

TWO HUNDRED AND NINTH MEETING

Held at Lake Success, New York, on Monday, 28 November 1949, at 3 p.m.

Chairman: Mr. LACHS (Poland)

Draft Convention on the declaration of death of missing persons: item proposed by the Economic and Social Council (*discussion reopened on a point of order*)

1. The CHAIRMAN said that, before proceeding to the afternoon's agenda, he would invite the representative of Denmark to speak on a point of order.

2. Mr. RECHENDORFF (Denmark) recalled the fact that, at its 207th meeting, the Sixth Committee had rejected a Danish amendment to the draft resolution submitted by Egypt, Ecuador, France and Iran (A/C.6/L.93), proposing that an international conference for the conclusion of a multi-lateral convention on the declaration of death of missing persons should be called not later than 1 March 1950. The Danish delegation wished to reserve the right to take up the question again in the General Assembly. He wished to suggest that,

under rule 142 of the rules of procedure, a rough estimate of the cost involved should be made by the Secretary-General before the item of the draft Convention on the Death of Missing Persons was discussed in the General Assembly.

3. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) said that he would be glad to comply with any wish expressed by the Committee as such, but the Secretariat could not carry out the wishes of individual delegations.

4.* Mr. WENDELEN (Belgium), with reference to the Danish representative's statement that he would re-introduce, in the plenary meeting, his proposal for the calling of a conference on the subject of the declaration of death of missing persons, asked if the Secretary-General — taking into account the wish of the twelve delegations which had voted in favour of the Danish proposal in the Committee,¹ and of other delegations which

* In the meeting the discussion summarized in paragraphs 4 to 7 inclusive occurred after adoption of the joint draft resolution concerning the Convention on

Genocide.

¹ See the summary record of the 207th meeting, the roll-call vote following paragraph 91.

might support it in the plenary meeting — would prepare, in accordance with the provisions of rule 142 of the rules of procedure, an estimate of the financial implications of the Danish proposal so as to expedite the work of the plenary meeting.

5. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) stated that it was the Secretary-General's desire to facilitate the work of the General Assembly; he would prepare the estimates for the Danish proposal if so requested by the Committee. The Belgian representative's suggestion would raise some difficulty from a procedural point of view inasmuch as, under rule 142 of the rules of procedure, the Secretary-General could prepare estimates of expenditures only on a resolution recommended to the General Assembly by one of its Committees. If no resolution was adopted by a Committee, the Secretary-General could not prepare estimates. Consequently if the Danish proposal was brought before the General Assembly, the first part of rule 142 would be inapplicable. On the other hand, under the second part of that rule, the General Assembly could not take any decision without consulting the Fifth Committee regarding the effect of the proposal upon the budget estimates of the United Nations.

6. While the Secretary-General could do preparatory work on such estimates if the Committee so desired, it could only be approximate since no resolution on the subject had been adopted by the Committee, and since he did not know the exact implications of the decision which the General Assembly might adopt on the Danish proposal.

7. Mr. WENDELEN (Belgium) withdrew his proposal and left it to the discretion of the Secretary-General to do the necessary preparatory work so as to facilitate the proceedings in the plenary meeting.

8. The CHAIRMAN conveyed to the Committee the regrets of the Vice-Chairman who had been recalled to his country and was therefore no longer able to serve on the Committee.

Invitations to be addressed to non-member States to become parties to the Convention on the Prevention and Punishment of the Crime of Genocide: report of the Secretary-General (A/942) (concluded)

9. Mr. MATTAR (Lebanon) stated that his delegation had decided to withdraw its amendment to the third paragraph of the draft resolution submitted by Australia and Cuba (A/C.6/L.99 and Corr.1), which it had put forward at the morning's meeting.¹ It would be prepared to vote in favour of the third paragraph of the original draft, if the word "active" were deleted.

