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COMMITTEE ON INTERNATIONAL CRIMINAL JURISDICTION

First Session

SUMMARY RECORD OF THE TWENTY-SIXTH MEETING

held at the Palais des Nations, Geneva
on Tuesday, 28 August 1951, at 3 p.m.

CONTENTS:

Draft statute for an international criminal court,
prepared by the Drafting Sub-Committee (continued)

Present:

Chairman: Mr. MORRIS

Members:

Australia	Mr. WYNES
China	Mr. WANG
Cuba	Mr. VALDES ROIG
Denmark	Mr. SÖRENSEN
France	Mr. PINTO
Iran	Mr. KHOSROVANI
Israel	Mr. COHN
Netherlands	Mr. RÖLING
Pakistan	Mr. MUNIR
Syria	Mr. TARAZI
United Kingdom of Great Britain and Northern Ireland	Mr. JONES
United States of America	Mr. MAKTO
Uruguay	Mr. PINEYRO CHAIN

Secretariat:

Mr. Liang

Secretary to the Committee

DRAFT STATUTE FOR AN INTERNATIONAL CRIMINAL COURT, PREPARED BY
THE DRAFTING SUB-COMMITTEE (continued) (A/AC.48/L.17):

Chapter II: Organization of the Court (continued):

Article 14 - Privileges and Immunities (resumed)

1. Mr. RÖLING (Netherlands), referring to the discussion at the 25th meeting¹⁾ on article 14, pointed out that whereas the English version of Article 19 of the Statute of the International Court of Justice used the words "when engaged on the business of the Court", the French text read: "dans l'exercice de leurs fonctions". It seemed to him that the English text was a bad translation from the French and that was why he had proposed that other wording be used to that of the Statute of the International Court of Justice.

The Committee noted the observations of the Netherlands representative.

Article 17 - Disqualification of Judges

2. Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had re-drafted article 17, but without modifying its substance.

3. Replying to Mr. WYNES (Australia), he said that the corresponding article in the Statute of the International Court of Justice was Article 24. A provision had been added in the draft statute, however, to the effect that any party to a proceeding had the right to submit that a judge should not participate in that proceeding. No such right had been conferred on parties to proceedings before the International Court of Justice. To that extent, the provisions of article 17 differed from the corresponding provisions in the Statute of the International Court of Justice.

4. Mr. WYNES (Australia) thought that a separate vote should be taken on paragraph 2 of article 17, as it contained a provision different from the corresponding provision in the Statute of the International Court of Justice.²⁾

1) See Summary Record of the 25th meeting (A/AC.48/SR.25) paragraphs 74 to 77.

2) See Summary Record of the 23rd meeting (A/AC.48/SR.23), paragraphs 106 to 123.

5. Mr. COHN (Israel) pointed out that paragraph 3 of article 17 referred to paragraph 2, so that it was not possible to take a separate vote on paragraph 2.

6. Mr. WYNES (Australia) suggested that in that case paragraph 2 should be voted on first. If it were rejected, consequential amendments could be made to paragraph 3.

7. The CHAIRMAN felt that it would simplify matters if each paragraph of article 17 was voted on separately.

8. There being no comments on paragraph 1, he put it to the vote.

Paragraph 1 of article 17 was adopted by 11 votes to none.

Paragraph 2 of article 17 was adopted by 9 votes to 1, with 1 abstention.

Paragraph 3 of article 17 was adopted by 9 votes to none, with 2 abstentions.

Paragraph 4 of article 17 was adopted by 9 votes to 1, with 1 abstention.

9. The CHAIRMAN put to the vote article 17 as a whole.

Article 17 as a whole was adopted by 9 votes to 1, with 1 abstention.

Article 18 - Dismissal of a Judge

Article 18 was adopted by 10 votes to none, with 1 abstention.

Article 19 - Vacancies

10. Mr. PINTO (France) proposed a slight drafting amendment, which did not affect the English text to the French text of article 19; it consisted of deleting the words "sous réserve de la disposition ci-après" and inserting a full stop after the word "élection".

