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AD HOC COMMITTEE ON GENOCIDE

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

Lake Success, New York
Tuesday, 27 April 1948, at 4:25 p.m.

<u>Chairman:</u>	Mr. MAKTOS	United States of America
<u>Vice-Chairman:</u>	Mr. MCRCZOV	Union of Soviet Socialist Republics
<u>Rapporteur:</u>	Mr. AZKOUL	Lebanon
<u>Members:</u>	China France Poland Venezuela	Mr. LIN MCUSHENG Mr. CRDONNEAU Mr. RUDZINSKI Mr. PEREZ PEROZO
<u>Secretariat:</u>	Mr. SCHWELB Mr. GIRAUD	Deputy Director of the Division of Human Rights Secretary of the Committee

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CONTINUATION OF THE DISCUSSION OF THE PREAMBLE TO THE DRAFT CONVENTION

The CHAIRMAN asked the members of the Committee to express their views on the proposal made at the previous meeting by the French representative to delete the following phrase "and also at the suppression and prohibition of the instigation of racial, national (and religious) hatred" from the fourth amendment submitted by the USSR delegation.

Mr. AZKOU (Lebanon) (Rapporteur) said that he had opposed the insertion of a phrase of this kind into one of the articles of the convention, but he felt that the phrase referred to in the French amendment was perfectly appropriate in the preamble to the convention.

It was indeed most useful to draw the attention of the signatories of the convention and of public opinion to the fact that racial, national and religious hatred were at the basis of genocide.

The CHAIRMAN put the French representative's proposal to the vote.

Three votes were cast for and three against the proposal. There was one abstention.

The CHAIRMAN then put to the vote the text of the fourth amendment put forward by the USSR delegation.

This amendment was rejected by four votes against three.

Mr. LIN MOUSEHENG (China) suggested that the words "which the civilized world condemns" should be added at the end of that part of the preamble which had been so far approved by the Committee.

The proposal of the Chinese representative was adopted by six votes, with one abstention.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that he had not taken part in the vote because he felt that the wording suggested by his delegation expressed better the notion contained in the Chinese proposal.

Mr. LIN MOUSHENG (China) returned to the question raised by the French representative at the previous meeting, namely, the necessity of connecting the convention with the circumstances which had led to its being drawn up.

The Chinese delegation felt that the convention should contain a reference to recent events, and he suggested therefore that the following paragraph be added to the preamble: "The high contracting parties, having been profoundly shocked by many recent instances of genocide, hereby agree to prevent and punish the crime as provided for in this convention."

Mr. ORDONNEAU (France) asked that the following phrase be added to the paragraph suggested by the Chinese representative: "... that the international military tribunal at Nuremberg, in its judgment of 30 September and 1 October 1946, has punished certain persons who have committed these crimes..."

He felt it was necessary that this should be recalled, as at least two cases of genocide had been punished by the Nuremberg tribunal. The judgment in question constituted an important precedent which should be taken into account in an international convention on genocide. It was obvious that if the Tokyo tribunal were to pass a verdict of guilty before the draft convention had been submitted to the General Assembly, that precedent could also be mentioned in the preamble. At the present stage, however, any mention of the Tokyo tribunal would prejudge the outcome of the trial in progress.

/Mr. LIN MOUSHENG

Mr. LIN MOUSHENG (China), supported by the representative of the United States of America, agreed to the insertion suggested by the French representative. He felt that the preamble should also state that the prevention and punishment of genocide required international co-operation.

Mr. AZKOUL (Lebanon) (Rapporteur) was opposed to a reference to the judgment of the Nuremberg tribunal because the acts punished by that tribunal had not been regarded as cases of genocide but as constituting crimes against humanity.

Mr. PEREZ FERROZO (Venezuela) shared the views of the Lebanese representative.

Mr. ORDONNEAU (France) suggested, in order to meet the objections voiced by the representative of Lebanon, that the words "certain persons who have committed these crimes" be replaced by "certain persons who have committed analogous acts".

Mr. AZKUL (Lebanon) (Rapporteur) agreed with this new wording.