10. Mr. CHAUMONT (France) said that, as the delegation of Lebanon had withdrawn its amendment to the third paragraph of the draft resolution, he would propose two changes. He wished to delete "or may become" — words inserted in that paragraph by the sponsors of the draft resolution at a suggestion of the United Kingdom² — before "an active Member" and before "a party to the Statute of the International Court of Jus-

tice", and to add at the end of the paragraph "by 1 December 1949". In that paragraph the Committee would then not be adopting a legal criterion, but giving a statement of fact. There would be no difficulty in obtaining from the Secretary-General a list of States which were at present "active members" of the specialized agencies. Although, in the view of the French delegation, active membership could not be regarded as an objective legal criterion, the compilation of such a list of non-member States would be a practical step where invitations to become parties to the Convention on Genocide were concerned.

11. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) stated that, if he rightly understood the proposed amendment to insert a date, Liechtenstein would be automatically excluded from participation, as it would not yet be a party to the Statute of the International Court of Justice by 1 December. The non-member States which would be "active members" of specialized agencies by the date suggested were Albania, Austria, Bulgaria, Ceylon, Finland, Hungary, Ireland, Italy, Korea, Monaco, Portugal, Romania, Switzerland, the Hashemite Kingdom of Jordan. It was doubtful whether Indonesia could be an active member in a specialized agency by 1 December 1949 because, although admitted to the Food and Agriculture Organization, it might not be possible for it to deposit its instrument of ratification within that time.

12. Mr. CHAUMONT (France) replied that a specific date was not important. If the Committee so preferred, his delegation would agree to 1 January 1950. Some date, however, was essential to exclude the giving of *carte blanche* to specialized agencies to determine which non-member States would be invited to become parties to the Convention on Genocide.

13. Mr. GARCÍA AMADOR (Cuba) said that Cuba could not accede to the Lebanese request to delete the word "active". There was no need to revert to the previous explanations given by the representative of Australia in the matter of their joint resolution.³ As both authors of the draft resolution had accepted the wording suggested by the United Kingdom — "which is or may become an active member of one or more of the specialized agencies of the United Nations or which is or may become a party to the Statute of the International Court of Justice" — it was impossible that they should accept the French amendment, since such action would be inconsistent.

14. Mr. RENOUF (Australia) expressed the same opinion.

15. Mr. FITZMAURICE (United Kingdom) said that he wished to correct an ambiguity in the wording which he had suggested for the third paragraph of the draft resolution at the previous meeting. The words "or may become" might be interpreted as "has the right to become", whereas it was the fact of becoming an active member which should be the criterion. He therefore proposed the following wording: "hereafter becomes". He hoped the representatives of Australia and Cuba would accept that wording also.

¹ See the summary record of the 208th meeting, paragraph 55.

² See the summary record of the 208th meeting, paragraphs 49 and 56.

³ *Ibid.*, paragraph 11.

16. There were two questions which he wished to put to the representative of France. If, in two years' time, a State "X" were to become a member of one or other specialized agency such as the Food and Agriculture Organization, what, in the view of the delegation of France, should exclude it from becoming a party to the Convention on the Prevention and Punishment of the Crime of Genocide? There must be some important point in the mind of the French representative which was not clear to the delegation of the United Kingdom.

17. Secondly, if Mr. Chaumont's amendment were adopted, Mr. Fitzmaurice would wish to know what machinery he contemplated for admitting to the Convention after 1 January 1950 members of specialized agencies to which no objection had been raised. Libya, for instance, would shortly become a sovereign State though, as yet, it did not belong to any of the specialized agencies. If the United Kingdom wording were adopted, Libya would be entitled to participate when it became a member of a specialized agency or party to the Statute of the International Court of Justice, whereas, under the text suggested by the delegation of France, it would not. It was desirable that the Committee should find a general formula during the current session rather than be obliged to reopen annually the question of participation in the Convention.

18. Mr. CHAUMONT (France), replying to the representative of the United Kingdom, pointed out that there were States which were members of specialized agencies, but not of the United Nations. It was important to remember that the conditions of admission were different in the two cases.