11. There being no other comments on article 19, the CHAIRMAN put it to the vote.

Article 19 was adopted by 10 votes to none, with 1 abstention.

Article 20 - Officers

12. Mr. WANG (China) pointed out that diplomatic privileges and immunities were to be enjoyed by judges when engaged on the business of the court,¹⁾ and asked whether the registrar of the court would not also enjoy such privileges and immunities.

13. Mr. SØRENSEN (Denmark), Rapporteur, explained that the Statute of the International Court of Justice, which contained no provision regarding a registrar, had been taken as a model for the draft statute. It was possible that the Registrar of the International Court of Justice, who did, in fact, enjoy such privileges and immunities at The Hague, might not enjoy them elsewhere. The Drafting Sub-Committee had considered that problem, and the general question of privileges and immunities, and had agreed to make no recommendation, leaving it open to any member of the Committee to raise the matter. If it were decided to make no provision in the statute, the problem could still be dealt with by a subsequent convention.

14. Mr. WANG (China) said that the relevant article of the Charter of the United Nations might be taken as a guide. He had no definite proposal in mind, however.

15. Mr. WYNES (Australia) suggested that a reference to the problem be made in the Committee's report to the General Assembly.

16. Mr. LIANG, Secretary to the Committee, said that he had made a distinction at the 25th meeting of the Committee between diplomatic immunity and immunity in respect of official acts²⁾. Whereas Article 105 of the Charter covered the latter, the Statute of the International Court of Justice restricted diplomatic immunity to its judges only. The distinction was germane to the issue that had been raised.

1) See article 14 and Summary Record of the 25th meeting (A/AC.48/SR.25), paragraphs 74 to 77.

2) See Summary Record of the 25th meeting (A/AC.48/SR.25), paragraph 76.

17. Mr. RÖLING (Netherlands) did not see the relevance of Article 105 of the Charter. The international criminal court would, according to the Committee's decision, be established by international convention, and would not be an organ of the United Nations.

18. Mr. PINTO (France) asked that a vote be taken on the question.

19. The CHAIRMAN pointed out that a vote could only be taken on a definite proposal.

20. Mr. WANG (China) suggested that the Chairman should ask whether any member favoured the inclusion of a definite provision regarding the privileges and immunities of the registrar and other officers of the court.

21. The CHAIRMAN called for a vote on whether provision should be made in the statute, for conferring diplomatic privileges and immunities on the registrar of the court and other officers.

The Committee opposed the inclusion of such a provision by 5 votes to 1, with 6 abstentions.

22. There being no other comments on article 20, the CHAIRMAN put it to the vote.

Article 20 was adopted unanimously.

Article 21 - Seat of the Court

23. Mr. COHN (Israel) said that the wording of article 21 had been taken from Article 22 of the Statute of the International Court of Justice. The French text of the latter differed from the English, and in his view was superior. In order to make the English text of article 21 in the draft statute clearer, he proposed that it be amended to read:

"The permanent seat of the Court shall be established at
The Court may, however, sit and exercise its functions elsewhere, whenever the Court considers it desirable."

24. Replying to a query by Mr. WANG (China), Mr. SÖRENSEN (Denmark), Rapporteur, said that the original article, on which Article 22 of the Statute of the International Court of Justice had been based, had been framed in 1920. Although those who had drafted it had worked in French, both the English and the French versions were authentic.

25. The CHAIRMAN put to the vote the Israeli amendment to article 21.

The Israeli amendment was adopted by 9 votes to none, with 2 abstentions.

26. The CHAIRMAN put to the vote article 21, as amended.

Article 21, as amended, was adopted by 11 votes to none, with 1 abstention.

Article 22 - Emoluments

27. Mr. WANG (China) pointed out that no decision had been taken on who was to fix the emoluments of the judges.

28. Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had considered the problem, and had made provision in article 23 for a fund to be created and maintained by the States parties to the statute. Those States would provide the emoluments of the judges and fix their scale.

29. In reply to a suggestion by Mr. WANG (China), he said that the question of who should decide the amount of the emoluments would be referred to in the Committee's report.

