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AD HOC COMMITTEE ON GENOCIDE

SUMMARY RECORD OF THE TWENTY-SEVENTH MEETING

Lake Success, New York
Monday, 4 May 1948, at 2.25 p.m.

<u>Chairman:</u>	Mr. MAKTOB	(United States of America)
<u>Vice-Chairman:</u>	Mr. MUROZOV	(Union of Soviet Socialist Republics)
<u>Rapporteur:</u>	Mr. AZKOUL	(Lebanon)
<u>Members:</u>	Mr. LIN MOUSHENG	China
	Mr. ORDONNEAU	France
	Mr. RUDZINSKI	Poland
	Mr. PEREZ-PEROZO	Venezuela
<u>Secretariat:</u>		
	Mr. SCHWELB	Assistant-Director, Human Rights Division
	Mr. GIRAUD	Secretary of the Commission

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CONTINUATION OF THE CONSIDERATION OF THE DRAFT REPORT (documents E/AC.25/W.1, E/AC.25/W.1/Add.1, Add.2, Add.3, Add.4 and E/AC.25/W.4)

Mr. RUDZINSKI (Poland) requested the inclusion in the report of the following general statement:

"The delegation of Poland, a country which suffered so terribly from genocide committed by Hitlerite Germany, was and is one of the main supporters of an International Convention on Genocide as a matter of great international importance and urgency. During the General Assembly in 1946, in the Committee on Codification of International Law as well as during the General Assembly in 1947, and in the last session of the Economic and Social Council, the Polish delegation expressed with great emphasis and several times its opinion on this matter, and submitted proposals and suggestions. It is, therefore, with profound regret that the Polish delegation abstained from voting on the draft adopted by the Ad Hoc Committee for the reasons explained below. The Polish delegation will do all in its power to achieve a text of the Convention on Genocide which would be both effective and acceptable to Members of the United Nations. Poland wishes to be one of the first signatories of the Convention on Genocide."

He would present other statements during the examination of each of the articles of the report.

Article 5, (document E/AC.25/W.1/Add.2) (Now Article 6)

The CHAIRMAN reminded the Committee that it had decided to delete paragraph 1 of the Comments on that article.

Speaking as representative of the United States, he proposed a few slight drafting amendments as well as the following changes: 1) page 2, paragraph 1, replace the words "crimes in international law" by "certain types of crimes"; 2) in the next paragraph replace "to give satisfaction

/to the

to the delegates who were pre-occupied with the situation for federal States" by "in view of the diversity of the types of national constitutions."

Mr. RUZINSKI (Poland) requested the inclusion in the report of the following statement:

"The Polish delegation is of the opinion that the present text of Article 6 is ambiguous and insufficient. The text should at least be amended to read 'the high contracting parties undertake to enact in accordance with their constitutional procedures the legislation necessary to give effect to the provisions of this Convention', and supplemented with a provision concerning the prevention of genocide as well as combatting any propaganda to racial, national and religious hatred."

Article 6 (Now Article 7)

The CHAIRMAN said that the expression "répression universelle" had been translated as "extra-territorial jurisdiction". He requested the use of the term "universal repression" in the English text, wherever that expression occurred.

He then suggested certain drafting amendments to the last paragraph on page 4 and the first paragraph on page 5.

After a brief discussion the Committee decided to replace "as against other international crimes" in the last paragraph on page 4 by "as distinguished from other crimes under international conventions", and to delete "which would impose itself to all" at the end of the same paragraph.

Speaking as the United States representative, the CHAIRMAN, supported by Mr. MOROZOV (Union of Soviet Socialist Republics), requested that the names of the four members who had voted against the principle of universal repression, namely, France, Poland, the Union of Soviet Socialist Republics,

Republics, and the United States of America, should be mentioned after the result of the vote in paragraph 1, page 5.

Mr. LE MEUR (France) and Mr. RUZICKI (Poland) had no objection to that being done.