19. The second question put to him had emphasized the impossibility of adopting a logical criterion at the present time. Some delegations had wished to take account of participation in specialized agencies as a means of examining the attitude of certain non-member States. Other delegations had preferred the course of sending out invitations without studying particular cases. In the opinion of the delegation of France they had not attained their objective. The fixing of a specific date would enable the Secretary-General to draw up a list of States invited to sign the Convention. Without that date, the Secretary-General would, under the terms of the draft resolution, have to add to the list in the future as other States were admitted to specialized agencies—a matter that would be outside the control of the General Assembly. The delegation of France saw serious objection in that course, since it left the solution of a problem of great political importance to the specialized agencies.

20. Mr. MAKROS (United States of America) stated that the United States delegation would vote for the joint draft resolution submitted by Australia and Cuba. It was not the specialized agencies which would decide on the admission of States to the Convention, but the General Assembly, which would instruct the Secretary-General to send the invitations. As the representative of the United Kingdom had pointed out,¹ if there was no reason for excluding a State, an invitation should be extended. The United States delegation

would also vote for the Lebanese amendment since it considered that the Convention should be ratified by as many States as possible. A serious problem would be created if the Secretary-General were called upon to decide which territories were, or were not, sovereign States.

21. He would also vote for the Philippine amendment.²

22. Mr. KORETSKY (Union of Soviet Socialist Republics) said that he regretted the Lebanese representative's withdrawal of his amendment to the third paragraph. That amendment had been logical and rational and had dealt with the question on the right lines. When some legal formula was proposed, it was advisable to look behind and under it in order to see what made it acceptable or unacceptable. Where the issue in question was concerned, jurists had carefully evaluated the States to which invitations should be sent and those to which invitations should not be extended. The Committee should look underneath the wording of the Australian draft resolution.

23. The USSR delegation wished to know what States it was intended to exclude. The draft resolution before the meeting mentioned the desirability of sending invitations "to those non-member States which, by their participation in the activities of the United Nations, had expressed a desire to advance international co-operation". Such States must, of necessity, be among those invited to become signatories to the Convention. Genocide was the worst of human crimes and a desire to adhere to that Convention provided an important opportunity which should be granted to the States fulfilling the above condition.

24. There was a manifest desire to exclude certain States, particularly the Mongolian People's Republic and the Democratic People's Republic of Korea. It was for the specific purpose of their exclusion that delegations had been unwilling to adopt a more comprehensive wording of the draft resolution on invitations, but, to avoid mention of them, San Marino and Liechtenstein had been substituted. The whole world could see how the hostility of certain delegations to peoples which were endeavouring to build a new free life in their territories, had blinded those delegations even on such a question as genocide.

25. In addition to unwillingness to name the States to be excluded from the Convention, there was a deliberate desire for vagueness. Article XI of that Convention, concluded only a year previously, stated clearly that, until 31 December 1949, the Convention should be open for signature "on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly". There was now an endeavour to transfer the function of invitation to specialized agencies. The wording was so vague as to give *carte blanche* for the future; that might be proper in private affairs, but it was not permissible in governmental or United Nations affairs. If the present wording of the third paragraph of the draft resolution, as amended by the delegation of the United Kingdom, were adopted, the General Assembly's rights under the Convention would have been handed over to the specialized agencies. By deciding on

¹ See the summary record of the 208th meeting, paragraph 48.

² *Ibid.*, paragraph 15.

the applications of States to join the specialized agencies, those agencies would become the arbiter of what States should or should not become parties to the Convention. The USSR delegation, therefore, could not accept the joint draft resolution submitted by the delegations of Australia and Cuba, and still less as amended by the United Kingdom. On the other hand, the Lebanese amendment, in its original form,¹ had been acceptable. The Convention existed to prevent a particular type of crime. Those States which had already expressed their desire and intention to join the United Nations, and therefore their willingness to participate in international co-operation for the maintenance of peace, should be those invited to participate in the Convention; discrimination could not be allowed.

26. Mr. CHAUMONT (France) explained that he wished to see his proposed date, 1 January 1950, inserted in the text of the draft resolution after the words "specialized agencies of the United Nations", not after "International Court of Justice", as he had no objections to sending invitations to States admitted as parties to the Statute of the Court.

