

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.65/SR.1
11 August 1953

ORIGINAL: ENGLISH

1953 COMMITTEE ON INTERNATIONAL CRIMINAL JURISDICTION

SUMMARY RECORD OF THE FIRST MEETING

Held at Headquarters, New York,
on Monday, 27 July 1953, at 10.50 a.m.

CONTENTS

Opening of the session

Election of officers

Organization of the Committee's work

PRESENT:

<u>Acting Chairman:</u>	Mr. STAVROPOULOS	Principal Director in charge of the Legal Department
<u>Chairman:</u>	Mr. MORRIS	United States of America
<u>Rapporteur:</u>	Mr. ROLING	Netherlands
<u>Members:</u>	Mr. GARCIA OLANO	Argentina
	Mr. LOMES	Australia
	Mr. DAUTRICOURT	Belgium
	Mr. WANG	China
	Mr. DONS-MOELLER	Denmark
	Mr. SAMI	Egypt
	Mr. MERLE	France
	Mr. ROBINSON	Israel
	Mr. de la OSSA	Panama
	Mr. MENDEZ	Philippines
	Mr. CROSTHWAITE	United Kingdom of Great Britain and Northern Ireland
	Mr. MAKTOS	United States of America
	Mr. PEREZ PEROZO	Venezuela
	Mr. NINCIC	Yugoslavia
<u>Secretariat:</u>	Mr. LIU	Secretary of the Committee

OPENING OF THE SESSION

Mr. STAVROPOULOS (Acting Chairman) on behalf of the Secretary-General welcomed the members of the Committee.

The Committee's session was a further step in the endeavour to establish an international criminal court. The initial effort had been made in 1920 by such pioneers as Professor Donnedieu de Vabres and Professor Pella, whose deaths in 1952 had been a great loss to international law. A renewed effort towards the establishment of an international criminal court had been made during the Second World War and had continued within the framework of the United Nations.

The General Assembly, in its resolution 260 (III) in which it had approved the Genocide Convention, had invited the International Law Commission to study the desirability and possibility of establishing an international criminal court. After the Commission had reported that the creation of such a court was both desirable and possible, the General Assembly, realizing that a final decision relating to the establishment of a court required concrete proposals, had adopted resolution 489 (V) in which it had established the first Committee on International Criminal Jurisdiction. That Committee's report (A/2136), and the draft statute prepared by it, was now before the present Committee for consideration. Four members of the earlier Committee had been appointed to the 1953 Committee, which was established under General Assembly resolution 687 (VII). To assist the Committee in its consideration of the comments and suggestions submitted by governments on the draft statute, the Secretariat had prepared a compilation (A/AC.65/1).

The Government of Pakistan had informed the Secretary-General that it would not be represented on the 1953 Committee.

ELECTION OF OFFICERS

Chairman

Mr. MENDEZ (Philippines) nominated Mr. Morris, the representative of the United States.

Mr. ROLING (Netherlands) seconded the nomination.

Mr. Morris was unanimously elected Chairman.

Mr. Morris took the Chair.

The CHAIRMAN thanked the Committee.

Vice-Chairman

Mr. GARCIA OLANO (Argentina) nominated Mr. Perez Perozo, the representative of Venezuela.

Mr. Perez Perozo was unanimously elected Vice-Chairman.

Rapporteur

Mr. DAUTRICOURT (Belgium) nominated Mr. Røling, the representative of the Netherlands.

Mr. Røling was unanimously elected Rapporteur.

ORGANIZATION OF THE COMMITTEE'S WORK

The CHAIRMAN suggested that the Committee should, at the appropriate stage, consider the advisability of setting up a drafting committee.

Mr. ROBINSON (Israel) observed that considerable preliminary work had been done by the International Law Commission, the earlier Committee on International Criminal Jurisdiction and the Sixth Committee of the General Assembly. The 1953 Committee, while bearing that work in mind, should not go over the same ground. It was, in fact, entering a new stage. Its terms of reference as defined in General Assembly resolution 687 (VII) required it to explore the implications and consequences of establishing an international criminal court and of the various methods by which that might be done, to study the relationship between such a court and the United Nations and its organs, to re-examine the draft statute, and to submit a report to be considered by the General Assembly at its ninth session.

It might therefore be useful to organize the Committee's work by preparing an agenda divided into a series of items in logical sequence. The first item might be consideration of the establishment of the international criminal court by one of three methods: by an amendment to the United Nations Charter, by a resolution of the General Assembly, or by a multilateral convention. Having exhausted that subject, the Committee might then discuss the question of the relationship between such a court and the United Nations and its organs. The next item would be the re-examination of the draft statute in the light of the comments and suggestions submitted by governments as well as of those made during the debates in the Sixth Committee. Following that, the discussion of the implications and consequences of establishing an international criminal court should be taken up, and finally, the Committee would consider its report to the General Assembly.

