptly inform the Secretary-General of the United Nations of the measures which it has thus adopted and of the reasons therefor. It shall also inform him as and when the measures cease to operate.

Article 12

Any dispute between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiations shall be referred to the International Court of Justice for decision unless the Contracting States agree to another mode of settlement.

Article 13

(a) The present Convention shall be open for signature to all States Members of the United Nations, to every State invited to the United Nations Conference on Freedom of Information held at Geneva in 1948, and to every other State which the General Assembly may declare to be eligible.

(b) The present Convention shall be ratified by the States signatory hereto in conformity with their respective constitutional processes. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 14

(a) The present Convention shall be open for accession to the States referred to in paragraph (a) of article 13.

(b) Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

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Article 15

(a) The present Convention shall come into force on the thirtieth day following the date of deposit of the sixth instrument of ratification or accession.

(b) For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force thirty days after the deposit by such State of its instrument of ratification or accession.

Article 16

The provisions of the present Convention shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they non-self-governing, trust or colonial territories, which are being administered or governed by such metropolitan State.

Article 17

(a) Any Contracting State may denounce the present Convention by notification of denunciation to the Secretary-General of the United Nations.

(b) Denunciation shall take effect six months after the date of receipt by the Secretary-General of the United Nations of the notification of denunciation.

Article 18

The Secretary-General of the United Nations shall notify the States referred to in paragraph (a) of article 13 of the following:

(a) Information received in accordance with article 11;

(b) Signatures, ratifications and accessions received in accordance with articles 13 and 14;

(c) The date upon which the present Convention comes into force in accordance with article 15;

(d) Notifications received in accordance with article 17.

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Article 19

(a) The present Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

(b) The Secretary-General of the United Nations shall transmit a certified copy to each State referred to in paragraph (a) of article 13.

ANNEX V

Comments and proposals on articles 5 to 19 of the
draft Convention on Freedom of Information (A/3868
and Add.1, 2 and 8 and A/4173 and Add. 1 and 2)

Article 5

Afghanistan (A/3868/Add.2)

"Art. 5. In principle Afghanistan agrees with this article. Para. (d) of this article is important because it is one of the bases of article 4. Afghanistan reserves its right for discussion on this point as well as article 4. Para. (e) is vague. In general, its connexion with the purposes of establishing non-official media is worth considering."

Argentina (A/3868)

"Article 5. If sub-paragraphs (a) and (c) refer to the purposes or goals of the non-official organizations to which the article refers the text is unobjectionable.

"If, on the other hand, sub-paragraph (d), when it speaks of counteracting 'the dissemination of false... reports', refers to obligations of States or recommendations to States, it is considered dangerous to freedom of information that a State agency should be able to set itself up as an arbiter of the truth, since news or information embarrassing to a particular regime could be suppressed on the ground that it was false.

"The State has the means of issuing official denials of any news report which is not correct."

Belgium (A/3868/Add.2 and A/4173)

"3. Article 5 provides that each Contracting State 'shall encourage' the establishment and functioning of non-official organizations for the purpose of disseminating information and opinions to the public.

"If such 'encouragement' means the payment of subsidies, it may involve a degree of government control such as already exists in the case of radio and television in a number of countries.

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"As a result, Governments might be forced to assume a greater responsibility, thus making it more difficult for the Press to put forward independent opinions and to secure their acceptance by the public."

* * *

"Article 5

"Seems to constitute a threat to the freedom of the Press it is an invitation to subject the activities of the Press to a control, which would apply both to the persons participating in such activities and to the information itself."

Costa Rica (A/4173)

"Articles 2 to 5

"These appear to be well drafted and therefore do not call for any comment."

Hungary (A/4173)

"Article 5 of the Draft Convention makes it obligatory for the contracting States to encourage 'the establishment and functioning within its territory of one or more non-official organizations of persons employed in the dissemination of information and opinions to the public', the activity of which would be, among other things, to help maintain international peace and security, counteract the dissemination of false or distorted reports and combat propaganda for war.

"The Hungarian Government is of the opinion that all this is valuable but that this article of the draft Convention offers no reassuring guarantees from the point of view of banning inciting propaganda for war, and therefore it would be necessary for the draft Convention - in keeping with the United Nations Charter and other United Nations resolutions - to make it obligatory for States to ban propaganda of this nature.

"The United Nations Charter expressly prohibits all forms of war. The purposes of the United Nations are defined in Article 1 as 'To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace...'. Consequently, the fundamental responsibilities set forth in the United Nations Charter are gravely violated not only by the expressed launching of war itself, but by preparations for it as well and, thus, by propaganda inciting for war.