27. Mr. RENOUF (Australia) observed that Mr. Koretsky had stated that it was for political reasons that the representatives of Australia and Cuba wished to exclude, for example, Mongolia and Northern Korea from participation in the Convention. In that he was greatly mistaken; the joint draft resolution would allow States with which the Government of Australia was not friendly to be invited.

28. Mr. LOUTFI (Egypt) recalled that, at the morning's meeting, he had stated his Government's support for the principle of universality and had therefore suggested the deletion of the word "active".² The delegation of Egypt would support the Lebanese amendment to that effect. By the very fact of its desire to see the maximum participation of States, the delegation of Egypt would have supported the USSR delegation if it had made a concrete proposal.

29. The CHAIRMAN pointed out that the meeting had before it a joint draft resolution submitted by Australia and Cuba, an amendment put forward by the delegation of Lebanon and two amendments proposed by the delegation of France. He understood that the representative of Lebanon wished to withdraw point 2 of his amendment, but was not sure whether he wished the first point of his amendment to stand.³

30. Mr. MATTAR (Lebanon) explained that he did not wish to withdraw that point, since many States, though not actively participating in the work of the United Nations, wished to participate in the Convention.

31. Mr. CHAUMONT (France) said that the authors of the joint proposal should accept the first Lebanese amendment because, unless amended, the text involved a contradiction; participation in the activities of the specialized agencies and participation in the activities of the United Nations were not one and the same thing. The Lebanese amendment gave a consistent text.

32. Mr. GARCÍA AMADOR (Cuba) stated that the delegations of Australia and Cuba would accept the Lebanese amendment to the second paragraph⁴ and that proposed by the United Kingdom to the third paragraph.

33. Mr. KORETSKY (Union of Soviet Socialist Republics) was grateful to the Egyptian representative for his support. In order to afford him and other members of the Committee an opportunity of recording their views on his suggestion he moved, as a formal amendment, the addition of the phrase "or which has applied for membership in the United Nations" at the end of the third paragraph of the draft resolution.

34. By applying for membership in the United Nations, a State expressed far more clearly its desire to advance international co-operation than by adhering—possibly merely for reasons of practical convenience—to some highly technical specialized agency. The USSR amendment was intended to refer to States which had already applied for membership in the United Nations. Whether invitations to become parties to the Convention on Genocide should be addressed to States which applied for membership at a later date was a matter for subsequent decision by the General Assembly.

35. Mr. MAKTOS (United States of America) remarked that the Convention on Genocide was of such a nature that there was unquestionably a general desire that as many States as possible should adhere to it. He had, however, preferred the third paragraph of the draft resolution to the text suggested, and later withdrawn, by the Lebanese representative, because that text would have placed an undue burden on the Secretary-General. The USSR amendment, if adopted, would have a similar effect, in that the Secretary-General would have to decide which of the entities that had applied for membership in the United Nations were in effect sovereign and independent States. Inasmuch as there existed a divergence of views on that point on the part of various Governments, the Secretary-General would be called upon to make a very difficult political decision.

36. Mr. RENOUF (Australia) fully agreed with the United States representative. He recalled that, when the Mongolian People's Republic had applied for membership in the United Nations, the Security Council had been unable to decide whether or not it was a sovereign State. If the USSR amendment were adopted, a decision at which the highest political organ of the United Nations had been unable to arrive would have to be taken by the Secretary-General, thus placing him in an impossible position.

37. The CHAIRMAN invited the Committee to vote on the various amendments to the third paragraph of the draft resolution.

The French amendment to insert the words "on 1 January 1950" after the words "United Nations" was rejected by 22 votes to 4, with 16 abstentions.

The French amendment to delete the words "or hereafter becomes" before "an active member" was rejected by 22 votes to 10, with 8 abstentions.

The Lebanese amendment to delete the word "active" was adopted by 17 votes to 11, with 12 abstentions.

¹ See the summary record of the 208th meeting, paragraph 55.

² *Ibid.*, paragraph 51.

³ *Ibid.*, paragraph 55.

⁴ *Ibid.*

The USSR amendment to add at the end of the third paragraph the words "or which has applied for membership in the United Nations" was rejected by 19 votes to 13, with 9 abstentions.

