

**United Nations**  
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**CONSEIL**  
**ECONOMIQUE**  
**ET SOCIAL**

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AD HOC COMMITTEE ON GENOCIDE

SUMMARY RECORD OF THE NINETEENTH MEETING

Lake Success, New York,  
Monday, 27 April 1948, at 11.15 a.m.

<u>Chairman:</u>	Mr. MAKTOS	United States of America
<u>Vice-Chairman:</u>	Mr. MOROZOV	Union of Soviet Socialist Republics
<u>Rapporteur:</u>	Mr. AZKOUL	Lebanon
<u>Members:</u>	Mr. LIN MOUSHENG	China
	*Mr. DEVINAT	<del>FRANCE</del>
	Mr. ORDONNEAU	France
	Mr. RUDZINSKI	Poland
	Mr. PEREZ-PEROZO	Venezuela
<u>Secretariat:</u>	Mr. SCHWELB	Assistant Director of the Human Rights Division
	Mr. GIRAUD	Secretary of the Committee

\*Mr. Devinat replaced Mr. Ordonneau during the first part of the meeting.

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NEW RULES OF PROCEDURE

The CHAIRMAN proposed that the Committee should observe the following rules of procedure in future discussions:

1) No speech should exceed five minutes.

2) The Committee should try to avoid reconsidering its decisions.

Nevertheless, if representatives submitted a proposal that called a previous decision in question, the Committee should decide by vote whether to consider it or not, before taking any decision on the proposal itself. One speaker for the proposal and one against it should be heard.

3) Points that it had already been decided to include in the Convention should be discussed first; the Committee would then consider any new proposals.

4) At the second reading, the Committee should discuss only those articles on which no agreement had been reached at the first reading; other articles should be put to the vote forthwith.

5) The Committee might depart from the rules in order to adopt simpler procedure if it unanimously decided to do so.

It was decided accordingly.

ARTICLE FOR THE PROVISION OF MEASURES AGAINST GENOCIDE TO BE INTRODUCED INTO NATIONAL LEGISLATIONS. CONTINUATION OF THE DISCUSSION.

The CHAIRMAN recalled that the Committee had adopted the text proposed by the USSR delegation as a basis for discussion, and that the representative of Venezuela had submitted an amendment to that text (document E/AC.25/SR.18). He invited the members of the Committee to continue the discussion on these two drafts.

Mr. MOROZOV (Union of Soviet Socialist Republics) stated that there was no great difference in substance between the two drafts. The USSR delegation would be prepared to accept the Venezuelan amendment if it laid greater stress on the principle of the duty of governments to

/provide

provide penalties for the prevention and punishment of crimes of genocide. He therefore proposed the addition of the following words at the end of the text proposed by the representative of Venezuela: "...and provide penalties for these crimes".

Mr. PEREZ-PEROZO (Venezuela) observed that the measures which governments would undertake to adopt under the terms of his amendment would of necessity be of a penal nature, in so far as they dealt with the punishment of the crime.

Mr. MOROZOV (Union of Soviet Socialist Republics) accepted that view and said that he would not press his amendment at its first reading.

Speaking as representative of the United States of America, the CHAIRMAN then submitted the following amendment:

"The High Contracting Parties shall make such provisions in their laws in accordance with their constitutional procedures as will give effect within their borders to the purposes of the Convention."

Mr. MOROZOV (Union of Soviet Socialist Republics) regretted that he could not accept that text, which did not call for a formal undertaking by States and did not establish their obligations clearly.

Moreover, the reservations contained in the phrases "in accordance with their constitutional procedures" and "within their borders" seemed to him superfluous, since it was evident that States could only legislate in conformity with their constitutions and in respect of their own territory.

Speaking as representative of the United States of America, the CHAIRMAN replied that in his country, for instance, the punishment of crime came under the jurisdiction of each State and not under federal

/jurisdiction

jurisdiction. For that reason he had thought it necessary to include a reservation regarding respect of the constitutional provisions of each State. The reservation in no way affected the obligation to be assumed by Governments under this article of the Convention.

Mr. Maktos proposed replacing the words: "as will give effect to the purposes of the Convention", which Mr. Morozov had found too vague, by the words: "as will give effect to the provisions of the Convention".

Mr. AZKOUL (Lebanon), Rapporteur, favoured the latter wording, whose wider scope covered not only the prevention and punishment of genocide but also the other provisions of the convention, such as those relating to the extradition of offenders.

It was, however, difficult to give a precise definition of what came under prevention properly so called; it extended from moral and religious instruction to the prohibition of acts immediately preceding the crime.

States were entitled to select for themselves the measures they considered useful and effective for the prevention and punishment of genocide.

Mr. MOROZOV (Union of Soviet Socialist Republics) urged the necessity of asking States for a formal undertaking to enact legislation for the prevention and punishment of genocide.

The CHAIRMAN agreed to substitute the words "obligate themselves to make" for the words "shall make". At the request of Mr. Perez-Perozo (Venezuela) he also agreed to delete the words "within their borders".

However, he urged the retention of the word "provisions". As the idea of prevention was not defined in the convention, the wording of the Venezuelan amendment might give rise to unwarranted complaints against

/States,

States, which might be accused of not taking the necessary measures in that respect.