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"This opinion was expressed likewise in General Assembly resolution 110 (II) of 3 November 1947, which stated: 'Condemns all forms of propaganda, in whatsoever country conducted, which is either designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression'.

"The States are obligated by the Charter and the above quoted United Nations resolution to co-operate in upholding the peace, and to prevent any act which may lead to a breach of the peace. To this end, the States may have recourse - and useful recourse - to the co-operation and assistance of social organizations, but they may not cede their responsibilities to these organizations.

"Freedom of information which serves propaganda for war, foments hostilities among the peoples and propagates racial discrimination is not designed to implement human rights, but conflicts with the United Nations Charter, the Declaration of Human Rights and other resolutions adopted by the United Nations General Assembly. Banning propaganda of this nature would act as a restraint, safeguarding international co-operation and human rights. Therefore, it is necessary that the Convention contain an explicit ban on such propaganda."

Indonesia (A/4173/Add.1)

"5. The aims included in Article 5 of the Draft Convention are in conformity with the policy implemented by the Indonesian Government and the article itself is acceptable with the following reservation:

"Because the radio still constitutes an essential medium of information in Indonesia, radio stations which broadcast to the public must remain under the supervision of the Indonesian Government for the present. The time is not yet appropriate for radio stations to be commercialized by non-official organizations of persons employed in the dissemination of information and opinions to the public."

Liberia (A/4173/Add.2)

"1. The substantive provisions, however, do not adequately deal with the problem of responsibility as a necessary concomitant of freedom. They do not sufficiently emphasize that freedom, whether of the press, of speech or of worship, is never fully secured unless it be balanced with responsibility. Nor do the few passages which indicate methods of defense against responsible reporting reach the heart of the matter. Article 5 (d) recognizes that national dignity can be offended,

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that religious or philosophical convictions can be reviled, but it only provides that the signatory states shall encourage the establishment of disseminators of information to counteract false or distorted reports."

Thailand (A/4173/Add.1)

"When the Convention is called 'Freedom of Information', the reader cannot fail to be surprised to find the word 'Freedom of information and opinion' in the preamble paragraph two, article 5, article 7 (b and c). The unexpected introduction of the word 'opinions' in the matter of Freedom of Information is probably explained by reference to article 19 of the Universal Declaration of Human Rights. But this justification is far from being satisfactory. Opinion is not information; between the two things there is as much difference as between facts and comments. Facts impose themselves, whilst comments are a matter of preference and discussion which may be endless and may cause troubles. It should be necessary to know exactly which is the intended subject of the Convention, and that is why a definition seems so much necessary. Perhaps the word 'opinion' in the texts of the Draft means only to report as information private opinions such as are quotation from some newspapers or magazines or even from some well known political or learned men? This should be acceptable as a legitimate part of 'information'. But the uncertainty shows clearly why a definition is requested."

"Article 5. - The recommendation to establish in the contracting States 'non-official organizations of persons employed in the dissemination of information and opinion to the public' may be very dangerous in some countries (specially underdeveloped). The explanations given as to the observation of professional standards and moral obligations devoid of prejudice or malicious intent are rather weak and suppose that mankind is much nearer to perfection than it is in fact. When unfortunately a mention of 'opinion' is put together with these surprising non-official organizations, it may be feared that the application would result in pressure and one-sided propaganda.

"The end of the Article 5 (a, b, c, d, e) contains very good suggestions for the study and respect of Human Rights so that it is felt that they ought to be separated from the utopics 'encouragements' which are not within the spirit of the Convention. By separation it is meant that a special article should be reserved to the numbers a, b, c, d, e in the following form:

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"Article 5 bis. - Each Contracting State shall take it as a point of general policy in matter of Information that the freedom established by this Convention has far fundamental purposes: a, b, c, d, e."

Article 6

Argentina (A/3868)

"Article 6. When this article is clarified, consideration might be given to the possibility of adding the following clause: 'In no case may this article be construed as authorizing the prohibition of the use of telegraph and/or telephone and/or radio for the transmission of news abroad and/or for the imposition of additional charges or quotas in respect of this type of communication.'"

Belgium (A/4173)

"Article 6. "The present wording seems to authorize a State whose external financial position is threatened to establish a censorship if it deems this necessary."

Costa Rica (A/4173)

"Article 6. "This article states that nothing in the Convention shall affect the right of any Contracting State to take what measures it deems necessary in order to safeguard its external financial situation and balance of payments. The text of this article should also include a reference to the internal financial situation, which may have repercussions on the external situation. It would be neither fair nor logical to restrict the exercise of the right or power provided for in this article to measures necessary to safeguard the external financial situation in particular cases or circumstances involving the internal financial situation. Moreover, a relationship should be established between this article and article 1, in other words, article 1 should contain a reference to the limitations on its general principles contained in article 6 and some of the other articles of the proposed Convention."

