



Friday, 21 December 1951, at 3.40 p.m.

Palais de Chaillot, Paris

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Chairman : Mr. Manfred LACHS (Poland).

**Reservations to multilateral conventions (*continued*)**

**(a) Report of the International Law Commission covering the work of its third session (A/1858) (chapter II : Reservations to multilateral conventions)**

[Item 49 (a)]\*

**(b) Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide : advisory opinion of the International Court of Justice (A/1874)**

[Item 50]\*

1. Mr. MOUSSA (Egypt) said that his own delegation and those of Afghanistan, Iraq, Lebanon, Saudi Arabia, Syria and Yemen wished the following phrase to be added to the end of sub-paragraph 3 (b) of their joint amendment (A/C.6/L.200) to the United States draft resolution (A/C.6/L.188) : " without the decision of any one State being sufficient to prevent the participation in the convention of a State which has made reservations ".

2. Mr. BUNGE (Argentina) stated that, in consequence of the addition thus made to the Arab amendment, his delegation, together with the delegations of Bolivia, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador and Honduras, withdrew their joint amendment (A/C.6/L.191) to the United States draft resolution.

3. Mr. MAKTO (United States of America) said that his delegation accepted the Arab amendment (A/C.6/L.200) to its draft resolution, including the additional phrase introduced by the Egyptian representative, as well as the Lebanese amendment (A/C.6/L.189) concerning a reservations clause, all of which should therefore hence-

forth be regarded as part of his delegation's draft resolution.

4. It also accepted the Venezuelan amendment (A/C.6/L.197/Rev.1), provided that the word " similar " were substituted for the word " humanitarian ".

5. Mr. PEREZ PEROZO (Venezuela) wished to know the precise meaning of the word " similar " : it appeared unduly restrictive; his delegation included among conventions of a humanitarian nature, conventions on, for example, the white slave traffic, slavery, refugees and obscene publications.

6. Moreover the Arab amendment (A/C.6/L.200), accepted by the United States delegation, deleted paragraph 1 of the operative part of the United States draft resolution, which was the paragraph amended by the Venezuelan amendment. He wished to know how this deletion could be reconciled with acceptance of his amendment.

7. Mr. CASTAÑEDA (Mexico) pointed out that the paragraph contained in the Venezuelan amendment could be inserted in place of the first operative paragraph deleted by the Arab amendment.

8. Mr. MAKTO (United States of America) withdrew his delegation's offer to accept the Venezuelan amendment (A/C.6/L.197/Rev.1), which should consequently be voted upon separately.

9. Mr. KERO (Assistant Secretary-General in charge of the Legal Department) asked the representative of Egypt if the phrase he had added to the Arab amendment were meant to secure application of the Latin-American system or of the system advocated by the USSR; in other words, whether or not a reserving State would be prevented from participating if all the parties objected to its reservation.

10. Mr. MOUSSA (Egypt) thought that the answer to Mr. Kero's question was implicit in the text of his revision. He preferred to leave each delegation free to interpret that text for itself.

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

11. Mr. MAJID ABBAS (Iraq) would support the additional phrase proposed by Egypt if it were amended to read "... participation in the convention of a State whose reservations have been accepted".

12. Mr. FITZMAURICE (United Kingdom) observed that the complexity of the United States text, as amended, together with the ambiguity of the phrase added by Egypt to the Arab amendment, made it imperative to have the new text circulated in writing before the Committee voted on it.

13. Mrs. BASTID (France) agreed with the United Kingdom representative. When the new written text was considered, the following points should be borne in mind. First, it appeared that the phrase added by the representative of Egypt changed the substance of the Arab amendment, by introducing the Latin-American system or the system suggested by the USSR, instead of leaving it to each State to interpret the legal consequences of reservations. Either interpretation of the phrase would mean that the General Assembly would be pronouncing on the law. She pointed out that the Assembly was not competent to change the existing law; that could only be done by a convention. Secondly, the amended United States text failed to instruct the Secretary-General to be guided by the Court's opinion<sup>1</sup> with respect to the Genocide Convention, or to state whether or not the new rule was to apply to conventions already deposited with the Secretary-General.

14. Mr. HOLMBACH (Sweden) also supported the United Kingdom representative's suggestion. The vote should be postponed until the members of the Committee had had time to consider the written text, particularly the additional phrase proposed by the representative of Egypt.

15. In reply to a question by the CHAIRMAN, Mr. MAK-TOS (United States of America) explained that his delegation's draft resolution, with the amendments accepted, ran in its new form as follows: The first paragraph of the original preamble (A/C.6/L.188) was retained; the phrase contained in point 1 of the Arab amendment (A/C.6/L.200) replaced the second paragraph of the original preamble: paragraphs 1 and 2 of the original operative part were deleted by point 2 of the Arab amendment; the paragraph contained in the Lebanese amendment (A/C.6/L.189) replaced paragraph 3 of the original operative part; and the text of point 3 of the

Arab amendment, with the additional phrase proposed by the Egyptian representative, replaced paragraph 4 of the original operative part. Since the written texts of all those paragraphs, with the exception of the additional phrase, were already before the Committee, he thought it hardly necessary to suspend the meeting while a single comprehensive text was prepared.

16. Mr. ROLING (Netherlands), supporting the point made by the United Kingdom representative, said that according to rule 119 of the rules of procedure copies of proposals should as a general rule be circulated a day before the meeting; he therefore moved the adjournment of the meeting, which would mean the vote being taken after Christmas.

17. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics), on a point of order, said that motions for suspension took precedence over motions for adjournment. He therefore moved the suspension of the meeting while written texts of the new United States resolution were being prepared.

*The motion for the suspension was adopted by 28 votes to 3, with 17 abstentions.*

*The meeting was suspended at 4.20 p. m. and resumed at 5.50. p.m.*

18. The CHAIRMAN called attention to the new revised text of the United States draft resolution (A/C.6/L.-188/Rev.1) incorporating the amendments originally contained in documents A/C.6/L.189 and A/C.6/L.200 and the verbal amendment submitted by Egypt earlier in the meeting. There were now only two separate amendments to the draft resolution—the United Kingdom amendment (A/C.6/L.190) and the Venezuelan amendment (A/C.6/L.197/Rev.1).

19. Mr. FITZMAURICE (United Kingdom) speaking on a point of order, moved the adjournment of the meeting. He felt that it was now too late to take a decision and that it would be better to postpone the vote until after the Christmas recess. The new text just circulated required very careful consideration and it might necessitate some alterations in the amendments he had submitted to the original United States draft resolution.

*The motion for adjournment was adopted by 23 votes to 15, with 9 abstentions.*

20. The CHAIRMAN regretted that it had proved impossible to take a decision on the item before the recess and hoped the Committee would reach a decision speedily when it reconvened.

The meeting rose at 6 p. m.

<sup>1</sup> See *Reservations to the Convention on Genocide, Advisory Opinion ICJ Reports 1951*, page 15 ff.