Mr. PEREZ-PEROZO (Venezuela) stressed the United States representative's endeavour to reach agreement, and asked the USSR representative not to oppose the inclusion of the reservation concerning the respect of the constitutional provisions of each State. He thought that with such a reservation the convention could be more easily ratified.

Mr. MOROZOV (Union of Soviet Socialist Republics) complied with Mr. Perez-Perozo's request. Nevertheless, he considered the last part of the United States amendment unacceptable and maintained that it should be replaced by the wording proposed by the Venezuelan delegation.

Replying to the observations made by the Lebanese representative, Mr. RUDZINSKI (Poland) expressed surprise at the objections raised against the use of the word "prevention". He pointed out that States should not be put under the sole obligation of punishing crimes of genocide; a moral obligation to prevent them was not sufficient, and such an obligation had to be given a legal character by writing it into the Article.

Mr. PEREZ-PEROZO (Venezuela) recalled that in resolution 96 (I) the General Assembly had invited Member States to enact the necessary legislation "for the prevention and punishment" of the crime of genocide. The convention that the Committee was instructed to draft was not a penal code; it was no more a function of the Committee to decide what measures States should take for the prevention of genocide than it was their function to determine the penalties for offenders.

Mr. LIN MOUSHENG (China), supported by Mr. DEVINAT (France), proposed that a vote should be taken. He thought that the proposal of his delegation (document E/AC.25/SR.18) which differed most from the basic text, should be voted on first.

Mr. PEREZ-PEROZO (Venezuela) said that he would have to vote against the Chinese delegation's text because of the words "as may be necessary", which weakened the compulsory nature of the Article by making it possible for any State wishing to evade the obligation to take the legislative measures provided for in the Article, to declare that it did not consider them necessary.

Mr. RUDZINSKI (Poland) and Mr. MOROZOV (Union of Soviet Socialist Republics) supported the view expressed by the Venezuelan representative.

Mr. Morozov added that the Chinese proposal could not be regarded as an amendment to his own proposal as it had been submitted before the latter. As the Committee had decided to use the USSR draft as a basic text, that was the text that should be put to the vote first.

/The Chairman

The CHAIRMAN asked the Committee to decide whether a vote should be taken first on the Chinese delegation's draft.

The Committee decided by four votes that the Chinese delegation's draft should be put to the vote first.

Mr. RUDZINSKI (Poland) then formally proposed that the words "as may be necessary" be deleted from the text submitted by the Chinese delegation and replaced by the words "and the other punishable acts defined in the present convention."

The CHAIRMAN pointed out that this amendment was tantamount to reverting to the text proposed by the delegation of Venezuela and, in those circumstances, he feared that it was not admissible.

Mr. LIN MOUSHENG (China) agreed to delete the words "as may be necessary", and proposed the following new wording: "The High Contracting Parties undertake to enact the necessary legislation for the prevention and punishment of genocide", which was identical with that of the General Assembly's resolution. He felt that this more general formula would lead more States to adhere to the convention.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that there was no reason for regarding the Chinese proposal as one to which no amendment could be proposed. He proposed completing Mr. Lin Mousheng's new text by the addition of the words: "as provided for in the present convention".

Mr. LIN MOUSHENG (China) accepted the amendment.

Speaking as representative of the United States of America, the CHAIRMAN asked that the new text should include the reservation regarding respect of the constitutional provisions of each State and urged that the words: "for the prevention and punishment of genocide"

/be replaced

be replaced by the words: "to give effect to the provisions of the present convention".

Mr. RUDZINSKI (Poland) pointed out that this proposal too, amounted to reverting to the text of a previous proposal and consequently it should also be regarded as inadmissible.

The CHAIRMAN asked the Committee whether they ~~agreed~~ that the proposal of the United States delegation should be put to the vote.

The Committee decided by four votes to two, with one abstention, to put the United States proposal to the vote.

The CHAIRMAN put to the vote the text of the draft Article submitted by the Chinese delegation and amended it to read as follows:

"The High Contracting Parties undertake to enact the necessary legislation, in accordance with their constitutional procedures, to give effect to the provisions of the present convention."

The Committee approved this text by four votes to three

Mr. MOROZOV (Union of Soviet Socialist Republics) regretted that he was obliged to protest against the procedure that had been followed. Two amendments to the same text, submitted in the same procedural conditions, had been the subject of diametrically opposite rulings from the Chair regarding their admissibility. Such a manner of conducting the debates could not contribute to the normal progress of the Committee's work.

In explanation of his vote against the proposed text, he said that he had opposed it because, in its present form, it did not guarantee the real and practical adoption of legislation for the prevention and punishment of genocide. Moreover, this text did not take account of the prevention and punishment of incitement to racial, national and religious hatred.

/Consequently



Consequently, the USSR delegation reserved the right to raise the matter again during the second reading of the draft convention.

The CHAIRMAN recalled that following upon the observation of the Polish representative concerning the admissibility of the United States proposal, he had consulted the Committee which had itself decided by a vote that this proposal be voted on.

The meeting terminated at 1:30 p.m.