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Article 7

Afghanistan (A/3868/Add.2)

"Article 7. In principle Afghanistan agrees."

Argentina (A/3868)

"With regard to articles 7 and 8, it should be noted that in Argentina there is the fullest freedom to use all systems of communications (postal services, telegraph, telephone, radio, television, etc.) for the exchange of information. The Argentine Government has therefore no comment on these articles since their text is consistent with the relevant national and international regulations in force."

Belgium (A/4173)

"Article 7. "Sub-paragraph (a) of this article authorizes a State to take restrictive measures on the pretext of developing and protecting its national news enterprises."

Costa Rica (A/4173)

"Articles 7 to 10. "These are acceptable in their present form."

Guatemala (A/3868/Add.8)

"Article 7: The same reservation must be made regarding sub-paragraph (c) of this article as for draft article 1."^{a/}

a/ The comment on draft article 1 reads as follows:

"Article 1: Guatemala was a signatory of the Convention on Territorial Asylum, signed at Caracas, Venezuela, on 28 March 1954, and consequently is obliged to comply with the provisions of article VII of that Convention, which reads as follows:

'Article VII. Freedom of expression of thought as accorded to all the inhabitants of a State by the laws of that State may not be the ground for a claim by another State in respect of opinions expressed publicly against that State or its Government by persons who have sought asylum or refuge in the first-mentioned State unless such opinions constitute systematic propaganda representing an incitement to force or violence against the Government of the claimant State.'

Although this Convention has not yet been approved by the Congress of the Republic, the measures necessary for that purpose are being taken. As a result, the Convention on Territorial Asylum will come into force for Guatemala before the Convention on Freedom of Information is signed."

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Thailand (A/4173/Add.1)

"Article 7. - It is supposed that there is a misprint in line 10, because it is understood that the 'provided' applies to a, b, c, not to c only, and should come in another line."

See also the first paragraph of Thailand's comment on article 5 of the draft Convention.

Article 8

Afghanistan (A/3868/Add.2)

"Article 8. Agrees."

Argentina (A/3868)

See the comment on article 7 of the draft Convention.

Costa Rica (A/4173)

See the comment on article 7 of the draft Convention.

Article 9

Afghanistan (A/3868/Add.2)

"Article 9, para. (a). In principle, Afghanistan agrees. In this paragraph discussion of right of States to refuse entry to particular persons is mentioned. This discussion should be extended to refuse the entry of particular publications; thus proposes that after 'any particular persons' 'or any particular publications' should be added.

"Para. (b). Agrees."

Belgium (A/4173)

"Article 9. "Paragraph (a) of this article, which guarantees the right of any State to refuse entry into its territory to aliens or to restrict the period of their residence, does not seem to conflict with article 1, under which each Contracting State shall secure freedom of information, within the limits laid down in article 2, to its own nationals and to the nationals of every other Contracting State who are lawfully within its territory.

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"It would be going too far to require States to agree to the unrestricted residence of foreign nationals in their territory, on the pretext of ensuring freedom of information."

Costa Rica (A/4173)

See the comment on article 7 of the draft Convention.

Thailand (A/4173/Add.1)

"Article 9. - It is felt that this provision should have been better to come as a final paragraph of Article 2 redrafted as it is proposed hereabove."

Article 10

Afghanistan (A/3868/Add.2)

"Article 10. In principle Afghanistan agrees."

Argentina (A/3868)

"Article 10. In the event of a conflict between the provisions of this Convention and those of a more general agreement, the provisions of the general agreement will prevail.

"It is considered preferable that 'the provisions most favourable to the principle of freedom of information' should prevail.

"The widest possible freedom of expression and information, even though it may lead to excesses, is preferable to its limitation on various grounds, since all limitations will be extended and broadened through interpretation by undemocratic régimes to the point where the right becomes illusory.

"Our Government's position is necessarily based on Argentina's tradition of opposition to prior censorship and of broad freedom to publish ideas, opinions and information.

"Certain régimes commonly resort to other methods to impede the free dissemination of ideas and information:

"(a) The closing of printing establishments during the trial of any person charged with an offence committed through use of the Press on the ground that the printing establishment was an instrument used in the commission of the offence.

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"(b) Measures requiring writers or publishers to post bonds in amounts which are so large as to constitute prohibitions.

"The Argentine Government considers that a convention aimed at safeguarding freedom of information and expression should contain provisions concerned with the prevention of the restriction of freedom of information and expression by indirect measures of this kind.

