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COMMITTEE ON INTERNATIONAL CRIMINAL JURISDICTION

First Session

SUMMARY RECORD OF THE TWENTY-SEVENTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 29 August 1951, at 10 a.m.

CONTENTS:

Present:

Chairman: Mr. MORRIS

Members:

Australia	Mr. WYNES
Brazil	Mr. AMADO
China	Mr. WANG
Cuba	Mr. del VALLE 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. MAKTOS
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 III: Competence of the Court (continued)

Article 29 - Access to the Court (continued)

1. The CHAIRMAN said that the question before the Committee was whether the words within brackets in paragraph (c) of article 29 should be retained or not.

2. There being no comments on the clause within brackets, he put it to the vote.

The Committee approved of the inclusion in the statute of the words within brackets in paragraph (c) of article 29 by 8 votes to none, with 5 abstentions.

3. Mr. SÖRENSEN (Denmark) drew attention to the difficulty in reconciling paragraph (c) of article 29, as approved by the Committee, with the provision of article 26, that jurisdiction could be conferred upon the court by special agreement or by unilateral declaration. The element of reciprocity, which he had referred to at the 26th meeting, clearly did not occur in such cases, but only under a pre-existing general agreement.[1] To avoid ambiguity, therefore, he proposed that the following words be added at the end of paragraph (c):

"provided that this condition shall not apply if jurisdiction is conferred on the court by special agreement or by unilateral declaration."

4. If some such addition were agreed upon, the Drafting Sub-Committee might frame it in appropriate language.

5. At the suggestion of Mr. WYNES (Australia), he accepted the substitution of the word "where" for the word "if" in his amendment.

6. Mr. MAKTOS (United States of America) held that the idea underlying paragraph (c) was that States which had conferred jurisdiction on the court in respect of specific crimes should not be permitted to bring a case before the

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1) See Summary Record of the 26th meeting (A/AC.48/SR.26), paragraph 72

court in respect of any other crimes. The additional clause proposed by the Danish representative would defeat the effort to ensure an element of reciprocity, for clearly, if it were accepted, the easiest way for a State to avoid reciprocity would be by concluding a special agreement or making a unilateral declaration. He accordingly opposed the Danish amendment.

7. Mr. RÖLING (Netherlands) was not clear how article 26, relating to the attribution of jurisdiction, could be linked with article 29, which dealt with the institution of proceedings before the court.

8. Mr. SÖRENSEN (Denmark) explained that when jurisdiction was conferred on the court by special agreement or unilateral declaration the attribution of jurisdiction and the institution of proceedings were fused into one process. His argument was that, as the draft stood, two States would be unable to institute proceedings before the court unless both had acceded to a general convention in advance; his amendment was designed to give them the power to do so.

9. The United States representative's point was met by article 27: jurisdiction had to be conferred by a State in respect of a crime involving one of its nationals or committed in its territory. In his view, a provision for special agreements or unilateral declarations would be nullified if his amendment were not accepted, as the whole point, at least of a unilateral declaration, was that only one State was involved. The amendment added nothing new, but it eliminated a possible ambiguity.

10. Mr. PINTO (France) did not think the United States representative's fears were justified. He saw no objection to the addition proposed by the Danish representative, though it did not seem absolutely essential, and would not make any difference to the interpretation of article 29 as worded in the Sub-Committee's draft.

11. Mr. SÖRENSEN (Denmark) said that he would not press his amendment if in fact it was the general understanding that without it the conferment of jurisdiction on the court by special agreements or unilateral declarations, would not be endangered.

12. Mr. RÖLING (Netherlands) suggested that the question was of such complexity that it deserved careful consideration by the members of the Committee. He proposed therefore that it be taken up again at the following meeting.

It was so agreed.

13. The CHAIRMAN pointed out that the Committee's decision was tantamount to a temporary withdrawal of the Danish amendment. It was to be understood that when the draft statute had been considered, any point could be reviewed at the request of any member of the Committee.

14. There being no other comments on paragraph (c) of article 29, he put it to the vote.

Paragraph (c) of article 29 was adopted by 9 votes to 1, with 3 abstentions.