38. Mr. KORETSKY (Union of Soviet Socialist Republics) inquired whether the third paragraph as amended would have to be applied in conjunction with a previous resolution of the General Assembly, resolution 39 (I) on the relations of the Members of the United Nations with Spain.

39. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) said that the Secretary-General, too, would be glad to have clarification on that point. Since Spain was a member — though not an active member — of the International Civil Aviation Organization, the draft resolution, which after the deletion of the word "active" in the third paragraph would apply to Spain, would seem to be in contradiction with resolution 39 (I). While it was generally recognized that *lex specialis* took precedence over *lex generalis*, he wished to know what was the *lex specialis* in the case under consideration.

40. Mr. FITZMAURICE (United Kingdom) said that, in his understanding, resolution 39 (I) related to participation by Spain in activities of the United Nations. The Convention on Genocide, although it had been prepared by various organs of the United Nations and adopted by the General Assembly, constituted an independent instrument and accession to it, therefore, did not involve participation in activities of the United Nations.

41. He had abstained from the vote on the deletion of the word "active" because he had not been sure of the position of Germany and Japan, which he believed were inactive members of the Universal Postal Union. He inquired whether, under the amended wording of the draft resolution, the Secretary-General would be called upon to issue invitations to them through the Powers administering them.

42. Mr. CHAUMONT (France) pointed out that the remarks of the United Kingdom representative were proof in themselves that the fears expressed by the French delegation at the previous meeting on the contents of the draft resolution were justified.¹ While some States appeared to have no great objection to the participation of Franco Spain in the Convention they were less willing to permit participation by Germany and Japan. That showed that the French delegation had been right in calling attention to such dangers, and in citing, as it happened, the very case of the Universal Postal Union. He questioned the right of the Sixth Committee to adopt a resolution which ran counter to a resolution of the General Assembly still in force.

43. Since, by the deletion of the word "active" in the third paragraph, the draft resolution had been entirely distorted, he inquired whether its sponsors were still in a position to vote for it.

44. Mr. RENOUE (Australia) replied that the situation in which the Committee found itself had arisen because of the deletion of a word contained in the original text of the draft resolution submitted jointly by the Australian and Cuban delegations. In the circumstances, he would abstain from voting on that draft resolution.

45. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) remarked that to his knowledge Germany and Japan were not members — active or inactive — of the Universal Postal Union.

46. At the request of the French representative, he read the following paragraph from the operative part of resolution 39 (I):

"The General Assembly . . .

Recommends that the Franco Government of Spain be debarred from membership in international agencies established by or brought into relationship with the United Nations, and from participation in conferences or other activities which may be arranged by the United Nations or by these agencies, until a new and acceptable government is formed in Spain."

47. Mr. MAKTO (United States of America) said that he would vote in favour of the draft resolution, even though it would permit an invitation to be issued to Spain. He pointed out that it was within the power of the General Assembly to modify its earlier resolution, and that genocide was a crime which should be recognized as such and condemned in any State, including Spain. The Convention on Genocide conferred no rights, but only imposed obligations, and participation in it should be as wide as possible.

48. The CHAIRMAN said that his own legal interpretation of the point raised by the USSR representative was that if the draft resolution were adopted, an invitation could not be issued to Spain, inasmuch as Spain had been dealt with in a special resolution, whereas the draft resolution before the Committee was a general one.

49. Mr. GÓMEZ ROBLEDO (Mexico) stated that, although his delegation had originally supported the draft resolution, it would be obliged to vote against it, in view of the fact that its meaning had been entirely distorted, as pointed out by the French representative. The Mexican delegation wished to reserve its position on the question of the authority of existing resolutions of the General Assembly then in force.

50. Mr. GARCÍA AMADOR (Cuba) remarked that, like the Australian representative, he would be forced to abstain from voting on a resolution of which he was a co-sponsor. As matters stood, that draft resolution might either be rejected or adopted by a very small majority.

51. Since that situation had arisen because the word "active" had been deleted at a time when not all delegations had clearly understood the effect of that deletion, he felt that another vote should be taken on that point.

