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Chairman: Mr. Juliusz KATZ-SUCHY (Poland).

1. Mr. CHAUMONT (France), speaking on a point of order, noted that the Committee would have held only two meetings during the current week, whereas other Main Committees met more frequently. Since the Committee still had the major part of its task before it he could see no justification for slowing up the tempo of its work to that degree.
2. The CHAIRMAN replied that, since the Secretariat could service only four Main Committees at a time, each committee had, at times, to give precedence to others, and the Sixth Committee was functioning at the same tempo as the rest. With the help of the Secretariat he would see to it that no undue slowing up occurred.

Transfer to the United Nations of functions and powers exercised by the League of Nations under the Slavery Convention of 25 September 1926: draft protocol prepared by the Secretary-General (A/2435, A/2435/Add.1 to 3, A/C.6/L.304) (*concluded*)

[Item 30]*

3. Mr. GARCIA AMADOR (Cuba) said that, while most of the changes introduced by the United Kingdom proposal (A/C.6/L.304) in the Secretary-General's proposal (A/2435) related to form, the change in article II of the draft protocol related to substance. The Secretary-General's draft spoke of accession, whereas the United Kingdom proposal provided for three methods whereby States could become parties to the Convention: signature, signature followed by acceptance, and acceptance. That formula was simpler and involved fewer formalities than accession. As could be seen from the annex to the draft protocol, the amendments to the 1926 Slavery Convention were intended merely to effect a transfer to the United Nations of functions and powers formerly exercised by the League of Nations and did not affect the substantive provisions of the convention. It was current practice in the United Nations for States to become parties, not only to simple instruments like the draft protocol, but even to instruments which imposed new

obligations on them, by the procedure suggested in article II of the United Kingdom proposal. Since the flexibility of that procedure would expedite the approval and entry into force of the draft protocol, he preferred the United Kingdom version of article II and would vote for it.

4. He added that in the Spanish text of paragraph 3 of that article, as proposed by the United Kingdom, the word *adhesión* should be replaced by *aceptación*.

5. Mr. ROBINSON (Israel) said that the recommendation contained in Economic and Social Council resolution 475 (XV) that the General Assembly should make adjustments in the Slavery Convention was not binding because, according to Article 60 of the Charter, the Council acted under the authority of the General Assembly and the Assembly was therefore able to reject or modify the Council's recommendations.

6. The question the Committee had to consider was whether it was the United Nations policy to adjust each particular treaty concluded under the auspices of the League of Nations to the era of the United Nations and, if so, what method should be employed to effect the adjustment.

7. In the case of the Slavery Convention the method proposed—implied in paragraph 3 of Council resolution 475 (XV) and stated explicitly in article IV of the draft protocol contained in the United Kingdom resolution—was for the United Nations to amend the original convention and produce a consolidated text. That was technically cumbersome, costly and likely to lead to confusion concerning the Convention and its application.

8. If the Secretary-General's draft was adopted, the amended convention would retain its original preamble, list of participants and concluding phrase, all of which would be inconsistent with the new text. The effect of similar attempts on the part of the United Nations to adjust and consolidate international conventions had been to produce a host of inconsistencies, legal uncertainties and ambiguities. Of the five conventions relating to narcotic drugs amended under General Assembly resolution 54 (I) and published in separate fascicules under League symbols, two had retained the initial phrase of the preamble and the names of the plenipotentiaries in the United Nations text and three had not. None of them, and none of the amended texts of the three conventions transferred from the custody of the Government of France to that of the United Nations, had been published in the *United Nations Treaty Series*. The four consolidated texts of League conventions which had appeared in that Series—the Convention for the Suppression of the Circulation of and Traffic in Obscene Publication (vol. 46), the Convention on the Suppression of the Traffic in Women and Children (vol. 53), the Convention for the Suppression of the Traffic in Women of Full

*Indicates the item number on the agenda of the General Assembly.

Age (vol. 53) and the International Convention relating to Economic Statistics (vol. 73)—omitted the preamble, the testimonium, the concluding phrase and the signatures. In the case of the Convention relating to Economic Statistics, the Protocol and annexes had not been reproduced and the reader was referred to the *League of Nations Treaty Series*; yet annex I, part I, article VI, which had not been amended, gave the Secretary-General of the League certain important functions and contained a reference to the Committee of Technical Experts, the reference to which in article 8 of the body of the convention had been deleted. Experience had shown, therefore, that some better method of adjustment had to be devised.