The CHAIRMAN then put to the vote the following text:

"The High Contracting Parties, having been profoundly shocked by many recent instances of genocide, and having taken note of the fact that the International Military Tribunal at Nuremberg, in its judgment of September 30 and October 1, 1947, has punished certain persons who have committed analogous acts, and being convinced that the prevention and punishment of genocide requires international co-operation, hereby agree to prevent and punish the crime as provided in this convention."

/This text

This text was adopted by four votes, with three abstentions.

Mr. KUDZINSKI (Poland) said he had not taken part in the vote because the proposed text did not contain any mention of Nazism and Fascism.

Mr. FENEZ FERCOZO (Venezuela) said he had abstained because there was no reason to mention the judgment of the Nuremberg tribunal in the convention.

The CHAIRMAN then put to the vote the whole of the draft preamble reading as follows:

"The High Contracting Parties declare that genocide is a grave crime against mankind which violates the spirit and aims of the United Nations and which the civilized world condemns;

"The High Contracting Parties, having been profoundly shocked by many recent instances of genocide, and having taken note of the fact that the International Military Tribunal at Nuremberg, in its judgment of September 30 and October 1 1946, has punished certain persons who have committed analogous acts and being convinced that the prevention and punishment of genocide requires international co-operation, hereby agrees to prevent and punish the crime as provided in this Convention

The whole of the preamble was adopted by four votes, with three abstentions.

/FINAL PROVISIONS

FINAL PROVISIONS OF THE DRAFT CONVENTION

The CHAIRMAN asked the Committee to examine the report of the sub-committee entrusted with the task of studying articles XV to XXIV of the draft convention drawn up by the Secretariat and the comments made by governments on this subject (document E/AC.25/10). He said that, on the whole, the three members of the sub-committee had agreed on the text proposed by the Secretariat or on the changes that should be made therein. He suggested considering last the controversial question of the languages in which the authentic text of the convention should be drawn up.

ARTICLE XVI -- What States may become Parties to the Convention.
vs to become Party to it.

The CHAIRMAN said that in his capacity as representative of the United States of America he had suggested to the sub-committee that the General Assembly rather than the Economic and Social Council be entrusted with the task of inviting the states to sign this convention.

Mr. MROZOV (Union of Soviet Socialist Republics) pointed out that the General Assembly held only one session while the Economic and Social Council held three. It would be preferable therefore that the task of issuing invitations should be entrusted to the latter.

Mr. ORDONNEAU (France) preferred that that should be decided by the General Assembly, because as a result of the work of the International Law Commission genocide might lie outside the competence of the Economic and Social Council.

/The Committee

The Committee decided by four votes against three to entrust the General Assembly with the task of issuing invitations to states to sign the convention. The Committee also decided to delete the figure 8 in the year date mentioned in each of the two paragraphs of Article XVI.

The whole of Article XVI was adopted unanimously.

ARTICLE XVII -- Reservations.

Article XVII was adopted unanimously.

ARTICLE XVIII -- Coming into force of the Convention.

Article XVIII was adopted unanimously.

ARTICLE XIX -- Duration of the Convention -- Denunciation.

The CHAIRMAN said that the United States delegation was in favour of the first draft proposed by the Secretariat providing that the convention should remain in force for five years and be renewable by tacit consent.

Mr. RUDZINSKI (Poland) observed that in drawing up a convention against a crime such as genocide it was impossible to foresee how long it would remain in effect. The adoption of the Secretariat's first draft would give the impression that the convention was a temporary one and would apply only for the next five years. The condemnation of genocide should be made permanent; for that reason it was preferable not to determine the duration.

Mr. MOROZOV (Union of Soviet Socialist Republics) supported that point of view.

Mr. AZKOUL (Lebanon), Rapporteur, also preferred the second draft submitted by the Secretariat. There should be a permanent assurance of the prevention and suppression of genocide; it should not depend on political or historical events.