Speaking as representative of the United States, the CHAIRMAN suggested that the wording of paragraphs 4, 5, 6 and 7 on page 6 should be redrafted as follows:

"The United States delegate proposed the following additional paragraph:

"Assumption of jurisdiction by the international tribunal shall be subject to a finding by the tribunal that the State in which the crime was committed has failed to take adequate measures to punish the crime.

"The Committee during the discussion of questions of principle decided by four votes and three abstentions in favour of this principle (Eighth meeting - Tuesday, 13 April).

"The inclusion of this principle in the convention was, however, rejected by five votes against one with one abstention."

Mr. LIN MU-SHENG (China) thought that it would be preferable to state the reason for that decision. He therefore requested that the last sentence of the above text should be supplemented with the following words: "On the grounds that the inclusion of this principle in the Convention might prejudice the question of the jurisdiction of the Court."

The CHAIRMAN, speaking as the representative of the United States, requested that the names of the four members who had voted for the principle of an international criminal jurisdiction, namely, China, France, Lebanon and the United States of America should be mentioned after the results of the vote in paragraphs 1 and 2 on page 6.

/Mr. MCROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) requested that the names of the members who had voted against that principle should also be mentioned.

Mr. LIN MOUSHENG (China), supported by Mr. MOROZOV (Union of Soviet Socialist Republics), suggested the deletion of the first paragraph on page 7, and Mr. Morozov added that if that paragraph was to be retained it should be explained that the reasons referred to represented the view of certain delegations mentioned by name, and that his delegation held a contrary view.

After a brief discussion it was decided to mention the names of the members who had voted for or against, or had abstained from voting, after the results of the votes which appeared in the second, third and fifth paragraphs on page 6 and in the first paragraph on page 7. It was also decided to delete the entire explanatory part of the first paragraph on page 7.

Mr. RULZINSKI (Poland) requested the insertion in the report of the following statement:

"The inclusion in the Convention of the principle of an International Criminal Tribunal constitutes an obligation of the parties to this Convention, the contents of which are wholly unknown to them. The creation of an International Criminal Court whose jurisdiction could only be compulsory and not optional, is contrary to the principles on which the International Court of Justice and its Statutes are based."

Article 7 (document E/AC.25/W.1,Add.4) (Now Article 8)

The CHAIRMAN, speaking as the representative of the United States, requested that paragraph 2 of the observations on that article should be amended as follows: "It was generally agreed that genocide was a matter
/of concern

of concern to the United Nations which might take action in appropriate circumstances."

Mr. MOROZOV (Union of Soviet Socialist Republics) was opposed to the new wording proposed by Mr. Maktos, since the Committee had not reached unanimous agreement on what the function of the United Nations should be in the event of the Convention on Genocide being violated. He suggested the deletion of that paragraph.

The CHAIRMAN and Mr. AZKOUL (Lebanon), Rapporteur, agreed to the deletion proposed by the USSR representative.

Mr. MOROZOV (Union of Soviet Socialist Republics) requested that mention should be made in paragraph 2 (page 2) of the obligations for the High Contracting Parties to refer matters to the Security Council and suggested the following wording: "It was argued in favour of compulsion that the gravity of genocide justified compulsory reference to the Security Council, which would be free to assess the importance of the cases submitted to it, and to take the necessary steps to prevent and punish genocide. It was further pointed out that under the Charter, Members of the United Nations were already entitled to refer questions to that Organization and that nothing would be gained by mentioning this right in Article 7 of the Convention."

The CHAIRMAN suggested some changes of wording in the fourth paragraph on page 2.

At the request of Mr. LIN MOUSHENG (China), the second sentence of that paragraph was deleted.

/At the request

At the request of Mr. RUI ZIN'II (Poland), the text proposed by the Chinese delegation for the sixth paragraph on page 2 was deleted.

Article 8 (Now Article 9)

No comment.

Article 9 (Now Article 10)

Mr. MOROZOV (Union of Soviet Socialist Republics) requested that paragraph 2 of the observations on that article should be amended as follows: "The representative of the USSR opposed this proposal, recalling his opposition in principle to the establishment of an International Court which, in his opinion, would be an infringement of the sovereignty of States and interference in their domestic affairs."