15. Mr. RÖLING (Netherlands) pointed out that article 28 of the draft statute provided that no jurisdiction could be conferred upon the court without the approval of the General Assembly, it being thus recognized that care should be taken lest the activities of the court interfere with the maintenance of peace. To confer jurisdiction on the court was relatively harmless, but to bring a case before the court could have the most dangerous consequences. Thus, if a group of States threatened peace by preparations for aggression, it was conceivable that the United Nations would take no action under Article 39 of the Charter, in the hope that peace could be preserved. But if a State, lacking a due sense of responsibility, brought a case before the court against nationals of the State or States preparing for aggression, the chances of preserving peace might well be jeopardized beyond repair: for the court would be bound to take cognizance of the offence and try it.

16. To meet such a contingency, the General Assembly should be given the power to stop the institution of such proceedings before the court, in the interests of peace. It might be argued that the committing authority could hold up such proceedings, but in fact the Committee had decided that the committing authority should merely weigh the evidence and should take no political decisions. The

qualifications of the committing authority would in any case not fit it for the task of taking such a weighty decision, which would clearly have to be taken by a political body. The only body qualified to do so was obviously the General Assembly. He accordingly proposed that a new paragraph be added to article 29, to read "In the interest of the maintenance of peace, the General Assembly may prevent a particular case from being brought before the Court."

17. The CHAIRMAN drew the attention of the Committee to the United States amendment to article 34 (A/AC.48/L.19). If that amendment were adopted, the prosecuting attorney appointed by the United Nations could prevent a case from being tried. It seemed to him that that amendment would meet the requirements of the Netherlands representative, and that there was accordingly no necessity for an additional paragraph to article 29.

18. Mr. RÖLING (Netherlands) found it difficult to take up any position in respect of the United States amendment to article 34, as it had not yet been discussed. Moreover, with the majority, he had opposed the appointment of a prosecuting authority on a permanent basis as a United Nations organ. He asked, therefore, that his proposal be considered.

19. Mr. PINTO (France) observed that the Netherlands representative seemed to be giving a definition of "crimes under international law" which no longer accorded with the amended text of article 1 of the draft statute. In its original form the text distinguished between "crimes under international law" and "other crimes of international concern". The final version spoke of "crimes under international law, as may be provided in conventions or special agreements amongst States parties to the present Statute." Thus it was open to States to conclude conventions or agreements conferring jurisdiction on the court not only in respect of crimes under international law stricto sensu, but also in respect of any crime, some aspects of which might come under international criminal law, such as piracy, traffic in persons or drugs etc. On the other hand, if the suggested addition were adopted a serious and dangerous political element would be introduced into the court's procedure. It would excessively restrict the activities of the court, which would be like a bird without wings.

20. Mr. JONES (United Kingdom) said that he might be anticipating discussion of article 34, but he was unable to see how the prosecuting attorney proposed in that article could decide a political issue, as the power to do so was not vested even in the committing authority itself. It must therefore be a political body which would decide the question envisaged in the Netherlands amendment.

21. Mr. SÖRENSEN (Denmark), while to some extent agreeing with the French representative, considered that the Netherlands amendment raised an important issue. The amendment gave the General Assembly the right to interfere in all cases, and the logical consequence of that would be that every case would give rise to a political debate. In his view, the right to interfere should be limited to cases already on the agenda of a United Nations organ, and the General Assembly, or whatever other United Nations organ was selected, should have no right to intervene in respect of other cases. He accordingly suggested that the Netherlands proposal be amended to read:

> "Any complaints relating to a dispute or a situation pending before a United Nations organ shall require the consent of that organ before being lodged by a State before the Court".

22. Alternatively, instead of the words "United Nations organ," the words "General Assembly" could be used.

23. He felt that it was preferable that the institution of proceedings should depend on the consent rather than on the objection of the General Assembly.

24. Mr. PINEYRO CHAIN (Uruguay) supported the Netherlands proposal. That proposal re-opened a discussion which had been inconclusive, and approached the problem from a new angle, which would enable certain difficulties to be avoided.

25. Several members of the Committee, including himself, had been of the opinion that a complaint brought before the court must necessarily emanate from

the General Assembly.[1] They recognized the necessity for assessing the political expediency of trying any given case before it was referred to the court; and they felt that in certain circumstances it was better to allow a criminal to go unpunished than to do anything that might endanger international peace.

26. However, the Committee had not lost sight of the drawbacks of such a provision. In all instances, cases brought before the court would previously have been discussed on the political plane in the General Assembly. Hence the provisional solution had been in favour of allowing States to bring cases before the court.