52. Mr. KORETSKY (Union of Soviet Socialist Republics) asked the Assistant Secretary-General to explain the legal meaning of the term "active member". He had not known that two categories of members of specialized agencies existed, and wished to know what the distinction was.

53. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) replied that he would find it extremely difficult to give a legal definition of the words "active member". He had understood, however, that the Australian and Cuban delegations had used the words to exclude Franco Spain. Strictly speaking, Spain was

¹ See the summary record of the 208th meeting, paragraphs 18 to 25.

still a member of the International Civil Aviation Organization, as the amendment to that organization's constitution which excluded Spain from membership was not yet in force. Spain no longer, however, participated in any of the activities of that organization, and might therefore be described, in common parlance, as an inactive member. The word "active" as used in the draft resolution would certainly exclude Spain from the States to which invitations were to be addressed. The deletion of that word would seem to imply that an invitation should be issued to Spain, as it was certainly a member of a specialized agency. Consequently, unless the Committee decided that resolution 39 (I) was the specific provision in that case, the Secretary-General would find himself in a very difficult position.

54. Mr. WENDELEN (Belgium) supported the remarks of the Cuban representative and asked, under rule 112 of the rules of procedure, for the reconsideration of the vote on the deletion of the word "active", as there apparently had been some confusion on the matter in the minds of a number of representatives.

55. Mr. CHAUMONT (France) warmly supported that motion, stating that the decision taken affected not only the position as regards Spain, but also as regards other countries.

56. Mr. LOUTFI (Egypt) remarked that the draft resolution had been distributed some time previously and that all members were familiar with its contents. Furthermore, he himself had pointed out at an earlier meeting that he wished to have the word "active" deleted in order to permit Spain to adhere to the Convention on Genocide.¹ As that Convention was intended to suppress a dreadful crime, as many States as possible should become parties to it.

57. Mr. KORETSKY (Union of Soviet Socialist Republics) said that, in view of Mr. Kerno's statement, the word "active" did not appear to have a clear legal meaning. Since it was a new term, which appeared neither in the Charter nor in the constitutions of the specialized agencies, it might lead to controversies on later occasions. Instead of re-introducing it, therefore, it would be preferable for the Committee to adopt some text stating whether or not previous resolutions of the General Assembly remained in force.

58. Mr. FERRER VIEYRA (Argentina) stated that, from the legal point of view, it was immaterial whether or not the word "active" appeared in the text of the draft resolution, which would in any case apply to all members of specialized agencies irrespective of the degree of their activity. Neither the Charter nor any other international instrument established a distinction between active or inactive members of the specialized agencies. Consequently, the draft resolution would apply to Spain whether or not that word was included.

59. If the Committee wished to exclude Spain, it should either reject the draft resolution or add a specific provision to that effect.

60. Mr. WENDELEN (Belgium) observed that what mattered was not the individual interpretation by any delegation of the meaning of the term "active member" but the interpretation of

the Secretary-General. That interpretation had been clearly stated by Mr. Kerno, who had affirmed that if that term were used in the draft resolution, no invitation to adhere to the Convention on Genocide would be sent to Spain.

61. Mr. RENOUF (Australia) said that, if the Committee decided not to reconsider its vote on the word "active", or not to re-introduce it, he would move an additional paragraph to the draft resolution, worded as follows: "*Decides* that the Secretary-General shall nevertheless send no invitation to Spain".

62. The CHAIRMAN put to the vote the question of reconsidering the deletion of the word "active" in the third paragraph of the draft resolution. He pointed out that a two-thirds majority was needed for reconsideration.

It was decided by 18 votes to 9, with 15 abstentions, to reconsider the deletion of the word in question.

63. Mr. SOTO (Chile) recalled that there had been two Lebanese amendments to the draft resolution submitted by Cuba and Australia; first, to delete from the second paragraph the words "by their participation in the activities of the United Nations", and secondly, to delete the word "active" in the third paragraph. Both amendments were entirely concordant, and after the first deletion had been accepted by the authors of the draft resolution, logically, the word "active" had become meaningless. If one was deleted, the second must be deleted also. On the other hand, if the intention of the authors was to be preserved, neither deletion should be upheld.