9. The first problem was the administrative one of custody. That had been solved finally, with respect to all conventions concluded under the League's auspices, by General Assembly resolution 24 (I) whereby the United Nations offered to assume the League's depositary functions, and by the League of Nations resolution of 18 April 1946 by which the League accepted the offer. According to those resolutions the Secretary-General of the United Nations was not only to preserve the appropriate documents but to assume the administrative functions formerly performed by the League secretariat, functions described in detail in the General Assembly resolution; and that applied not only to treaties specifically assigned to him under special protocols, but to several others, some of which were listed in the statement (E/AC.7/L.142) of the representative of the Legal Department dated 17 April 1953. Thus the Secretary-General, and he alone, had the custody of the League conventions and had authority to receive accessions, ratifications and denunciations as well as communications relating to the extension or restriction of their territorial application, and to notify the parties of such changes. To deprive him of that authority would produce a standstill in treaty development, which no Member of the United Nations would welcome.

10. Secondly, there was the institutional problem. The dissolution of the League had made it necessary to indicate which organs of the United Nations were to exercise the functions conferred by international conventions upon organs of the League. That could easily have been done simply by the addition of a short protocol to each individual convention indicating the articles in which certain organs were mentioned, and naming the organs which were to take their place. In the case of the Convention relating to Economic Statistics, for example, the protocol could have provided that the International Institute of Agriculture would everywhere be replaced by the Food and Agriculture Organization, and so on. The method of multiplying instruments that had in fact been adopted, which led to extra expenditure for printing and publishing in addition to the disadvantages already mentioned, could be considered a failure.

11. The third problem was that of partnership. All conventions concluded under the League's auspices had specified that all Members of the League were eligible to become parties, while in the case of conventions that had been initiated by the League and drafted at diplomatic conferences the principle of automatic eligibility had also been extended to the non-member States participating or invited to participate in the conferences. In addition copies of the conventions had been communicated by the Secretary-General of the League, under instructions of the Council, to other

non-member States without formal invitation, the idea being that it would have been inconsistent with the League's dignity and embarrassing to the States for the League's invitation to have been ignored or rejected; a diplomatic nicety belonging to a more polite age than that which had followed the League's dissolution. The reason for the listing by the Council of the League of States eligible to accede to an international convention had been the necessity for determining which political units were States under international law. The Members of the League had been sovereign States by definition, under Article 1 of the Covenant; in the case of other political units some organ, namely the Council, had had to decide if they were such States, possessing the *jus contractus*. But agreements concluded under the League's auspices had been, as a matter of general policy, open to all States regarded as having the *jus contractus*. If the same principle were applied to the Members of the United Nations there would be no need to verify the State character of any of the members of the United Nations, since under Article 4 of the Charter all Members possessed that character. Thus all Members of the United Nations, for the purpose of joining League conventions, were to be considered as eligible *en plein droit*.

12. It followed from those general considerations that the triple method of General Assembly resolution, protocol and amendment proposed in the Secretary-General's memorandum (A/2435) was inadvisable in general and for the Slavery Convention in particular. Moreover, the Slavery Convention did not even require a short additional protocol, but could continue to serve, at least as well as it had in the past, without any alteration or addition whatever.

13. To take the amendments proposed by the Secretary-General in detail. The proposed amendments to article 8 of the convention would hardly improve the existing legal position, since under Article 37 of the Statute of the International Court of Justice the Court already had the jurisdiction in connexion with the Slavery Convention formerly possessed by the Permanent Court of International Justice as far as the parties to the Statute of the International Court of Justice were concerned. The procedure suggested in the second sentence of article 8 would remain in force in regard to States not covered by the first sentence.

14. The other four articles of the convention to which amendments were proposed concerned the transfer to the Secretary-General of the United Nations of functions originally attributed to the Secretary-General of the League. Under this first, article 7, the parties undertook to communicate laws or regulations enacted by them in application of the convention's provisions, not only to the Secretary-General of the League, but to each other. Even if the duty of a State to communicate such texts to the Secretary-General were regarded as having lapsed with the League's dissolution, so that the Secretary-General of the United Nations was not entitled to request their communication to himself, the result would not be serious; the article as a whole had not worked well, there were many other methods by which legal texts might be obtained, and the parties would presumably be willing to submit such material to the Secretary-General whether he were formally entitled to ask for them or not. In any case, non-amendment of article 7 would have no effect whatever in combating the social evil of slavery.