The CHAIRMAN, speaking as representative of the United States, requested that the expression "overlapping of jurisdictions" in the next paragraph should be replaced by "concurrent or conflicting jurisdiction", and the rest of the paragraph deleted.

The meeting adjourned from 4 p.m. to 4.30 p.m.

/Preamble

Preamble (document E/AC.25/W.1/Add.3)

Mr. RUDZINSKI (Poland) said that it seemed to him that one point had not yet been settled with regard to the wording of the Preamble. As the Secretariat shared his uncertainty, he asked the Committee to choose between the expressions "declaring that" and "considering that", which had both been suggested for the first paragraph of the Preamble.

As it was a matter of a solemn declaration, he would like the expression "declaring that" to be retained.

The Committee decided by 3 votes to none, with 4 abstentions to retain the expression "declaring that".

Mr. AZKUL (Lebanon) (Rapporteur) suggested that in the interest of clarity, the statements quoted in paragraphs 2 and 3 on pages 4 and 5 could be attributed to their authors by adding "according to him", "in his opinion", "in their opinion", etc.

Mr. CRDONNEAU (France) requested that the French delegation's statement in the last paragraph on page 4 should be explicitly attributed to the French representative.

Mr. LIN MOUSHENG (China) requested that it should be stated in the same paragraph that the formula of "a crime against mankind" had been adopted not in order to express "an idea that was not specifically legal" but to express a "popular idea" on which the whole world was in complete agreement.

Mr. MONOZOV (Union of Soviet Socialist Republics) requested that the second paragraph on page 5 should be redrafted so as to read:

/"In addition

"In addition the Committee rejected:

"a) a proposal by the USSR to indicate in the Preamble that genocide was a crime committed on national, racial or religious grounds;

"b) proposals made by delegations who wished the definition of the crime to be extended to include acts committed on political grounds.

"The majority of the Committee considered that this would be tantamount to repeating the articles of the Convention defining genocide."

"He also requested the inclusion in the report of the following statement, explaining why his delegation had voted against the Preamble of the Draft Convention:

"The Preamble to the Convention as adopted by the majority of the Committee, fails to give a comprehensive and correct definition of the crime of genocide. The following elements have been omitted:

"a) The statement that genocide aims at the extermination of certain groups of the population on account of their race or nationality (or religion);

"b) A reminder that genocide is indissolubly bound up with Fascism-Nazism and other similar race "theories" which preach racial and national hatred, the domination of the so-called "higher" races, and the extermination of so-called "lower" races;

"The statement that it is essential to take steps not only to prevent this crime but also to punish and prohibit the inciting of racial, national or religious hatred, and inflict severe punishment on persons guilty of inciting, preparing or perpetrating this crime.

"The representative of the Union of Soviet Socialist Republics considers it essential to amend the Preamble to the Convention in accordance with the text of the first part of 'the basic principles of a Convention for the prevention and punishment of genocide' proposed by the Soviet Union."

/Mr. RUDZINSKI

Mr. RUDZINSKI (Poland) said it should be specified that finally it was thought by the majority of the Committee that the formula "having been profoundly shocked by many recent instances of genocide" was sufficient (fifth paragraph on page six).

He pointed out that the report quoted an amendment submitted by the French delegation and rejected by the Committee, while it failed to mention a similar proposal submitted by his delegation. He requested that the text of that amendment should also appear in the report.

Mr. ORDONNEAU (France) thought there was no need to include in report those amendments which had not been adopted, and he requested deletion of his delegation's amendment.

Mr. RUDZINSKI (Poland) maintained his request for the inclusion of the Polish amendment in the report.

He suggested, moreover, some slight drafting amendments to the second sub-paragraph of paragraph 3 (page 6).