/Mr. ORDONNEAU

Mr. ORDONNEAU (France) observed that renewal by tacit re-affirmation as provided for in the first draft ensured the continuance of the convention. Besides, it had the advantage of binding the contracting parties for a longer time, since denunciation could be effected only on the expiration of the current period, whereas under the terms of the second draft denunciation could be effected at any given moment and would take effect one year after receipt of the notification.

The Committee decided by 4 votes to 3 to adopt the first draft of Article XIX submitted by the Secretariat.

Article XX - Abrogation of the Convention.

The CHAIRMAN stated that the United States delegation had proposed that the number of members below which the convention would cease to have effect should be fixed at fifteen. He asked for a vote on that proposal.

The United States proposal was adopted unanimously.

Article XXI - Revision of the Convention.

The CHAIRMAN read out the alternative draft of Article XXI submitted by the delegation of the United States of America.

Mr. MOROZOV (Union of Soviet Socialist Republics) admitted that the provisions of that draft, according to which a request for revision of the convention would not be transmitted to the General Assembly unless it came from one-fourth of the High Contracting Parties, and give greater force to the convention. He remarked, however, that these provisions were contrary to normal procedure, which permitted any Member State to submit a question for consideration by the General Assembly. The USSR delegation would not like Member States to be deprived of one of their essential rights.

/Mr. ORDONNEAU

Mr. ORDONNEAU (France) emphasized that, in principle, nothing prevented signatory states from renouncing some of their rights in order to ensure greater stability for the convention. It was clear that Member States who had not signed the convention would at all time be free to submit to the General Assembly any question bearing on the convention which was of interest to them. He declared himself in favour of the United States proposal.

Speaking as the representative of the United States of America, the CHAIRMAN drew the Committee's attention to the fact that international conferences led to considerable expense and that the General Assembly would be in a better position to decide on the action it would take if requests for a revision of the convention came from one-fourth of the signatories rather than from a single State.

The Committee adopted by 6 votes to 1, with one abstention, the draft of Article XXI submitted by the delegation of the United States of America.

Article XXII - Notifications by the Secretary-General.

Article XXII was adopted unanimously.

Article XXIII - Deposit of the Original of the Convention - Transmission of copies to Governments.

In the interests of unanimity, Mr. MOROZOV (Union of Soviet Socialist Republics) withdrew the proposal he had submitted to the Sub-Committee.

Mr. RUDZINSKI (Poland) did not insist that the Committee should adopt the text proposed by the Secretariat.

The CHAIRMAN put to the vote the draft submitted by the delegation of the United States of America.

/The draft

The draft of Article XXIII submitted by the delegation of the United States of America was adopted unanimously.

Article XXIV - Registration of the Convention.

Article XXIV was adopted unanimously.

Article XXV - Languages - Date of the Convention.

The CHAIRMAN, speaking on behalf of the Committee, thanked the Secretariat for its excellent work. The detailed note prepared by the Secretariat and embodied in the annex to the Sub-Committee's report would not fail to help the Committee in its work.

He informed the Committee that in the Sub-Committee the delegations of the USSR and Poland held the view that the convention should be drafted in the five official languages, while the delegation of the United States of America felt that it should be drafted in the two working languages only.

Mr. RUDZINSKI (Poland) pointed out that it was the usual practice to draft all important documents of the United Nations in the five official languages. A convention as important as the one it was now proposed to adopt would certainly receive the same treatment.

Mr. LIN (China), Mr. PEREZ-PEROZO (Venezuela) and Mr. AZKOUL (anon), Rapporteur, supported that point of view.

Mr. ORDONNEAU (France) had no objection to the convention being drafted in the five official languages, but wished to point out a danger inherent in the existence of five equally valid texts, especially in the case of a convention that would be interpreted by tribunals. It should not be forgotten that interpretation of texts of criminal law was particularly restrictive; consequently, there was a risk that a tribunal faced with five equally valid texts would apply the text permitting the narrowest interpretation.

/Speaking

Speaking as the representative of the United States of America, the CHAIRMAN stated that, in the interests of unanimity, he was prepared to accept the drafting of the convention in the five official languages.

The Committee decided unanimously that the convention should be drafted in the five official languages, the five texts being equally valid.

The meeting rose at 6:15 p.m.