15. Article 10, dealing with denunciations, was covered by the resolutions of the United Nations and the League.

16. The third and fourth paragraphs of article 11, dealing with notification of intention to accede and transmission of the notification to other contracting parties, were covered by the definition of custodianship. Only the second paragraph of article 11, dealing with the power of the Secretary-General of the League to bring the convention to the notice of States which had not signed, and to invite their accession, was not covered by the resolutions. But if the Secretary-General of the United Nations did not possess the power of invitation under the existing text of the paragraph, the situation would not be very serious. All the Members of the United Nations, except five, had become parties to the convention or been invited to sign, and in four of those States slavery did not exist, so that their accession was immaterial; and, sixteen non-member States having become parties under the League, only seven non-member States were outstanding.

17. Lastly, the function referred to in article 12, namely, the deposit of instruments of ratification, undoubtedly fell under the definition of custodianship.

18. Thus the unamended text of the convention had only two disadvantages: first, if the States did not feel bound to inform the Secretary-General of their enactments concerning the convention's application he would have to obtain them from the United Nations library; and, secondly, there was no organ to invite five Member States and seven non-member States to accede to the convention. The first was not a serious disadvantage and, in view of his earlier comments on the subject of partnership, he felt that the second might be overcome by an Assembly resolution inviting the States in question to accede to the convention. It was unlikely that any objections would be raised if those States accepted the invitation.

19. To make it possible to invite more States to become parties to the Slavery Convention through the cumbersome machinery of a protocol and an annex amending the convention would merely contribute to an undesirable proliferation and overlapping of treaties, and lead to a situation known as the imbroglia of treaties, a constant source of friction and misunderstanding. Such an imbroglia had arisen in the case of the Conventions on the Traffic in Women and Obscene Publications. No change of organs had been required in those cases, and accordingly the Secretariat articles had simply been amended by General Assembly resolution 126 (II). A year later, however, it had been discovered that those conventions were supplementary to three previous conventions concluded under the auspices of the Government of France, and it had been necessary for the General Assembly to assume the custody of the original agreements, under resolution 256 (III). Finally, a year later still, a new convention had been drawn up, under resolution 317 (IV), superseding all previous agreements on the traffic in women.

20. Apart from any other considerations, amending the Slavery Convention would entail a long procedure of communications, notifications, ratifications, etc. which ought if possible to be avoided.

21. The one remaining question was whether the convention was in fact worth reactivating. The following considerations suggested that it was not. The sub-

stantive provisions of the convention (articles 2 and 3) were few in number and meagre in content, its definitions (article 1) were obsolete, and its approach to forced labour was timid. There was no evidence that the convention had helped to reduce slavery. At its adoption in 1926, the convention had already been considered antiquated; the Norwegian representative had desired an article to be included providing for its revision in 1932 and had only withdrawn his request on the understanding that such a revision was imminent. Lastly, the convention was a dead letter; for eighteen years nothing had happened either to it or under it. It would be more effective to prepare a revised convention, in the spirit of the supplementary proposals of the *Ad Hoc* Committee on Slavery, than to undertake the hopeless task of reactivating the existing instrument.

22. Since the Slavery Convention was not an effective instrument to combat slavery there was no need to adjust it to the new era of the United Nations. As it stood, however, it could still be acceded to by any States that had not yet done so if the General Assembly simply adopted a resolution inviting States to accede and, at the same time, encouraging the Economic and Social Council to act on the other suggestions made by the *Ad Hoc* Committee.

23. At that stage he had no formal proposals to make. He merely wished to open the question to discussion, as one upon which the United Nations would eventually have to take a decision.

24. Mr. BIHIN (Belgium) said that his country, which had long ago eradicated slavery in the Belgian Congo, took a deep interest in the question; together with the Belgian Congo, it had adhered to and scrupulously applied numerous international instruments relating to slavery and had taken the initiative, at the third session of the General Assembly, in proposing the establishment of a committee of experts to study the question.

25. Referring to the comments submitted by his Government (A/2435/Add.2), he said that the Slavery Convention of 1926, though a great advance when concluded, had become insufficient to meet modern conditions and modern humanitarian ideas. The *Ad Hoc* Committee on Slavery had recognized in its report (E/1988) that slavery and forms of servitude existed to varying degrees in different parts of the world and were, in fact, on the increase in some. The Economic and Social Council had repeatedly dealt with forms of servitude which were not slavery in the strict sense of the term. The 1926 Convention, which defined slavery solely in terms of ownership rights exercisable by one person with respect to another, could hardly apply to servitude, which had become a more serious problem than slavery in its classic form.