Finally, he requested that the following statement should be incorporated in the report:

"The text of the Preamble as it now stands avoids any reference to the crimes committed on a horrible and unprecedented scale and manner under the Nazi Fascist regime, and to the connection between those crimes and the propaganda of the so-called race theories by said regimes. Such an omission being deliberate, is deeply disturbing and quite incomprehensible to the Polish Delegation and makes it impossible to support the Preamble and Convention until amended."

/Preliminary/Article

Preliminary Article (Now Article 1)

Mr. CRDONNEAU (France) wished the report to mention the amendment which he had submitted. His delegation attached great importance to it, although it had not been accepted by the Committee. He therefore requested the inclusion in the report of the following statement:

"The representative of France had submitted a different text in which genocide was defined as a crime against humanity."

That text was rejected by 6 votes to 1.

"The representative of France pointed out on that occasion that, in his Government's opinion, genocide was the most characteristic crimes against humanity. No doubt, being anxious to bring the work on the Draft Convention to a successful and more speedy conclusion, the French delegation had agreed to separate the question of genocide from the two more general problems submitted to the Commission on the Progressive Development of International Law and its Codification, and to submit it to a committee of the Economic and Social Council. This attitude, however, could on no account affect the general principle which, in the French delegation's view, remained intact."

Mr. MOKROZOV (Union of Soviet Socialist Republics) requested the deletion of the fifth paragraph of "Comments" on the preliminary article.

He also requested the deletion of the explanation attributed to the representative of the Union of Soviet Socialist Republics in the penultimate paragraph, on page 8, and the insertion of the following statement explaining the negative vote of the delegation of the Union of Soviet Socialist

/"Article

"Article I should be deleted, because the general definition of crimes of genocide should appear in the Preamble. We therefore consider that instead of the term 'international crime' the Preamble should state that genocide constitutes one of the gravest categories of crimes against humanity aimed at the destruction of certain groups of human beings for racial or national (or religious) reasons.

"In regard to the considerations mentioned in article I part II the representative of the Union of Soviet Socialist Republics reserves his position on that point."

Mr. FELTZ-FEROZO (Venezuela) could not remember having voted for the Preliminary Article, and asked the Secretariat to check the result. It was given as six votes to one. In any case, he wished it to be recorded in the report that his delegation was of the opinion that the definition of genocide should figure in the Preamble of the Convention, and that it had presented an amendment to that effect, which had been rejected.

Mr. LIN MOUSHENG (China) suggested redrafting the second idea in the Preliminary Article (point 2 of the "Comments") as follows:

"Genocide is a crime ... whether committed in time of war or in time of peace."

PORTIONS OF REPORT ADOPTED IN FIRST READING (document E/AC.25/W.4).

The CHAIRMAN asked the members of the Committee whether they wanted to give a second reading to the portions of the report adopted in the first reading (document E/AC.25/W.4).

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the text of the Russian translation of the portions of the report regarding the first six articles that had been discussed did not always correspond with the text which he himself had submitted for inclusion in the report. He therefore urged the necessity of a second reading of that document when the representatives had the complete text, together with the relevant translations, before them.

Mr. PEREZ-FEROZO (Venezuela) draw the Committee's attention to a correction which should be made to the part of the report entitled, "Determination of Procedure and Order of Business", in which it was stated that the Committee decided not to take as a basis any of the drafts before it. The Venezuelan delegation had, however, suggested at the beginning of the general debate, that the draft Convention prepared by the Secretariat (document E/447) should be taken as a basis, and that had been decided upon by a formal vote. It was only later, when the actual drafting was commenced that the Committee reversed its decision. That should be noted in the report.

Mr. ORDONNEAU (France) pointed out that if the second reading was to be fruitful the members of the Committee should not only be in possession of all the texts duly translated, but should also have had time to study them before-hand.

The CHAIRMAN supported by Mr. AZKOUL (Lebanon) (Rapporteur) requested that all amendments to be proposed during the second reading should be submitted in writing in the two working languages.

The Committee decided to meet on Friday 7 May at 10:30 a.m. to proceed with the second reading of the Draft Report.

The meeting rose at 6:30 p.m.