30. The CHAIRMAN put article 22 to the vote.

Article 22 was adopted by 9 votes to none, with 3 abstentions.

Article 23 - Finances

31. Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had simplified the wording of article 23 on the understanding that the States parties to the statute would adopt financial regulations settling the many problems that would arise.

32. There being no comments on article 23, the CHAIRMAN put it to the vote.

Article 23 was adopted by 8 votes to none, with 4 abstentions.

Article 24 - Rules of the Court

33. Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had considered the question of where article 24 might properly be placed in the statute. It had agreed that an article providing that the court should adopt rules governing not only its organization but also its procedure and evidence, would not be very satisfactorily situated in a chapter on organization. As it had been unable to find a more suitable place, however, it had inserted it there, but at the very end of the chapter, with the idea that it would form, as it were, a bridge between that chapter and the remainder of the statute.

34. Mr. COHN (Israel) pointed out that in current legal terminology the expression was "rules of court" rather than "rules of the court". He proposed, therefore, that the word "the" be deleted from the heading.

The CHAIRMAN put the Israeli proposal to the vote.

The Israeli proposal was adopted by 9 votes to none, with 1 abstention.

35. Mr. MUNIR (Pakistan) noting that article 24 provided that the court should prescribe general principles governing the admission of evidence, pointed out that it would find it almost impossible to frame a code of evidence. It would therefore be preferable merely to say that it would follow general principles of evidence. In any case the reference to evidence was out of place in a chapter on organization, and he therefore proposed that the second sentence of paragraph 1 of article 24 be terminated at the word "procedure", the remainder of the sentence being deleted.

36. Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had at one time considered dividing the article, and it would clearly be possible to do so. If the Pakistani representative pressed his proposal, would it not also be logical for him to propose the deletion of the provision that the court should prescribe rules of procedure?

37. Mr. MAKTOB (United States of America) felt that the Pakistani representative's objection would be met if the second part of the second sentence of paragraph 1 were amended to read "and such general principles governing the admission of evidence as the Court may deem necessary".

38. Mr. MUNIR (Pakistan) accepted the United States representative's proposal since, if it were adopted, the court would have to lay down only broad principles of evidence; it would not have to embark upon the detailed task of framing a code.

39. Mr. PINEYRO CHAIN (Uruguay) said that article 24 contained two entirely separate principles, the first of which was badly expressed in the Spanish text. That text referred to "reglas de procedimiento", which was equivalent to "règlement intérieur", and did not correspond to the French text. Hence the Spanish text required amendment. The second principle concerned procedure and should therefore be included in chapter V of the statute, rather than in chapter II. Moreover, the form in which the second principle was stated should also be modified when it was examined in relation to chapter V. It was, in fact, necessary to mention that the court must determine its procedure in advance, so that it could be known to the parties before the proceedings began.

40. Mr. MAKTOB (United States of America) recalled that the Drafting Sub-Committee had regarded the idea of there being two separate articles on rules of court with disfavour. The various rules referred to in article 24 all concerned the functions of the court, and to that extent came within the general framework of its organization. He therefore opposed the Uruguayan proposal.

41. Mr. PINTO (France) thought that the comment made by the representative of Uruguay was justified. He agreed that it would be more logical to transfer the last part of article 24, which dealt with a question of procedure, to chapter V of the statute. Nevertheless, he asked the representative of Uruguay to accept the United States proposal which reflected the result of prolonged discussion in the Drafting Sub-Committee. Moreover, although the Spanish text referred to "reglas de procedimiento" it could be amended to show that not only procedure but also the admission of evidence were concerned.

42. Mr. RÖLING (Netherlands) said that in Anglo-Saxon law the term "rules of court" had a specific meaning; they did not include rules of evidence. Logically, then, the provisions regarding evidence should be transferred elsewhere.

43. The CHAIRMAN put to the vote the Uruguayan proposal that the second sentence of paragraph 1 of article 24 be deleted.

The Uruguayan proposal was lost, there being 3 votes in favour, 3 against and 5 abstentions.