26. In that respect the draft protocol prepared by the Secretary-General provided only a partial solution to the modern problem of slavery, for the amendments to the convention, as contained in the draft protocol, were of a purely technical nature and by adopting them the Assembly would be accomplishing only a small part of its broader task.

27. Another serious shortcoming of the proposed draft protocol was that, under its article III, the protocol would enter into force upon accession by two States, and the amendments to the convention when twenty-three States had become parties to the protocol. That meant that the amendments would not become bind-

ing on any of the forty-five States parties to the 1926 Convention which failed to accept the protocol. The result would be that, after twenty-three States had accepted the protocol, two international conventions would be in force—the original 1926 Convention, which could no longer be enforced for lack of an enforcement organ, and the new convention, which could be enforced and which alone would be fully binding. Hence that provision would lead to inequality between States. Such an inequality had not existed at the time of the League of Nations, as Members of the League which had not ratified the 1926 Convention had still been bound, under Article 23 (b) of the Covenant of the League of Nations, to secure just treatment of the native inhabitants of territories under their control, who were most vulnerable to forms of servitude. Yet, through a restrictive interpretation of the Charter, to which Belgium had repeatedly objected, many Members of the United Nations had deprived their indigenous populations of such international guarantees, which were now as necessary as ever.

28. He regretted, in that connexion, that a number of countries in which slavery was known to exist had sent a negative or only a very incomplete reply to the questions put to them by the *Ad Hoc* Committee on Slavery.

29. The fight against slavery could only be effective if the relevant international instruments were as widely applicable as possible. It would be inadmissible that States on the territories of which forms of slavery still existed and perhaps were spreading should not be bound by any international agreement.

30. For those reasons, the Belgian delegation felt that the General Assembly would be failing in its duty if it did no more than adopt the draft prepared by the Secretary-General, and had proposed (A/2435/Add.2) that the General Assembly should convene a diplomatic conference for a general review of the problem to which all countries, whether or not they were Members of the United Nations or parties to the 1926 Convention, should be invited.

31. Mr. SERRANO GARCIA (El Salvador) said that he preferred article 1 of the Secretariat draft (A/2435) to that of the United Kingdom text (A/C.6/L.304), which might give rise to conflicting interpretations. Indeed, some might take the view that under the United Kingdom draft provision States were to give effect solely to the amendments to the convention, the binding force of the convention itself being left in doubt, while others might feel that to give effect to the amendments implied giving effect to the convention as a whole. Furthermore, the words "and duly apply" in the United Kingdom text were superfluous, since in accepting a convention a State automatically undertook to apply it. Lastly, from the point of view of style, the Secretariat text was better.

32. For those reasons he could not accept article I of the United Kingdom text, although he supported the rest of the draft.

33. Mr. ALFONSIN (Uruguay) agreed with the representative of El Salvador concerning article I of the draft protocol proposed by the United Kingdom, especially as regards the undertaking duly to apply the amendments. The inclusion of the phrase, while unnecessary for the purposes of the protocol, might some day be interpreted to mean that where an obligation was not specifically mentioned it did not exist.

For that reason he preferred the standard formula used by the Secretariat.

34. Article II, paragraph 1, of the United Kingdom draft, he felt, authorized the Secretary-General to choose the States to which a certified copy of the protocol would be transmitted, and he found that inadvisable. He supported the rest of the article for the same reasons as those given by the Cuban representative, but suggested that in paragraph 2 (c) the word "acceptance", which implied prior signature, should be replaced by the word "adherence" and that the beginning of paragraph 3 should accordingly be changed to read "Adherence and acceptance shall be effected . . .".

35. Mr. MAKOTOS (United States of America) indicated that, whatever objections the Israel representative might have to the protocol method, it had become a standing practice in the General Assembly. Furthermore, from the legal point of view, it was preferable that the transfer of functions from the League of Nations to the United Nations should be effected by the original parties to the convention rather than by General Assembly resolution. The words "as between themselves" in article I of both the United Kingdom draft and the Secretariat's text made the situation perfectly clear. If the States parties to the 1926 Convention accepted the protocol and it was duly registered, there would be no difficulty in bringing out a consolidated text.

