

United Nations

Nations Unies

UNRESTRICTED

**ECONOMIC
AND
SOCIAL COUNCIL**

**CONSEIL
ECONOMIQUE
ET SOCIAL**

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10 April 1948
ENGLISH
ORIGINAL: FRENCH

FINAL PROVISIONS

The ad hoc Committee on Genocide appointed a Sub-Committee of three members, namely its Chairman, Mr. Maktos, its Vice-Chairman, Mr. Morozov and Mr. Rudzinski (Poland), to study the final provisions of the Convention on Genocide (Articles XV to XXIV of the Secretariat draft and relevant observations by the Governments).

The Sub-Committee, which met on 12 April 1948, submits to the Committee the following proposals and observations:

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/ARTICLE XV

ARTICLE XV

Language - Date of the Convention*

1. Language

The question was raised as to the languages in which the authentic text of the Convention would be drafted.

Mr. Rudzinski said that, in view of the importance and nature of the Convention, it should be drafted in the five official languages of the United Nations, these five texts being equally authentic.

The Sub-Committee decided to refer the question to the Committee, the Secretariat being asked to submit a memorandum indicating the practice followed hitherto by the United Nations (See this memorandum in the Annexes).

2. Date of the Convention

This will be the date on which the General Assembly adopts the text of the Convention.

* Text of the Secretariat draft:

"The present Convention, of which the.....
.....
texts are equally authentic, shall bear the date of....."

ARTICLE XVI

What States may become Parties to Conventions? - Ways to become Party to it*Text Proposed by the Sub-Committee

1. The present Convention shall be open until....1948 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 Economic and Social Council (or the General Assembly).

The present Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. After....1948 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

* Text of the Secretariat draft:

"1 - The present Convention shall be open until 31.....1948 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation has been addressed by the Economic and Social Council.

The present Convention shall be ratified, and the instruments of ratification shall be transmitted to the Secretary-General of the United Nations.

2 - After 1.....1948 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State that has received an invitation as aforesaid.

Instruments of accession shall be transmitted to the Secretary-General of the United Nations."

/Comments

Comments

1. Ways to become Party to the Convention

The Sub-Committee decided in favour of the second of the two formulae submitted as alternatives in the Secretariat draft, i.e., the traditional formula. States will become Parties to the Convention by means of a signature followed by ratification (within a certain time-limit).

2. To whom will the Convention be open?

It will be open to Members of the United Nations and any non-member States to which an invitation has been addressed.

Who would issue the invitation? The delegate of the United States proposed that it should be the General Assembly; the delegate of the Union of Soviet Socialist Republics took the preliminary view that it should be the Economic and Social Council.

It was decided: (a) to add the words "to sign" after the word "invitation"; (b) as regards the instruments of ratification, to say "deposited with" instead of "transmitted to".

ARTICLE XVII

Reservations*

Comments

The Sub-Committee saw no need for any reservations.

* Text of the Secretariat draft:

"ARTICLE XVII

No proposition is put forward for the moment."

/ARTICLE XVIII

ARTICLE XVIII

Coming into force of the Convention

Text Proposed by the Sub-Committee*

- "1. The present Convention shall come into force on the ninetieth day following the receipt by the Secretary-General of the United Nations of not less than twenty instruments of ratification or accession.
2. Ratifications or accessions received after the Convention has come into force shall become effective as from the ninetieth day following the date of deposit with the Secretary-General of the United Nations."

Comments

1. The Sub-Committee agreed to fix twenty as the number of ratifications or accessions necessary for the coming into force of the Convention.
2. A few verbal changes were made in the Secretariat text.

* Text of the Secretariat draft:

"ARTICLE XVIII

1. The present Convention shall come into force on the ninetieth day following the receipt by the Secretary-General of the United Nations of the accession (or....ratifications and accession) of not less than.... Contracting Parties. 1)
2. Accessions, received after the Convention has come into force shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the United Nations."

ARTICLE XIX

Duration of the Convention - Denunciation*

Comments

The Sub-Committee made no choice between the two drafts submitted in the Secretariat's text.