44. The CHAIRMAN put to the vote the Pakistani-United States amendment to paragraph 1 of article 24.

The Pakistani-United States amendment was adopted by 8 votes to none, with 2 abstentions.

45. Mr. WYNES (Australia) said that he disliked the word "adopt" as used in the first sentence of paragraph 1 of article 24, which to his mind conveyed the idea that the rules of court would already exist. The word used in the Statute of the International Court of Justice was "frame", but he would propose the simpler word "make".

The Australian proposal was adopted by 4 votes to none, with 7 abstentions.

46. The CHAIRMAN put to the vote paragraph 1 of article 24, as amended.

Paragraph 1 of article 24, as amended, was adopted by 10 votes to none with 3 abstentions.

47. Mr. RÖLING (Netherlands) suggested the addition to paragraph 2 of article 24 of the following words: ", and shall not be altered during proceedings".

48. Mr. PINTO (France) proposed that the words "and shall not be retroactive" be added at the end of paragraph 2 of article 24. He considered that the Committee should pronounce on his amendment first; it was in effect the same as that proposed by the Netherlands representative.

49. Mr. RÖLING (Netherlands) did not agree that the French amendment was the same as his own. The court might during the hearing of a case alter its rules, owing to special circumstances connected with it. If the French amendment were adopted, it would be able to apply the rules thus altered during the same case, without giving them retroactive effect. His amendment was therefore wider in scope than that of the French representative, and he consequently maintained it.

50. Mr. MUNIR (Pakistan) opposed the French amendment, basing himself on the general principle that no person had any vested right in rules of procedure. A court should be ready to make any rules of procedure it deemed advisable to make.

51. Mr. VALDES ROIG (Cuba) asked whether the French representative would reject the principle of retroactivity, even when it operated in favour of the accused person.

52. Mr. PINTO (France) withdrew his amendment.

53. Mr. RÖLING (Netherlands), addressing himself to the Pakistani representative's objection to the French amendment, which applied equally to his own, agreed that in national criminal law the parties should have no right to special procedure. There was a possibility, however, of difficult situations arising in international criminal jurisdiction, and great pressure might conceivably be brought to bear upon the court not to apply its rules of procedure. As international criminal procedure would obviously require much more protection than national criminal procedure, he maintained his proposal.

54. Mr. COHN (Israel) said that the Netherlands representative's amendment stressed the time factor, whereas what he really meant was that no alteration should be made that would affect the proceedings. He proposed, therefore, that the Netherlands amendment be altered to read: "and shall not be altered so as to affect pending proceedings".

55. Mr. RÖLING (Netherlands) accepted the Israeli representative's modification.

56. The CHAIRMAN put to the vote the Netherlands-Israeli amendment to paragraph 2.

The Netherlands-Israeli amendment was adopted by 6 votes to 2, with 5 abstentions.

57. The CHAIRMAN put to the vote paragraph 2 of article 24, as amended.

Paragraph 2 of article 24, as amended, was adopted by 9 votes to none, with 3 abstentions.

58. The CHAIRMAN put to the vote article 24 as a whole, as amended.

Article 24, as a whole as amended, was adopted by 8 votes to none, with 4 abstentions.

Chapter III: Competence of the Court

Article 25 - Jurisdiction as to Persons

Article 25 was adopted by 11 votes to none, with 2 abstentions.

Article 26 - Attribution of Jurisdiction

59. Mr. SØRENSEN (Denmark), Rapporteur, said that, in drafting article 26 the Drafting Sub-Committee had condensed the decisions taken in principle by the Committee. It was to be understood that special agreements and unilateral declarations would be ex post facto.

60. In reply to a point raised by Mr. WYNES (Australia), he said that the Drafting Sub-Committee had considered the Australian suggestion that a provision similar to that of Article 36, paragraph 2, of the Statute of the International Court of Justice be adopted. It had agreed, however, that there would be serious disadvantages in the adoption of such an article, for it would be necessary before jurisdiction was conferred upon the court by such unilateral declaration that groups of crimes should be defined in the same way as legal disputes had been defined in Article 36, paragraph 2, of the Statute of the International Court

No corresponding provision was feasible in a draft statute establishing an international criminal court. The problem was, however, dealt with in the draft report, and the Australian representative might desire to offer some suggestions when that section of the report was taken up by the Committee.