27. Under the Netherlands proposal, the General Assembly would not intervene to assess every complaint brought up by a State, but would only do so when it considered that the trial of the case was against the interests of peace. The suggestion was most ingenious and logical, since the primary obligation of the General Assembly was to safeguard international peace and security. It evaded the difficulty of having the General Assembly intervene in every case, while at the same time ensuring respect for fundamental interests which must be safeguarded. The Committee should not let the suggestion pass unadopted.

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1) See Summary Record of the 12th meeting (A/AC.48/SR.12) paragraphs 24 to 68.

28. Mr. RÖLING (Netherlands) said that he did not insist upon the exact wording of his amendment. In his view, only the principle should be adopted, and the Drafting Sub-Committee should be asked to frame it in appropriate language; the principle was extremely important, and care would be required in the drafting.

29. Mr. SÖRENSEN (Denmark) was prepared to withdraw his amendment if the Committee decided to vote on the principle of the Netherlands amendment and leave the precise wording to the Drafting Sub-Committee.

30. Mr. RÖLING (Netherlands), dealing with the Danish representative's earlier objection, contended that it was preferable that the General Assembly should have power to prevent the institution of proceedings, rather than that it should be required to give its consent to their institution; in the first case, only those proceedings which the General Assembly desired to prevent would give rise to discussion, whereas, in the case of its consent being required, there would be a discussion for every complaint.

31. With regard to the French representative's objection, he pointed out that States could confer jurisdiction on the court in respect of international crimes, such as aggression, which all involved questions of peace. It was perhaps a pity that the General Assembly should have to be called in in such cases, but the facts of the situation had to be faced. The international criminal court would indeed suffer a limitation of its activities. It might be called "a bird without wings", but it was desirable that it should first learn to walk; it could try to fly later.

32. The CHAIRMAN said that it would be desirable to decide in principle whether, as proposed by the Netherlands representative, a provision should be inserted in the statute to enable the General Assembly to intervene to prevent cases from being brought before the court. If the idea were accepted, the amendment could be drafted in a suitable form and submitted again to the Committee.

33. He accordingly put to the vote the Netherlands proposal in principle.

The Committee adopted the Netherlands proposal in principle, by 5 votes to 2, with 5 abstentions.

34. The CHAIRMAN suggested that in view of the decision just taken, article 29 be voted upon as a whole at a later stage.

It was so agreed.

Article 30 - Challenges of Jurisdiction

35. Mr. SORENSEN (Denmark), Rapporteur, explained that paragraphs 1 and 2 of article 30 reproduced previous decisions of the Committee.[1] However, the Drafting Sub-Committee had added paragraphs 3 and 4, regarding the time at which challenges of jurisdiction should be made.

36. Mr. COHN (Israel) said that the general purpose of article 30 seemed to be to empower not only the accused to challenge the jurisdiction of the court but also the States referred to in article 27. Such provision in respect of States should obviously be placed in article 27, and he therefore proposed that a new paragraph be added to that article, reading:

"For the purpose of challenging the jurisdiction of the Court in any particular case, such State shall be entitled to intervene in the proceedings."

37. The questions of procedure dealt with in paragraphs 2, 3 and 4 of article 30 raised separate issues and were unimportant. It had been left to the court to frame rules of procedure, but the court was apparently not to be trusted with the decision when and how it should deal with challenges to its jurisdiction. The fear that it would not be able to deal with such problems was entirely unfounded, and cast a reflection on the efficiency and even the common sense of members of the court. In his view, therefore, it would be unnecessary, and even absurd, to include paragraphs 3 and 4 in article 30. Paragraph 2 was even less necessary

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1) See Summary Record of the 9th meeting (A/AC.48/SR.9), paragraph 31

than paragraphs 3 and 4: for it was self-evident that challenges to its jurisdiction would be settled by decision of the court. Finally, it was unnecessary to mention that the accused could challenge the jurisdiction of the court as no statute could deprive him of his right to do so. In fact, the only question raised in article 30 that required settlement was that of the right of States to challenge the court's jurisdiction, and he submitted that that could be dealt with more appropriately in article 27, in the way he had proposed. Article 30 should therefore be deleted.

38. Mr. MUNIR (Pakistan) thought that the Committee had decided against intervention by States in any proceedings before the court.