"With regard to the territorial scope of the Convention, the Argentine Government considers that the Convention on Freedom of Information should be open to signature by all countries of the world and not only by Member States of the United Nations, invited States and States designated by the General Assembly."

Costa Rica (A/4173)

See the comment on article 7 of the draft Convention.

Article 11

Afghanistan (A/3868/Add.2)

"Article 11, paras. (a) and (b). Agrees."

Costa Rica (A/4173)

"Article 11. "Sub-paragraph (a) proclaims the right of every Contracting State to take appropriate measures derogating from its obligations under the Convention in time of war or other public emergency. In practice, any state of war or 'international' emergency in which a Contracting State is involved must be taken into account because any such situation is abnormal and therefore necessitates precautions in the shape of effective measures to preserve the national security and the economic and financial stability of the State.

"The remaining articles do not call for any objections or comments, as they are satisfactory and in their proper place."

Indonesia (A/4173/Add.1)

"3. Freedom of Information may be restricted in the cases included in Article 11, paragraph (a) of the Draft Convention. Such restrictions are in conformity with the Indonesian Penal Code, Articles 14 and 15 of Law No. 1 of 1946, and Law No. 74 of 1957."

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Pakistan (A/3868/Add.1)

"The Government of Pakistan has the following comments to offer on the draft Convention on Freedom of Information:

"2. Article 11(b)

It might not always be possible or desirable to give specific reasons for the declaration of public emergency. The Government of Pakistan are, therefore, of the view that the words 'and of the reasons therefore' may be deleted from this article."

Philippines (A/4173)

"The Philippine Government likewise proposes the following text as an additional paragraph to the present text of article 11:

Article 11

'(a) /No change./

'(b) /No change./

'(c) The Contracting Parties shall not impose censorship in peace-time, save under carefully defined and exceptional circumstances such as officially proclaimed states of public emergency threatening the life or security of the nation."

Article 12

Afghanistan (A/3868/Add.2)

"Article 12. Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

Guatemala (A/3868/Add.8)

"Article 12. Article 149, sub-paragraph (b), item 3, of the Constitution of the Republic provides that no question may be submitted for decision by an

/...

international court or for international arbitration without the approval of a two-thirds majority of the Congress of the Republic."

Article 13

Afghanistan (A/3868/Add.2)

"Article 13 para. (a). In principle Afghanistan agrees. On the question of automatic right of signature of the Convention by the countries who had been invited to the 1948 Conference, it reserves its right to make further observations on this point at the General Assembly.

Para. (b). Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

Article 14

Afghanistan (A/3868/Add.2)

"Article 14. Para. (a) is related to para. (a), Art. 13.

"Para. (b). Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

Article 15

Afghanistan (A/3868/Add.2)

"Article 15, paras. (a) and (b). Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

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Article 16

Afghanistan (A/3868/Add.2)

"Article 16. Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

Guatemala (A/3868/Add.8)

"Article 16. The Government of Guatemala, as it has done in all international conventions, protocols and agreements which may in any way affect the territory of Belize, makes an express reservation to the effect that Belize is not a possession of the United Kingdom, but a territory which legitimately belongs to the Republic of Guatemala."

Indonesia (A/4173/Add.1)

"4. It is of particular concern to Indonesia that the independence movements in various non-self-governing, trust and colonial territories be permitted to find their free expression through media of information. Because of the fact that 'freedom of expression' and 'the free interchange of information and opinions' are recognized by the Draft Convention as 'fundamental human rights' (see preamble), the Indonesian Government is of the opinion that the freedoms and other provisions embodied in ... Article 16 of the Draft Convention must be interpreted in such a way as to be applicable to the peoples in non-self-governing, trust and colonial territories. In this connexion, we would like to make the following comments ...

"c. Article 16: "This article does not provide a satisfactory guarantee for the implementation of provisions of the Convention in regard to indigenous peoples of non-self-governing, trust or other colonial territories. Moreover, no other article in the Draft Convention contains such a guarantee."

/...

Article 17

Afghanistan (A/3868/Add.2)

"Article 17, paras. (a) and (b). Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

Article 18

Afghanistan (A/3868/Add.2)

"Article 18. Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

Article 19

Afghanistan (A/3868/Add.2)

"Article 19. Agrees."

Costa Rica (A/4173)

See second paragraph of the comment on article 11.

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ANNEX VI

Amendment to the draft Convention on Freedom of Information
submitted by Colombia, Ecuador and Venezuela (A/C.3/L.843)

Insert the following new article 6 and re-number the subsequent articles accordingly:

Article 6

"The Contracting States shall guarantee the exercise of journalism as a profession".