64. He pointed out, furthermore, that the second paragraph of the draft resolution which read, after the deletion: "*Considering* that it is desirable to send invitations to those non-member States which have expressed a desire to advance international co-operation", was a mere platitude. The deleted phrase had been the important part of that paragraph.

65. Consequently, Mr. Soto, being in favour of the retention of the word "active" in the third paragraph of the draft resolution, moved that after the words "non-member States which", the following phrase should be inserted in the second paragraph: "by their participation in activities related to the United Nations". He had modified the deleted phrase so as to make clear that the activities in question were those of the specialized agencies mentioned in the third paragraph.

66. In accordance with the Committee's decision to reconsider the Lebanese amendment to the third paragraph, the CHAIRMAN put once more to the vote the Lebanese amendment to delete the word "active" in the third paragraph of the draft resolution.

The amendment was rejected by 21 votes to 14, with 3 abstentions.

67. Mr. MATTAR (Lebanon) stated that his delegation had proposed the deletion of the word "active" with full knowledge of the implications of that amendment. He saw no reason for the objections raised by some delegations to permitting Spain to adhere to the Convention on Genocide. As the United States representative had pointed out, the convention was designed for the

¹ See the summary record of the 208th meeting, paragraph 51.

suppression of the crime of genocide and should be open for accession to the maximum number of States, including Spain.

68. Mr. GARCÍA AMADOR (Cuba) wished to explain his delegation's position in the matter. Cuba would have been in favour of making it possible for Spain to adhere to the Convention inasmuch as it imposed obligations upon States, and granted certain rights and safeguards to peoples.

69. The Cuban delegation considered, however, that General Assembly resolution 39 (I) expressed the intention of the United Nations to have nothing to do with the Franco régime. To issue an invitation to Spain would mean a tacit recognition of the Franco régime, which would be against the spirit and letter of that resolution.

70. His delegation had therefore supported the reconsideration of the deletion of the word "active", and the retention of that word.

71. Mr. WENDELEN (Belgium) stated why his delegation had both times voted against the deletion of the word "active". His delegation felt that the question should be discussed from a technical, rather than a political point of view, and that the resolution should not be ambiguous because it might be used as a precedent for other resolutions with respect to other conventions.

72. Mr. RENOUF (Australia) said that he had voted in favour of the retention of the word "active". He was not sure of the Committee's competence to adopt a resolution enabling Franco Spain to adhere to the Convention in view of the previous General Assembly resolution on Franco Spain.

73. Moreover, the question of the Convention was technical, and should be distinct from the question of Franco Spain, which was political.

74. Mr. FITZMAURICE (United Kingdom) stated that he had abstained in the first vote on the deletion of the word "active" because, although he saw no reason—in view of the United States representative's remarks—why Spain should not be invited to adhere to the Convention, he had not wished to press the point.

75. In view of the fact, however, that the deletion of the word might have induced the authors of the draft resolution, as well as the majority of the Committee, to vote against the draft resolution, he had, in the second vote, voted against the deletion.

76. Mr. BARTOS (Yugoslavia) said that he had voted against the deletion of the word "active" in order to uphold General Assembly resolution 39 (I) which expressed views shared by his delegation.

77. Mr. FERRER VIEYRA (Argentina) stated that he had voted for the deletion of the word "active" in view of the fact that, as the Assistant Secretary-General had pointed out, its legal interpretation would be difficult. The word "active" appeared nowhere in the Charter of the United Nations or in the constitutions of specialized agencies, and its retention would imply the establishment of two categories of members of specialized agencies, which would be legally incorrect. He therefore felt that the only possible solution would have been to adopt an additional paragraph like that proposed by Australia.

78. The CHAIRMAN put to the vote the Chilean amendment to the second paragraph, for the addition after the words "non-member States which", of the words "by their participation in activities related to the United Nations".

The Chilean amendment was adopted by 14 votes to 5, with 22 abstentions.

The second paragraph of the draft resolution as amended was adopted by 26 votes to none, with 16 abstentions.