61. To an enquiry by Mr. WANG (China), whether article 26 precluded the possibility of conferring compulsory jurisdiction on the court by subsequent conventions, he replied that the article did not preclude such a possibility.

62. There being no other comments on article 26, the CHAIRMAN put it to the vote.

Article 26 was adopted by 11 votes to none, with 1 abstention.

Article 27 - Recognition of Jurisdiction

63. Mr. MUNIR (Pakistan) proposed that the word "and", between the word "national" and the words "by the State", be replaced by the word "or". He had in mind the specific case of a national of one State committing an offence in another State at the instigation of the government of the State of which he was a national. There could be no ground for refusing to permit the State in which the crime was committed to confer jurisdiction on the court.

64. Mr. RÖLING (Netherlands) recalled that the issue raised by the Pakistani representative had been discussed extensively by the Committee, and that the principle had been adopted that the establishment of the court would not involve any possibility of the national of a State being tried without that State's consent. If the Pakistani amendment were adopted, the provision would militate against the establishment of the court.

65. The CHAIRMAN put to the vote the Pakistani amendment to article 27.

The Pakistani amendment was rejected by 4 votes to 3, with 5 abstentions.

66. The CHAIRMAN put to the vote article 27.

Article 27 was adopted by 7 votes to 1, with 2 abstentions.

Article 28 - Approval of Jurisdiction by the United Nations

67. Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had suggested that the United Nations organ to approve of jurisdiction being conferred on the court should be the General Assembly. The point had not been discussed by the Committee.

68. Mr. RÖLING (Netherlands) thought it illogical to make a provision that no jurisdiction could be conferred upon the court without the approval of the General Assembly, as the Committee had already decided that the court should be established by international convention, and should thus not be closely linked with the United Nations. As, in his view, there should be a link with the United Nations, however, he would support the provision, in the hope that the court would eventually either become an organ of the United Nations, or at least be closely connected with it.

69. In reply to a question by Mr. WYNES (Australia), Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had considered the question of making the Security Council the approving organ of the United Nations, but had not discussed it at length.

70. The CHAIRMAN remarked that he had opposed in the Drafting Sub-Committee any provision mentioning the Security Council.

71. There being no further comment on article 28, he put it to the vote.

Article 28 was adopted by 8 votes to 1, with 4 abstentions.

Article 29 - Access to the Court

72. Mr. SÖRENSEN (Denmark), Rapporteur, said that the Drafting Sub-Committee had proposed that powers be given to the General Assembly in paragraph (a) of article 29, as had been done in article 28; the matter had not been discussed in the Committee. In paragraph (c) of article 29, a clause had been inserted in brackets relating to the problem, again not discussed by the Committee, of whether

a State making a complaint could do so even if it had not accepted the court's jurisdiction over such offences as were involved in the proceedings. In other words, the question of the principle of reciprocity was raised; if the clause in brackets were adopted, the principle of reciprocity would be maintained. The Drafting Sub-Committee had made no recommendations regarding the solution to the problem, but had merely submitted the problem to the Committee for decision.

73. The CHAIRMAN thought that, in view of its importance, article 29 should be taken paragraph by paragraph.

74. Mr. WANG (China) observed that great care had been taken to avoid mention of the Security Council anywhere in the draft statute. It seemed to him that if the Security Council wished to have access to the international criminal court, it should be permitted to institute proceedings by a provision under article 29.

75. The CHAIRMAN said that the question of the Security Council had not been discussed by the Drafting Sub-Committee.

76. Mr. WYNES (Australia) proposed the addition at the end of paragraph (a) of article 29 of the words

"by vote of a two-thirds majority of members present and voting,
or by the Security Council of the United Nations by a procedural vote".

