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PROTECTION OF MINORITIES

## Second Session

## SUMMARY RECORD OF THE THIRTY-THIRD MEETING

Held at Lake Success, New York,  
on Tuesday, 21 June 1949, at 2.30 p.m.

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General Assembly on the fate of minorities (E/CN.4/Sub.2/64,  
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<u>Chairman:</u>	Mr. EKSTRAND	Sweden
<u>Rapporteur:</u>	Miss MONROE	United Kingdom
<u>Members:</u>	Mr. BORISOV	Union of Soviet Socialist Republics
	Mr. CHANG	China
	Mr. DANIELS	United States of America
	Mr. McNAMARA	Australia
	Mr. MASANI	India
	Mr. MENESES PALLARES	Ecuador
	Mr. NISOT	Belgium
	Mr. ROY	Haiti
	Mr. SHAFAGH	Iran
	Mr. SPANLEN	France

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CONSIDERATION OF PART C OF RESOLUTION 217 (XII) OF THE GENERAL ASSEMBLY  
ON THE FATE OF MINORITIES (E/CN.4/Sub.2/64, E/CN.4/Sub.2/66, E/CN.4/Sub.2/  
60, E/CN.4/Sub.2/69, E/CN.4/Sub.2/67, E/CN.4/Sub.2/54, E/CN.4/Sub.2/59)

The CHAIRMAN took up the discussion of Mr. McNamara's proposal  
concerning the method to be followed to assure the protection of  
minorities (E/CN.4/Sub.2/64).

Mr. McNAMARA explained, in submitting his proposal, that  
resolution 75 (V) of the Economic and Social Council doomed the  
Sub-Commission to complete futility, since it did not authorize it  
to examine petitions or to make recommendations to Governments.

To solve that difficulty, he proposed that a recommendation be  
made to the Secretary-General to take necessary measures "to achieve  
in each State the establishment of a National Co-ordinating Committee of  
Non-Governmental Organizations." Those national committees would be  
requested subsequently to form a Human Rights Standing Committee for  
the purpose of taking constructive measures in the field of human rights,  
and in particular in the field of discrimination against minorities.

Mr. McNamara recalled that the idea was not new, since the  
establishment of local committees on human rights had already been  
proposed by one of the more important organs of the United Nations  
and had been carried out in certain States.

His proposal was designed merely to spread the establishment of  
non-governmental committees, which seemed to him preferable to governmental  
organizations, and to expedite their formation.

/Mr. SPANLEN

Mr. SPANIEN opposed Mr. McNamara's proposal. In his opinion, the proposal was designed merely to shift the responsibilities of the Sub-Commission, during the transitional period at least, to the committees contemplated. Moreover, it provided that those committees should take "constructive measures", when only governments were qualified to take measures in the field of human rights. Lastly, to cover the whole world with local committees of non-governmental organizations, such organizations would have to be empowered everywhere to exercise their authority. Whether that could be accomplished was most doubtful. Consequently, Mr. Spanien did not believe that the Sub-Commission could reasonably submit such a proposal.

Mr. NISOT unreservedly approved the remarks which Mr. Spanien had just made. He thought besides, that the Sub-Commission was not entitled to give instructions directly to the Secretary-General, for it must address itself first to the Commission on Human Rights.

Mr. McNAMARA stated, in reply to Mr. Spanien, that by adopting his proposal the Sub-Commission would in no way be shirking its responsibilities; in fact, it had been instructed to do all in its power to assure the protection of minorities. It must therefore utilize all the means at its disposal to accomplish its task.

His proposal was consistent with a recommendation made by another organ of the United Nations, and the committees which it envisaged already existed in some countries, including Australia, where they had proved their worth.

Consequently, the Sub-Commission would not only be justified in adopting such a proposal, but it would thereby facilitate its own work.

Mr. SPANIEN remarked that, in accordance with Mr. McNamara's proposal, the system which he suggested creating was to remain in force only "pending the setting-up of contemplated machinery for the implementation of the...principles and rights" set forth in the Declaration of Human Rights. It was therefore only temporary. Temporary organizations could not be instructed to take "constructive measures" which only the United Nations or organizations originating in the United Nations could be authorized to put into effect.

Miss MONROE asked Mr. Spanien if he were prepared to accept the text if sub-paragraph (E) were omitted.

/Mr. SPANIEN

Mr. SPANIEN replied that he was opposed to the spirit of Mr. McNamara's proposal as a whole, and not to any particular paragraph. He could not accept that non-governmental organizations should be substituted for the United Nations or for Governments.

In his opinion, such organizations would be useful as far as studies, recommendations and suggestions were concerned, and not in the field of practical measures.

Mr. McNAMARA proposed that sub-paragraph (C) of his text should be deleted in order to comply with the wishes of Mr. Spanien, who had pointed out that the method provided for in the draft resolution was merely temporary.

With regard to sub-paragraph (B), which Miss Monroe had just mentioned, he agreed to omit the last part of it, while retaining the beginning, which read as follows:

"(B) That such National Co-ordinating Committee, when established, be requested to form a Human Rights Standing Committee".

He thought that, even if the committees were not given definite instructions, they could accomplish very useful work.

The CHAIRMAN proposed that the beginning of the operative part of Mr. McNamara's draft resolution should be amended as follows:

"Recommends that the Commission on Human Rights request the Secretary-General... to request ..."  
so as to bring it more into line with the Sub-Commission's terms of reference.

Mr. McNAMARA accepted that amendment.

Mr. SPANIEN pointed out that the only new idea contained in the draft resolution was the establishment of committees to take constructive measures. Now that that idea was omitted, the resolution was reduced to a mere expression of the hope that co-ordinating committees would be established.