One member of the Committee preferred the first draft, another the second, and the third member reserved his opinion.

* Text of the Secretariat draft:

"ARTICLE XIX

1st draft

1. The present Convention shall remain in effect for a period of five years dating from its entry into force.
2. It shall remain in force for further successive periods of five years for such Contracting Parties that have not denounced it at least six months before the expiration of the current period.
3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

2nd draft

The present Convention may be denounced by a written notification addressed to the Secretary-General of the United Nations. Such notification shall take effect one year after the date of its receipt."

ARTICLE XX

Abrogation of the Convention*

Comments

It was proposed to fix the number of parties below which the Convention would cease to have effect at fifteen.

The Committee finally decided to leave the question open.

* Text of the Secretariat draft:

"ARTICLE XX

Should the number of Members of the United Nations and non-member States bound by this Convention become less than(1) as a result of denunciation, the Convention shall cease to have effect as from the date on which the last of these denunciations shall become operative."

(1) Number required to make the Convention operative.

/ARTICLE XXI

ARTICLE XXI

Revision of the Convention*

Comments

In support of the article on revision contained in the United States draft the Chairman pointed out that to have any chance of success revision would have to be jointly proposed by a number of States.

The relevant article of the United States draft reads as follows:

"We propose the following text:

"Upon receipt by the Secretary-General of the United Nations of written communications from one-fourth of the number of High Contracting Parties, requesting consideration of the revision of the present Convention and the transmission of the respective requests to the General Assembly, the Secretary-General shall transmit such communications to the General Assembly of the United Nations.

"The General Assembly shall decide upon the steps, if any, to be taken in respect of such requests."

The Sub-Committee took no decision.

* Text of the Secretariat draft:

"ARTICLE XXI

A request for the revision of the present Convention may be made at any time by any State which is a party to this Convention by means of a written notification addressed to the Secretary-General.

The Economic and Social Council shall decide upon the measures to be taken in respect of such a request."

ARTICLE XIII

Notifications by the Secretary-General*

Text Proposed by the Sub-Committee

"We propose that this Article be replaced by the following text:

"The Secretary-General of the United Nations shall notify all Members of the United Nations and non-member States referred to in Article XIII of all signatures, ratifications and accessions received in accordance with Articles XIII and XIV, of the date upon which the present Convention has come into force, of denunciations received in accordance with Article XV, of the abrogation of the Convention effected as provided by Article XVI, and of requests for revision of the Convention made in accordance with Article XVII".

Comments

The Sub-Committee adopted the article of the United States draft which corresponds to Article XXII of the Secretariat draft and differs from it only in some details of wording.

It should be noted that it will be impossible to settle the final numbering of the Articles referred to until a later date.

* Text of the Secretariat draft:

"ARTICLE XXII

The Secretary-General of the United Nations shall notify all Members of the United Nations and non-member States referred to in Article XVI of all accessions (or signatures, ratifications and accessions) received in accordance with Articles XVI and XVIII, of denunciations received in accordance with Article XIX, of the abrogation of the Convention effected as provided by Article XX and of requests for revision of the Convention made in accordance with Article XXI."

ARTICLE XXIII

Deposit of the Original of the Convention - Transmission of copies to Governments*

Comments

Paragraph 1 - The first paragraph gave rise to some discussion.

The Chairman proposed that the text of the Secretariat draft be replaced by the text of the United States Government's draft, which reads as follows:

"The original of this Convention shall be deposited in the Archives of the United Nations."

The other two members of the Sub-Committee held that it would be useful to have the original text, which Governments would be required to sign, certified by the President of the General Assembly and the Secretary-General.

The Sub-Committee decided to refer the question to the Committee.

Paragraph 2 - The Committee proposed the following wording:

"A certified copy thereof shall be transmitted to all Members of the United Nations and to the non-member States referred to under Article XVI".

* Text of the Secretariat draft

"ARTICLE XXIII

1. A copy of the Convention signed by the President of the General Assembly and the Secretary-General of the United Nations shall be deposited in the Archives of the Secretariat of the United Nations.