39. Mr. LIANG, Secretary to the Committee, said that the Committee had indeed decided that no State had the right to intervene in any case before the court.[1] It had, however, decided that a State should be allowed to challenge the jurisdiction of the court.

40. Mr. MAKTOS (United States of America) also felt that the two decisions were not contradictory. A State would not be permitted to intervene on any ground other than that of challenging the jurisdiction of the court.

41. Moreover, he opposed the Israeli proposal on several grounds. If the right of a State to challenge the jurisdiction of the court were recognized in the statute, it might be argued that failure to mention the right of the accused meant that the accused would have no such right. From the point of view of the psychological effect on public opinion, it was desirable that that right should be clearly declared. Again, as it was held that both a State and an accused could challenge the jurisdiction of the court, it would be more fitting that provisions containing that right should be placed together in the statute. Paragraphs 3 and 4 contained provisions which had led to lengthy arguments in the dispute between France and Great Britain as to the nationality decrees issued in Tunis and Morocco before the Permanent Court of International Justice, and could

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1) See Summary Record of the 19th meeting (A/AC.48/SR.19), paragraph 52.

not be regarded as self-evident.[1] Finally, it would be no reflection on the intelligence of the judges if the various provisions were clearly laid down in article 30; they should clearly not be left unstated in a statute establishing a new international court.

42. To meet the Pakistani representative's objection, he proposed that paragraph 1 of article 30 be amended to read as follows: "The competence of the Court may be challenged by the accused. For the purpose of challenging the jurisdiction of the Court, any State referred to in article 27 may, in any particular case, intervene in the proceedings." That addition virtually repeated the Israeli amendment.

43. In reply to a query by Mr. WANG (China), he said that he had no objection to the word "jurisdiction" being substituted for the word "competence" in the first sentence of his amendment to paragraph 1.

44. Mr. PINEYRO CHAIN (Uruguay) announced that he would vote against the text proposed by the United States representative, as he considered that it was too general.

45. Mr. COHN (Israel) claimed that it would be extremely dangerous to include a specific provision that the accused should have the right to challenge the jurisdiction of the court. The implication of such a provision would be that he could not challenge any other interpretation of the convention concerned; but must confine himself solely to the question of jurisdiction. It was elementary knowledge that an accused brought before any court under a convention had the right to use all and any arguments concerning the interpretation of that convention; nor was there any need to mention that such arguments included the question of jurisdiction. In view of the danger of such a provision, he opposed the United States amendment.

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1) Publications of the Permanent Court of International Justice, Series B, No. 4, 7 February 1923, Collection of Advisory Opinions.

46. He had always been in favour of minimum guarantees being accorded the accused. Such guarantees were strictly of a procedural nature, but had nevertheless been included in the statute as article 38. If article 30 were to be retained, he could well envisage a counsel for the defence challenging the interpretation of a treaty and finding his challenge rejected by the court on the grounds that only its jurisdiction could be questioned. Such an interpretation of article 30 would invalidate all the guarantees of a fair trial accorded to the accused under article 38.

47. Mr. WYNES (Australia) suggested a text which he hoped would reconcile the two points of view. It read:

> "Challenges of the jurisdiction of the Court, whether by the accused or by any State referred to in article 27 (which State may intervene for that purpose) shall be settled by the decision of the Court".

48. Mr. PINEYRO CHAIN (Uruguay) said he would like to submit a text to replace paragraph 1 of article 30. The wording was somewhat different from that suggested by the Australian representative. It was desirable to have a general provision to the effect that in addition to the accused, States should be entitled to challenge the jurisdiction of the court. But it should be specified that any such challenge was restricted to cases expressly covered by article 27 of the draft statute. His text read as follows:

> "To challenge jurisdiction, there may intervene, in addition to the parties, the States referred to in article 27, when the challenge is based upon the absence of agreement of those States, as required in article 27."

49. The CHAIRMAN welcomed Mr. del Valle, the Head of the Cuban delegation.

50. Mr. del VALLE (Cuba) expressed his regret that he had not been able to take part in the work of the Committee earlier.

The meeting was suspended at 11.40 a.m. and was resumed at 11.55 a.m.