36. In conclusion he observed that, in accordance with his country's constitutional procedure, his Government was prepared to request the United States Senate to accept the draft protocol.

37. Mr. HOLMBACK (Sweden) enquired whether, in the view of the Secretariat, the draft protocol was necessary for the transfer to the United Nations of the League's functions with regard to the Slavery Convention.

38. Mr. COX (Secretariat) replied that the Secretary-General had always considered himself bound by the terms of General Assembly resolution 24 (I) which made it very clear that the functions conferred upon him were purely administrative and applied to all conventions concluded under the auspices of the League of Nations. On the other hand, on a number of previous occasions the General Assembly had found it desirable to draw up special protocols to regulate the transfer of functions with regard to specific conventions, even though there was presumably no legal necessity for doing so.

39. The Secretary-General did not hold the view that a mere resolution of the General Assembly operated to amend any basic convention. He had carried out the administrative functions assigned to him under resolution 24 (I) with regard to conventions to which there had been no protocols, and no State had ever raised any objection. Since there were precedents for either course of action, the Secretary-General felt that whether or not there should be a protocol in the present case was a matter of policy to be decided by the General Assembly.

40. The term "acceptance" had been used in article II of the United Kingdom draft protocol because the Sixth Committee at a previous session had expressed a preference for it on the grounds that it offered governments the choice of a variety of methods; it had been used throughout the article because the Com-

mittee itself had felt in the past that the language used in such articles should be uniform.

41. The Cuban representative's comments on the Spanish text of the United Kingdom's draft article II would be noted.

42. Mr. VALLAT (United Kingdom), in reply to the remarks made during the discussion, said the protocol was merely a formality for the clarification of certain technical points which even the Israel representative had agreed were necessary.

43. While it might be true, as the Belgian and Israel representatives had pointed out, that the convention itself had a number of shortcomings, it would nevertheless serve some useful purpose once the technical situation had been settled. Substantive changes could be introduced subsequently. The Israel representative's remark that the 1926 Convention had been accepted by most States was only an argument in favour of a protocol through which the convention might be made universally applicable. The provisions for signature in article II were designed to facilitate adherence to the protocol. Consequently he felt that a protocol was the best method in existence. If it was only a partial solution, as the Belgian representative had said, that was the only solution the Committee was concerned with.

44. Speaking about his own delegation's draft in particular, he agreed with the representatives of El Salvador and Uruguay that the words "duly apply the amendments . . ." in article I might be unnecessary; however, the text of the article as a whole followed that of similar protocols adopted by the General Assembly in the past, and he would be reluctant to change it. The same applied to the use of the word "acceptance" in article II of his delegation's draft.

45. Mr. BARTOS (Yugoslavia) observed that, while the principles of international law with regard to slavery remained valid, there was at present no organ to deal with their application. It was a gap which should be filled effectively and promptly. He regretted, however, that the Committee proposed to do so by bringing an old and obsolescent convention technically up to date without attempting to come to

grips with the modern problem of slavery. He hoped that the Economic and Social Council's recommendation that further work should be carried on with a view to preparing substantive amendments to improve the 1926 Slavery Convention would not remain unheeded. That was the course which had been followed with respect to the conventions relating to narcotic drugs.

46. He would vote in favour of the United Kingdom proposal, while recognizing the force of the Israel representative's objections to it, on the understanding that it represented a temporary solution and that before long the Committee would have before it a better and broader draft convention, in the preparation of which the findings of the committee of experts and the comments of the Israel, Belgian, and other delegations would have been taken into account.

47. Mr. SERRANO GARCIA (El Salvador) formally moved that article I of the draft protocol contained in the United Kingdom proposal (A/C.6/L.304) should be replaced by the text of article I as drafted by the Secretary-General (A/2435).

48. The CHAIRMAN put to the vote the motion proposed by the El Salvador representative.

The motion was rejected by 13 votes to 7, with 24 abstentions.

49. The CHAIRMAN put to the vote the United Kingdom proposal (A/C.6/L.304), including a draft resolution, a draft protocol, and an annex to the draft protocol.

The proposal was adopted by 38 votes to none, with 9 abstentions.

50. Mr. BIHIN (Belgium) explained that his delegation's vote in favour of the United Kingdom proposal did not mean a change of attitude. Faced with the choice between having no convention on slavery and having an unsatisfactory one, it had chosen the latter, but he emphasized that the Committee, by adopting the proposal, had performed only a small part of its duty.

The meeting rose at 1 p.m.