77. Mr. TARAZI (Syria) pointed out that, since the Committee had adopted the principle that an international criminal court should be established by international convention, it should not be stated that proceedings before the court could be instituted by the General Assembly of the United Nations. He therefore proposed the deletion of paragraph (a). He would add that the Australian amendment that the Security Council be permitted to institute proceedings before the court was contrary to the Charter of the United Nations.

78. Mr. MAKTOG (United States of America) opposed the Australian amendment. The General Assembly consisted of sixty Member States, and in view of the fact that under paragraph (c) of article 29 a single State, party to the statute could institute proceedings, there seemed no good ground for refusing to allow proceedings to be instituted when thirty-one out of the sixty Member States of the General Assembly approved of a matter being brought before the court, and insisting on a two-thirds majority.

79. No provision that the Security Council could institute proceedings by a procedural vote would bind that body, which would decide for itself what was and what was not a procedural matter. His argument against insisting on a two-thirds majority of the General Assembly also held against the Syrian proposal that paragraph (a) be deleted; for there again paragraph (c) was left untouched, and that provision would enable one State to institute proceedings. Another argument against the Syrian proposal was that it would entail the consequential deletion of paragraph (b).

80. Mr. WANG (China) thought that the United States representative's argument concerning the Security Council was inadequate. The question of a procedural vote was clearly not fundamental.

81. The CHAIRMAN pointed out that the Syrian proposal before the Committee was that paragraph (a) be deleted.

82. There being no further comments on that proposal, he put it to the vote.

The Syrian proposal was rejected by 8 votes to 2, with 3 abstentions.

83. Mr. MAKTOG (United States of America), taking up the Chinese representative's comment on his objection to the Security Council having access to the court, pointed out that the right of veto existed in the former. The attitude of a certain group of countries not only to an international criminal court but also to the International Court of Justice was well known: the veto would certainly be applied to requests for the institution of proceedings, and

if power were given to the Security Council action by the General Assembly would be delayed. After all, the General Assembly was the principal organ of the United Nations.

84. Mr. WANG (China) felt that the United States representative's objection to mentioning the Security Council was valid only if the Security Council were being asked for something. In a provision giving it access to the court, however, only the opportunity of instituting proceedings would be given it; if it decided not to take that step, that would be a matter for itself, but the door would and should be left open for others to institute proceedings.

85. Mr. WYNES (Australia) agreed to a suggestion by Mr. PINTO (France) that his amendment be voted on in parts.

86. The CHAIRMAN suggested that the issue would be simplified if the Committee were to confine itself to that part of the Australian amendment reading "by vote of a two-thirds majority of members present and voting".

Those words in the Australian amendment were rejected by 5 votes to 3, with 3 abstentions.

87. Mr. RÖLING (Netherlands) drew the attention of the Committee to paragraph 1 of Article 12 of the Charter of the United Nations. The question of the institution of proceedings before the court might be interpreted as action by the Security Council in respect of "a dispute or situation", and the General Assembly would be prevented from taking action. For that reason the second part of the Australian amendment was undesirable, and he would oppose it.

88. Mr. WANG (China) pointed out that members of the Security Council were also members of the General Assembly. If the Security Council wanted to prevent the General Assembly from taking up such action as the institution of proceedings before the court, it could do so by many other methods, such as the appointment of commissions of enquiry. The Committee's duty was to prepare a statute establishing an international criminal court, not to examine the

relationship between the General Assembly and the Security Council. He adhered to his view that there was no good ground for excluding the Security Council.

89. Mr. SÖRENSEN (Denmark) thought that the Netherlands representative's interpretation of paragraph 1 of Article 12 of the Charter was open to doubt, in that if it were valid the Security Council could always prevent the General Assembly from instituting proceedings before the court, even in the absence of a provision in article 29 giving the Security Council access to the court. He himself felt that lodging a complaint could not be regarded as the equivalent of making a recommendation in respect of a dispute or a situation. Nevertheless, he recognized that for political reasons it might be regarded as undesirable to include the Security Council among the bodies permitted to institute proceedings before the court, and he would therefore abstain from voting on the second part of the Australian amendment.

90. Mr. RÖLING (Netherlands) said that he had not claimed that paragraph 1 of Article 12 of the Charter would necessarily give rise to the complications he had referred to. He had merely indicated that such an interpretation was possible.