2. A certified copy shall be transmitted to all Members of the United Nations and to non-member States mentioned under Article"

ARTICLE XXIV

Registration of the Convention*

The Sub-Committee proposes no change in the text of the Secretariat draft.

* Text of the Secretariat draft:

"ARTICLE XXIV

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force."

ANNEX CONCERNING ARTICLE XV: LANGUAGE

I. The Importance of the Question

In addition to these political aspects, which do not concern the Secretariat, the question of language has a legal aspect which is as follows:

When a Convention is in several languages this means that each text is considered authentic and authoritative. Consequently, in any case involving the construction of the Convention, and whenever the meaning or scope of a provision is in doubt, the versions in the different languages are consulted with a view to determining the proper construction.

The diversity of texts has often been considered a disadvantage because of the difficulty of interpretation it raises when the texts do not exactly tally. However, when before final adoption of the texts the authors of the Convention have themselves been careful to see that they do tally, the existence of several texts may be of help in interpreting the Convention, one text confirming the other, as an idea can occasionally be expressed more clearly and precisely in one language and sometimes in another.

This advantage only exists, however, if the various authentic texts have been examined and checked by the authors of the Convention. On the other hand, if the text in one language is simply a subsequent translation by the Secretariat translators or a delegate, the personal interpretation of the translator in translating the text from language A into language B may help to establish the meaning of a provision of the Convention.

II. The circumstances of the preparation of the Draft Convention on Genocide

The Secretariat's initial draft was originally submitted and discussed in French. The United States draft was in English and the French draft in French.

The texts on which the ad hoc Committee voted were mainly in English.

But the work of the ad hoc Committee represents only one stage in the process. Final adoption of the text of the Convention will be by a resolution of the General Assembly.

III. United Nations Practice

We will consider first Charters setting up international organizations and secondly Conventions and Agreements.

1. Charters setting up international organizations

For the most part, these Charters, and the complementary agreements, are concluded in the five official languages of the United Nations.*

There are however a few exceptions.**

* Charter of the United Nations - San Francisco - 26 June 1945 - Article 111

Constitution of the International Health Organization - New York - 22 July 1946 - Article 74

Constitution of the International Refugee Organization - New York - 15 December 1946 - Article 17

Havana Charter for an International Trade Organization - Havana - 24 March 1948 - Article 106

** Protocol concerning the Office International d'Hygiene Publique - New York - 22 July 1946

- Final Clause: French and English texts, the two texts being equally authentic

Convention on the Inter-governmental Maritime Consultative Organization - Geneva - 6 March 1948

- Final Clause: authentic texts in three languages (French, English and Spanish), each text being equally authentic.

2. Conventions and Agreements

A certain number of Conventions and Agreements have been concluded in the five official languages of the United Nations.*

Others have been concluded in two languages - French and English.**

A certain number of Conventions contain no provisions concerning languages.***

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- * Protocol amending the Agreements, Conventions and Protocols on Narcotic Drugs concluded at The Hague on 23 January 1912, at Geneva, on 11 February 1925, 19 February 1925 and 13 July 1931, at Bangkok, on 27 November 1931 and at Geneva on 26 June 1936, Lake Success, State of New York, 11 December 1946, Article IX (the Annex is in French and English, the Chinese, Russian and Spanish texts being only translations).

Protocol to amend the Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, and the Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933 - Lake Success, New York, 12 November 1947, Article VII (the Annex is in French and English, the Chinese, Russian and Spanish texts being only translations).

Protocol to amend the Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, concluded at Geneva on 12 September 1923 - Lake Success, New York, 12 November 1947, Article VII (the Annex is in French and English, the Chinese, Russian and Spanish texts being only translations).

- ** General Agreement on Tariffs and Trade - Geneva, 30 October 1947 - Article XXVI (2)

Protocol of Provisional Application of the General Agreement on Tariffs and Trade - Geneva, 30 October 1947 - Final Clause

- *** Convention on the Privileges and Immunities of the United Nations, adopted by the United Nations General Assembly on 13 February 1946

Convention on the Privileges and Immunities of the Specialized Agencies, adopted by the United Nations General Assembly on 21 November 1947.