51. Mr. MAKTOS (United States of America) said that he appreciated the Israeli representative's apprehension lest, if specific reference were made to the right to challenge the jurisdiction of the court, it be inferred that challenges could not be made on other grounds. That was, however, not the case, and he submitted that a challenge of jurisdiction was a special plea. To meet the points raised by the Israeli representative, he suggested that paragraph 1 of article 30 should be amended to read: "The jurisdiction of the Court may be challenged, in addition to the parties concerned, by any State .....". Such a parenthetical reference to the parties concerned had the merit of implying that the accused quite naturally had the right to challenge the jurisdiction of the court.

52. Mr. COHN (Israel) said that any reference to the right of the accused to challenge the jurisdiction of the court, whether parenthetical or otherwise, was superfluous. That did not mean that he was opposed to the United States amendment; he merely felt that it left one most important issue undecided, namely, the fate of the other paragraphs of article 30, which he thought should be deleted.

53. Mr. MAKTOS (United States of America) said that he would provisionally withdraw his amendment, so that the Committee could more easily decide whether the whole of article 30 were to be deleted.

54. Mr. MUNIR (Pakistan) observed that the concept of jurisdiction was quite clear; that of a challenge to jurisdiction, on the other hand, differed in criminal and in civil law. In the former, the accused could raise objections at any time, and his consent to the jurisdiction of a court did not confer upon that court any jurisdiction in his case if it in fact had none. In civil law, on the other hand, challenges had to be lodged before the case was heard in court and, if no such challenge had been made, the accused was considered to have waived any right to raise objections later. Article 30 was consequently a compromise between the two principles applying in criminal and civil law. Paragraph 1 laid down the right of the accused to challenge the jurisdiction of the court; paragraph 2 provided that such challenges should be settled by decision of the

court, and not, as had been suggested, by some outside body such as the International Court of Justice; paragraph 3 gave the accused the right to an immediate settlement of his challenge before the trial began, and paragraph 4 covered cases where the accused, for one reason or another, had not lodged his objections before the trial opened. The article consequently formed an indivisible whole, and he was in favour of its adoption in its entirety, subject only to the adoption of the United States amendment.

55. The CHAIRMAN put to the vote the Israeli representative's proposal for the deletion of article 30.

The Israeli proposal was rejected by 7 votes to 1, with 6 abstentions.

56. Mr. COHN (Israel) withdrew his amendment to article 27.

57. Mr. MAKTOS (United States of America) intimated his desire to return to his previous amendment in a slightly different form. He proposed that paragraph 1 of article 30, be amended to read:

"The jurisdiction of the court may be challenged, not only by the parties to the proceedings, but also by any State referred to in article 27."

58. Mr. COHN (Israel) suggested that the words "which may intervene for this purpose" be added to the United States amendment.

59. Mr. MAKTOS (United States of America) accepted the Israeli proposal.

60. Mr. TARAZI (Syria) suggested that the Committee first take a decision on the Uruguayan proposal, which was the farthest removed from the original text.

61. The CHAIRMAN agreed, and declared the Uruguayan amendment to paragraph 1 open for discussion.

62. Mr. RÖLING (Netherlands) felt that, while the thought behind the Uruguayan amendment was quite clear, the wording left a great deal to be desired, and he therefore suggested that the final text should be prepared at a later stage.

63. Mr. COHN (Israel) saw no great difference between the Uruguayan and United States amendments. Both implied that a State which intervened and challenged the jurisdiction of the court was empowered to do so because it had not conferred upon the court the jurisdiction referred to in article 27. He therefore suggested that a vote be taken jointly on the two texts.

64. Mr. PINTO (France), speaking to a point of order, argued that the texts submitted should be put to the vote without discussion. At the present stage in the debate, there was no occasion for proposing drafting amendments.

65. Mr. MAKTOS (United States of America) said that he would vote against the Uruguayan amendment because, unlike his own, it laid stress on the intervention of a State, and not on its challenge. In addition, the basis of the challenge was more limited in the Uruguayan amendment.

The Uruguayan amendment to paragraph 1 of article 30 was rejected by 6 votes to 2 with 4 abstentions.

66. Replying to a question by Mr. WANG (China), the CHAIRMAN explained that it was normal practice in the United States of America to apply the word "party" to the accused.

The United States amendment to paragraph 1 of article 30 as amended by the Israeli representative was adopted by 7 votes to none with 5 abstentions.

Paragraph 1 of article 30, as amended, was adopted.

67. Mr. RÖLING (Netherlands) felt that paragraph 2 was superfluous and should be deleted; it was implicit in paragraphs 3 and 4 that the court would settle any challenges.