79. The CHAIRMAN then turned to the Philippine amendment to the draft resolution to add another paragraph inviting Members of the United Nations, who had not yet done so, to sign or ratify the Convention as soon as possible.¹ He noted that if that amendment, which dealt with Members of the United Nations, was adopted, the title of the draft resolution, which referred to invitations to non-member States, would have to be changed.

80. Mr. SOTO (Chile) considered that the Philippine amendment was out of order in the item under discussion which referred to invitations to be addressed to non-member States; in particular, it could not be considered as an amendment to the draft resolution. At best, it would have to be discussed as a separate draft resolution.

81. He therefore moved that the Committee should decide whether it could deal with that amendment in connexion with the item under discussion and if so, whether it should be considered as an amendment to the draft resolution, or as a separate proposal.

82. Mr. MAKTO (United States of America) believed that the Philippine amendment was in order. When the question of the registration of treaties had been discussed, the United Nations had frequently invited Members to register them. In the present case, although the agenda item was not the Convention itself, the Committee should take a liberal view and consider the Philippine amendment.

83. Mr. CHAUMONT (France) supported the Philippine amendment and thought that it should be considered. Otherwise, the Committee would be in the paradoxical situation of having expressed its concern in invitations to be addressed to non-member States to become parties to the Convention, and not in the speedy ratification of it by Members of the United Nations.

84. He would therefore vote in favour of the Philippine amendment.

85. The CHAIRMAN put to the vote the Chilean representative's first point, namely whether the Philippine amendment was pertinent to the item under discussion.

It was decided, by 31 votes to 2, with 7 abstentions, that the Philippine amendment could be considered under the item before the Committee.

86. The CHAIRMAN then took up the second point raised by the Chilean representative; namely, whether the Philippine amendment should be considered in conjunction with the draft resolution, or as a separate resolution.

87. After some further discussion in which Mr. BARTOS (Yugoslavia) and Mr. FITZMAURICE

¹ See the summary record of the 208th meeting, paragraph 15.

(United Kingdom) said that the Philippine amendment should be considered as a separate resolution, Miss BELARMINO (Philippines) stated that she wished it to be considered as an amendment.

88. Mr. CHAUMONT (France) agreed with the Philippine representative and suggested that the amendment should be re-drafted as follows:

"Remains convinced of the necessity of inviting Members of the United Nations who have not yet signed or ratified the Convention on the Prevention and Punishment of the Crime of Genocide, to do so as soon as possible."

89. Miss BELARMINO (Philippines) accepted the French amendment to the Philippine amendment.

90. The CHAIRMAN put the Philippine amendment to the draft resolution, as amended by France, to the vote.

The Philippine amendment, as amended, was adopted by 36 votes to none, with 4 abstentions.

91. Mr. FITZMAURICE (United Kingdom) wished to explain his vote on the entire draft resolution. His delegation had previously supported that resolution. In view, however, of the adoption of the Philippine amendment his delegation would have to abstain on the vote on the draft resolution as a whole, not because it was opposed to the substance of the amendment, but because it felt that it was out of order.

92. Mr. ABDOH (Iran) suggested that in the French text of the draft resolution, the word *accession* in the first paragraph should be changed to *adhésion* in accordance with the term used in article XI of the Convention.

93. Mr. MENDOZA (Guatemala), in view of the adoption of the Philippine amendment, proposed that the words "non-member" should be deleted from the title of the draft resolution.

94. The CHAIRMAN agreed that, in view of the adoption of the Philippine amendment, such a modification of the title would be appropriate; however, as the item on the Committee's agenda pertained to invitations to be addressed to non-member States, the Committee's report on the question would have to be so entitled. He put to the vote, the draft resolution as a whole, as amended.

The draft resolution as a whole, as amended, was adopted by 32 votes to none, with 10 abstentions.

95. Mr. LOUTFI (Egypt) wished to explain his vote. He regretted that he had been compelled to abstain from the vote on the draft resolution as a whole in view of the fact that the USSR and Lebanese amendments to it had been rejected, which amendments would have made the Convention open to adherence by all States.

The meeting rose at 6.10 p.m.