MEMORANDUM SUBMITTED BY THE LEGAL DEPARTMENT

With regard to the question concerning the original language in which such conventions and agreements concluded under the auspices of the United Nations are drafted, I wish to make the following reply:

It has been the usual practice up to the present time that a draft of a convention or agreement is originally prepared in one of the working languages. It is then translated into the other working language and presented to the Conference or General Assembly in two working languages. In these two languages, the draft is worked out, and the final text drawn up by the Conference or the General Assembly. When the convention is to be concluded in more than two working languages, each of which is to be equally authentic, the translation into the other languages is prepared before its signature.

LIST OF CLAUSES RELATING TO LANGUAGES CONTAINED IN CONVENTION
AND AGREEMENTS CONCLUDED UNDER THE AUSPICES OF THE
UNITED NATIONS

CHARTER OF THE UNITED NATIONS - (San Francisco - 26 June 1945)

Five official languages equally authentic.

Article 111

The present Charter, of which the Chinese, French, Russian, English and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

INTERIM ARRANGEMENTS CONCLUDED BY THE GOVERNMENTS REPRESENTED AT THE
UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION - (San Francisco -
26 June 1945)

Five official languages equally authentic.

"In Faith Whereof, the undersigned representatives having been duly authorized for that purpose, sign this document in the English, French, Chinese, Russian and Spanish languages, all texts being of equal authenticity."

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS - (adopted
by the General Assembly on 13 February 1946)

Does not contain any provision concerning languages.

PROTOCOL AMENDING THE AGREEMENTS, CONVENTIONS AND PROTOCOLS ON NARCOTIC DRUGS -
(CONCLUDED AT THE HAGUE ON 23 JANUARY 1912, AT GENEVA ON 11 FEBRUARY 1925,
19 FEBRUARY 1925, 13 JULY 1931, AT BANGKOK ON 27 NOVEMBER 1931 AND AT GENEVA
ON 26 JUNE 1936) (Lake Success, 11 December 1946)

Protocol in five official languages equally authentic.

Annex in English and French equally authentic; Chinese, Russian and Spanish texts being only translations.

Article IX

The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations Secretariat. The Agreements, Conventions and Protocols to be amended in accordance with the Annex being in English and French languages only, the English and French texts of the Annex shall equally be the authentic texts and the Chinese, Russian and Spanish texts will be translations.

PROTOCOL TO AMEND THE CONVENTION FOR THE SUPPRESSION OF THE TRAFFIC IN WOMEN
AND CHILDREN, CONCLUDED AT GENEVA ON 30 SEPTEMBER 1921, AND THE CONVENTION
FOR THE SUPPRESSION OF THE TRAFFIC IN WOMEN OF FULL AGE, CONCLUDED AT GENEVA
ON 11 OCTOBER 1933 - (Lake Success, New York 12 November 1947)

Protocol in five official languages equally authentic.
Annex in

Annex in English and French equally authentic; Chinese, Russian and Spanish texts being only translations.

Article VII

The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations Secretariat. The Conventions to be amended in accordance with the annex being in the English and French languages only, the English and French texts of the annex shall equally be authentic texts, and the Chinese, Russian and Spanish texts will be translations.

PROTOCOL TO AMEND THE CONVENTION FOR THE SUPPRESSION OF THE CIRCULATION OF AND TRAFFIC IN OBSCENE PUBLICATIONS, CONCLUDED AT GENEVA ON 12 SEPTEMBER 1923.
(Lake Success, New York 12 November 1947)

Protocol in five official languages equally authentic.

Annex in English and French equally authentic; Chinese, Russian and Spanish being only translations.

Article VII

The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations Secretariat. The Convention to be amended in accordance with the annex being in the English and French languages only, the English and French texts of the annex shall be equally authentic texts, and the Chinese, Russian and Spanish texts will be translations.