68. Mr. WANG (China) thought that the specific reference to the court in paragraph 2 had been retained because suggestions had been made in the Committee that challenges might sometimes be referred for settlement to the International Court of Justice.

The Netherlands proposal for the deletion of paragraph 2 was adopted by 8 votes to 2 with 2 abstentions.

69. Mr. TARAZI (Syria) submitted the following text to replace paragraphs 3 and 4 of article 30:

"The challenge shall be made prior to the beginning of the trial. The Court may consider the challenge at the same time as it considers the substance of the complaint."

70. The point was that it would be illogical for a State or an accused person to be allowed to challenge the court's jurisdiction after the witnesses had been heard.

71. Mr. PINTO (France) pointed out that as worded at present, the provisions of paragraph 3 would not oblige the court to take a decision the moment a challenge of jurisdiction was made. It could postpone its decision till whatever stage of the proceedings it thought fit.

72. The CHAIRMAN asked the Syrian representative to explain what would happen if an important fact were discovered by one of the parties after the trial had begun.

73. Mr. TARAZI (Syria), explaining his intention, said that if it appeared from the indictment that the acts with which the accused was charged did not lie within the jurisdiction of the court, the challenge would have to be made at once, but the court would not necessarily have to give its decision forthwith.

74. Mr. SÖRENSEN (Denmark) observed that some confusion might have arisen as a result of a difference between the French and English texts of paragraph 3. The French text contained an additional sentence: "Elle peut joindre l'incident au fond" which he assumed, meant that the court could decide to examine the challenge at the same time as it considered the substance of the case. If his interpretation was correct, the provision seemed incompatible with that expressed in the previous sentence.

75. Mr. WANG (China) thought that if the jurisdiction of the court were challenged before a trial opened, the challenge would have to be settled before proceedings started, since, if the court were later to decide that it had no jurisdiction, its work would have been wasted.

76. Mr. TARAZI (Syria) recalled that in continental law when the competence of a court was challenged the judge might, as he thought fit, pronounce on the challenge beforehand or deal with it when finally passing judgment.

77. Mr. PINEYRO CHAIN (Uruguay) said that the formula submitted by the Syrian representative stipulated that the challenge must be made at the beginning of the proceedings. It was true there was a moral duty to make challenges as early as possible, because they threw doubt upon the legality of the judge's powers, but it ought to be left possible to make them at a later stage of the trial if necessary.

78. If, moreover, the challenge were made at the outset it was reasonable that it should be considered immediately, otherwise doubt would be thrown upon the legality of the proceedings.

79. He did not share the view of the Syrian representative, and preferred paragraphs 3 and 4 of article 30 as drawn up by the Drafting Sub-Committee.

The Syrian amendment to paragraph 3 of article 30 was rejected by 8 votes to 1 with 5 abstentions.

80. Mr. RÖLING (Netherlands) suggested that the words "Issues raised by" at the beginning of paragraph 3, were superfluous, and should be deleted.

The Netherlands amendment was adopted by 5 votes to 1 with 8 abstentions.

81. Mr. PINTO (France), replying to the earlier observation of the Danish representative to the effect that there was some discrepancy between the French and English texts of paragraph 3, pointed out that in French the sentence "Elle peut joindre l'incident au fond" had been introduced to show that the preliminary consideration by the court would not necessarily be accompanied by a decision. In the English text the word "considered" was sufficient to show that in the

first stage of the trial it was only incumbent upon the court to study the challenge, without necessarily pronouncing upon it.

82. He considered, therefore, that the two texts corresponded with one another sufficiently closely.

83. Mr. RÖLING (Netherlands) agreed that the Drafting Sub-Committee had adopted the word "considered" in preference to the word "decided", since it rendered the idea that the decision of the court might be taken at a later stage.

Paragraph 3 of article 30, as amended, was adopted by 9 votes to 1 with 4 abstentions.

84. Mr. RÖLING (Netherlands) suggested that in paragraph 4 the words "Issues raised by" were likewise superfluous, and should be deleted.

The Netherlands' amendment was adopted by 5 votes to none, with 7 abstentions.

Paragraph 4 of article 30, as amended, was adopted by 9 votes to 1 with 4 abstentions.

Article 30, as a whole as amended, was adopted by 9 votes to none, with 5 abstentions.

The meeting rose at 1.10 p.m.