With regard to its rules of procedure, the Committee might follow the example of its predecessor and adopt the rules of procedure of the General Assembly.

He suggested that it should be clearly understood, for the sake of ensuring a free debate, that views expressed or recommendations made by members of the Committee would not be binding on their respective governments.

The CHAIRMAN felt that the Committee should endorse the Israel representative's proposal concerning its rules of procedure. The Committee would simply agree to adopt the rules of procedure of the General Assembly.

It was so agreed.

Mr. RÖLING (Netherlands), Rapporteur, agreed generally with the agenda proposed by the Israel representative. However, as the majority of the Committee had not participated in the previous Committee's work, perhaps a general debate should precede the consideration of particular items. For instance, he himself wished to discuss the relationship between the establishment of an international criminal court and the maintenance of peace.

Mr. ROBINSO (Israel) said that he would not object to a short preliminary debate. However, it should not be held in vacuo but should relate to the type of criminal court to be established. In that connexion, the basis of the discussion should be the type of court contemplated in the draft statute.

After some discussion concerning the order of business, the CHAIRMAN said representatives would probably wish to finish the debate in time for the session of the General Assembly convened for 17 August 1953. He asked the Rapporteur to outline once again his suggestions for organizing the Committee's work.

Mr. ROLING (Netherlands), Rapporteur, felt that the topics listed in General Assembly resolution 687 (VII) should be discussed in the order indicated by the Israel representative, but that there should first be a period, which need not be long, in which representatives could make general observations. When the Committee reached the stage of revising the draft statute it would need to consider only about twenty of the approximately fifty articles.

One general consideration which occurred to him was that in the operation of an international criminal court there would be a problem of interference with the activities, for instance, of the Security Council. The trial by the court of a person accused of aggression at a time when the Security Council was dealing with a conflict might interfere with the Council's work. The question thus arose whether priority was to be given to the maintenance of peace or the maintenance of justice.

Other representatives would bring forward other problems, and he felt that their general observations would be of greater value to the Committee if made at the outset than if interspersed in the discussion of specific points.

The CHAIRMAN noted the Committee's reluctance to engage in a general discussion; however, it would be in order for any Committee member to make an ad hoc general statement at any stage.

Mr. MAKIOTIS (United States of America) supported the order of business proposed by the Israel representative, provided that opportunities for ad hoc statements of views were given. Those representatives who were newcomers to the work of the Committee would prefer to base their remarks on concrete proposals, and, as his Government had said at the fifth session of the General Assembly, it would be easier for the Assembly to decide upon the

desirability of establishing an international criminal court when it had a specific text before it. The Committee's debates should be limited to specific topics, and when its work was completed the General Assembly and the Sixth Committee would decide the questions of the desirability and possibility of establishing the court.

The CHAIRMAN invited the Israel representative to initiate the discussion of the first item on his suggested agenda: the method of establishing an international criminal court.

Mr. ROBINSON (Israel) suggested that, when discussing the various methods by which an international criminal court might be established, the Committee should first consider the possibility of introducing an appropriate resolution and then that of amending the Charter. When reference was made to amending the Charter, it was not clear whether Article 7 was to be amended so as to make provision for an international criminal court as a principal organ of the United Nations or whether more modest action was contemplated to empower the General Assembly to establish such a body.

Mr. MAKIOS (United States of America) pointed out that for well known reasons any discussion of amendments to the Charter would be purely academic. The Committee should therefore first consider briefly the possibility of revising the Charter and dismiss it as hopeless. It would then be free to concentrate on the other alternative, the framing of a resolution.

Mr. NINCIC (Yugoslavia) felt that it would be quicker and more orderly to start with a general discussion but that representatives should also be free to make general statements later during the subsequent consideration of particular points.

The CHAIRMAN, in the light of the suggestions made, proposed the following agenda:

1. Consideration of the implications and consequences of establishing an international criminal court
2. Methods by which an international criminal court might be established
3. Relationship between an international criminal court and the United Nations and its organs
4. Re-examination of the draft statute prepared by the 1951 Committee on International Criminal Jurisdiction
5. Further consideration of the implications and consequences of establishing an international criminal court
6. Adoption of the report of the Committee.

The agenda outlined by the Chairman was adopted.

The meeting rose at 12 noon.