GENERAL AGREEMENT ON TARIFFS AND TRADE

1. Final Act - English and French languages equally authentic.

"Done at Geneva, in a single copy, in the English and French languages, both texts authentic." (30 October 1947)

2. General clauses of the General Agreement on tariffs and trade. English and French languages equally authentic. (Geneva, 30 October 1947)

Article XXVI (2)

This Agreement, done in a single English original and in a single French original, both texts authentic, shall be deposited with the Secretary-General of the United Nations, who shall furnish certified copies thereof to all interested governments.

3. Protocol of Provisional Application of the General Agreement on Tariffs and Trade. English and French both equally authentic.

"Done at Geneva in a single copy, in the English and French languages, both texts authentic . . ." (30 October 1947)

FINAL ACT OF THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT -
(Havana, 24 March 1948)

Five official languages.

"Done at Havana, this day of March, one thousand nine hundred and forty-eight, in a single copy in the Chinese, English, French, Russian and Spanish languages."

HAVANA CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION - (24 March 1948)

Five official languages.

Article 106

The original texts of this Charter in the official languages of the United Nations shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies of the texts to all interested governments. Subject to the provisions of the Statute of the International Court of Justice, such texts shall be equally authoritative for the purposes of the interpretation of the Charter, and any discrepancy between texts shall be settled by the Conference.

INTERNATIONAL REFUGEE ORGANIZATION

1. Constitution of the International Refugee Organization - (Flushing Meadow - New York, 15 December 1946)

Five official languages equally authentic.

Article 17 (1)

"The Chinese, English, French, Russian and Spanish texts of this Constitution shall be regarded as equally authentic."

"Done at Flushing Meadow, New York, this fifteenth day of December, one thousand nine hundred and forty-six, in a single copy in the Chinese, English, French, Russian and Spanish languages."

2. Agreement on interim measures to be taken in respect of refugees and displaced persons - (Flushing Meadow, New York, 15 December 1946)

Five official languages equally authentic.

"In Faith Whereof, the undersigned representatives, having been duly authorized for that purpose, sign this Agreement in the Chinese, English, French, Russian and Spanish languages, all five texts being equally authentic."

WORLD HEALTH ORGANIZATION

Final Acts of the International Health Conference (held in New York from 19 June to 22 July 1946)

1. Final Act of the International Health Conference (New York, 22 July 1946)

Five Official languages equally authentic.

/ "Done

"Done in the City of New York this twenty-second day of July 1946 in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic."

2. Constitution of the W.H.O. (New York, 22 July 1946)

Five Official languages equally authentic.

Article 74

"The Chinese, English, French, Russian and Spanish texts of this Constitution shall be regarded as equally authentic."

"Done in the City of New York this twenty-second day of July 1946, in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic."

3. Arrangement concluded by the Governments represented at the International Health Conference (New York, 22 July 1946)

Five Official languages equally authentic.

"In Faith Whereof, the undersigned representatives, having been duly authorized for that purpose, sign this Arrangement in the Chinese, English, French, Russian and Spanish languages, all texts being equally authentic."

4. Protocol concerning the Office International d'Hygiene Publique. (New York, 22 July 1946)

English and French both equally authentic.

"In Faith Whereof, the duly authorized representatives of their respective Governments have signed the present protocol which is drawn up in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary-General of the United Nations.

AGREEMENTS FOR TRUST TERRITORIES - (as approved by the General Assembly or the Security Council)

Do not contain any provisions concerning languages.

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES - (approved by the General Assembly on 21 November 1947)

Does not contain any provision concerning languages.

UNITED NATIONS MARITIME CONFERENCE

1. Final Act of the United Nations Maritime Conference (Geneva, 6 March 1948)

English, French and Spanish languages equally authentic.

"Done in the City of Geneva this sixth day of March 1948 in a single copy in the English, French and Spanish languages each text being equally authentic."

2. Convention on the Inter-governmental Maritime Consultative
Organization (Geneva, 6 March 1948)

English, French and Spanish languages equally authentic.

Article 62

The present Convention, of which, the English, French and Spanish
texts are equally authentic, shall be deposited with the Secretary-
General of the United Nations, who will transmit certified copies
thereof to each of the States invited to the United Nations Maritime
Conference and to such other States as may have become Members.