91. Mr. WYNES (Australia) agreed to a suggestion by Mr. WANG (China) that the second part of his amendment be voted upon in two parts: first, the words "or by the Security Council of the United Nations"; second, the words "by a procedural vote",

92. The CHAIRMAN put to the vote the words "or by the Security Council of the United Nations" in the Australian amendment.

Those words were rejected by 7 votes to 2, with 4 abstentions.

93. The CHAIRMAN pointed out that the Committee's decision implied rejection of the remaining words in the Australian amendment. He therefore invited further comments on paragraph (a) of article 29.

94. Mr. COHN (Israel) proposed that in the first line the word "shall" should be replaced by the word "may",⁽¹⁾ on the ground that none of the bodies mentioned in any of the paragraphs would be obliged to institute proceedings before the court.

The Israeli proposal was unanimously adopted.

95. The CHAIRMAN put to the vote paragraph (a), as amended, of article 29.

Paragraph (a), as amended, of article 29, was adopted by 9 votes to none, with 4 abstentions.

96. Mr. WANG (China), explaining his abstention, said that it seemed to him that there were no good reasons for refusing the Security Council access to the court.

97. Mr. RÖLING (Netherlands) proposed that the word "another" in paragraph (b) be replaced by the word "any". The implication of the text as it stood was that the General Assembly was an inter-governmental organization, whereas in fact it was the principal organ of an inter-governmental organization.

98. Mr. PINEYRO CHAIN (Uruguay) said that he would welcome the adoption of a wider formula which would enable not only inter-governmental, but also organizations of States, such as the Pan-American Union, to institute proceedings before the court. For that reason he proposed the substitution of the words "any other organization of States" for the words "another inter-governmental organization" in paragraph (b).

99. Mr. COHN (Israel) suggested that the Netherlands amendment should be taken first, as, if it were accepted, the Uruguayan amendment could be modified accordingly.

It was so agreed.

(1) This change does not affect the French text.

100. The CHAIRMAN put to the vote the Netherlands proposal that the word "any" be substituted for the word "another" in paragraph (b).

The Netherlands proposal was adopted by 8 votes to none, with 4 abstentions.

101. Mr. SÖRENSEN (Denmark), Rapporteur, replying to Mr. WYNES (Australia), said that there had been no discussion on whether inter-governmental organizations included the specialized agencies. He thought, however, that the general feeling was that specialized agencies would not be included, as questions in regard to which proceedings would be instituted would be outside the scope of their work.

102. The CHAIRMAN put to the vote the Uruguayan proposal that the words "any other organization of States" be substituted for the words "another inter-governmental organization" in paragraph (b).

The Uruguayan proposal was adopted by 6 votes to none, with 6 abstentions.

103. Mr. RÖLING (Netherlands) proposed that the word "other" be deleted from the Uruguayan proposal.

The Netherlands proposal was adopted by 7 votes to none, with 4 abstentions.

104. Mr. LIANG, Secretary to the Committee, pointed out that it was intended that the words "General Assembly" in paragraph (b) should refer to the General Assembly of the United Nations. It was possible for an inter-governmental organization, however, to have a principal organ called a general assembly, so, to avoid ambiguity, the words "of the United Nations" should be added after the words "General Assembly".

105. Mr. PINTO (France) formally sponsored the suggestion made by the Secretary.

106. The CHAIRMAN put the French proposal to the vote.

The French proposal was adopted by 9 votes to none, with 3 abstentions.

107. Mr. SÖRENSEN (Denmark), Rapporteur, pointed out that there was a certain amount of ambiguity in the English text of paragraph (b). The authority to institute proceedings should be granted to the organization, not to separate States. As that ambiguity did not exist in the French text, he would not insist on an amendment to the English text, as the intention was clear.

108. Mr. RÖLING (Netherlands) thought that discussion of paragraph (c) of article 29 should be deferred, as it involved a provision not yet discussed by the Committee, and would take time.

It was so agreed.

The meeting rose at 5.10 p.m.