If the resolution were drawn up in that form, Mr. Spanien would certainly not oppose it, but he could not see what use it would have.

Mr. McNAMARA proposed that the expression "non-governmental organizations" should be replaced by the words "national sections of non-governmental organizations" to make it quite clear that reference was not being made to international bodies.

The draft resolution (E/CN.4/Sub.2/64) was adopted, as amended, by 8 votes to one, with 3 abstentions.

The CHAIRMAN took up the discussion of Mr. Daniels' draft resolution (E/CN.4/Sub.2/66).

Mr. DANIELS explained that in drafting his "Revised Proposal with regard to the Handling of Petitions", he had incorporated in his text the suggestions made by Mr. McNamara, Mr. Shafagh and Mr. Roy.

Mr. NISOT stated that he would vote against the draft. If the vote were taken paragraph by paragraph he would vote against each of them separately, since they were parts of a whole which seemed to him unacceptable.

Miss MONROE said that she too would vote against Mr. Daniels' proposal for there were, in her opinion, better ways of solving the difficulty in which the Sub-Commission found itself in regard to petitions.

Mr. BORISOV was of the opinion that Mr. Daniels' proposal might lead to arbitrary selection of petitions. He would therefore vote against the text.

Mr. SPANIEN remarked that Mr. Daniels was considering the problem of petitions in a piecemeal way, whereas it should be considered as a whole. He would therefore vote against the proposal.

He also stated that Miss Monroe and he had drafted a document which they thought would make it possible to lay down the whole procedure for the examination of petitions.

Mr. DANIELS wished to explain that the difference between his proposal and that which Miss Monroe and Mr. Spanien had drafted concerned the question whether it was necessary to take measures immediately or to postpone any action in regard to petitions until later.

In his opinion, the draft resolution of Miss Monroe and Mr. Spanien was designed to delay such action.

Mr. CHANG stated that he had not yet had the opportunity to study the proposal of Miss Monroe and Mr. Spanien. He therefore proposed that the vote on Mr. Daniels' draft resolution be postponed until all the members of the Sub-Commission had studied both texts.

Mr. SHAFAGH pointed out that document E/CN.4/Sub.2/60 submitted by Mr. Daniels was closely related to the question under consideration. He asked if consideration of it could therefore also be postponed.

He recalled that it had been agreed at a previous meeting of the Sub-Commission that Miss Monroe, Mr. Spanien and he would discuss together the problems they had raised in their respective proposals. He had not taken part in the preparation of document E/CN.4/Sub.2/69, which Miss Monroe and Mr. Spanien had subsequently submitted.

He therefore wished to know if the authors of that document had taken into consideration the proposal which he had made in draft resolution E/CN.4/Sub.2/49. If they had not done so, that draft proposal should be examined separately.

Miss MONROE explained that Mr. Spanien and she had incorporated Mr. Shafagh's proposals in their text.

Mr. DANIELS agreed that the consideration of document E/CN.4/Sub.2/60 and E/CN.4/Sub.2/66 should be postponed until the members of the Sub-Commission had had the opportunity to study the other proposals concerning the matter.

It was so decided.

After a brief discussion in which Mr. CHANG, Mr. McNAMARA, Mr. NISOT and Miss MONROE took part, the CHAIRMAN proposed that the examination of the proposal submitted by Miss Monroe and Mr. Spanien should be postponed until the next meeting.

It was thus decided.

The CHAIRMAN opened the discussion on draft resolution E/CN.4/Sub.2/67 prepared by Mr. Chang on the basis of document E/CN.4/Sub.2/54 which he had previously submitted.

Mr. CHANG explained that in drafting the new text he had benefited from the advice given him by Mr. Masani, Mr. Shafagh and Mr. McNamara. To overcome the objections raised by certain representatives against his original draft, he had eliminated paragraph (2). Thus, his new draft confined itself to making paragraph (1) of the original draft more explicit. For that reason he had introduced in the new text the expressions "or to permit restrictions" and "vocation or employment". He had also replaced the words "of individuals" by "of a citizen".

Mr. SHAFAGH supported Mr. Chang's proposal.

Mr. McNAMARA asked that the word "individuals" should be restored in the text, as by allowing only the citizens of a country to benefit from those rights, the resolution might expose inhabitants who did not enjoy the right of citizenship to all kinds of discriminatory measures.

Mr. MASANI could not agree with Mr. McNamara. Mr. Chang's draft resolution had been drawn up in such a way as to make it possible for it to be incorporated in the Covenant of Human Rights, which should be of an obligatory character for the signatory States. Consequently, if Mr. McNamara's proposal were accepted, certain States might refuse to adhere to the Covenant.

Moreover, Mr. Masani felt that in adopting Mr. McNamara's suggestion the Sub-Commission might seem to be granting every individual, even a foreigner, the right to enter administrative, diplomatic and security services of the country of which he was a resident.

Miss MONROE shared Mr. Masani's views and pointed out that in certain countries even naturalized citizens did not have the right to carry out certain functions unless they had spent a sufficient number of years in the country and had proved their loyalty. In her opinion, the draft resolution was in any case unnecessary, as the matter was adequately dealt with in the Universal Declaration of Human Rights.

Mr. MENESES PALLARES shared Miss Monroe's views and cited in that connexion articles 21, 22 and 23 of the Declaration.

/ Mr. CHANG

Mr. CHANG thought, on the contrary, that the specific nature of the proposal introduced a new element, as article 22 of the Universal Declaration of Human Rights limited itself to guaranteeing the individual the enjoyment of economic, social and cultural rights "indispensable for his dignity" and might thus allow every Government to interpret in its own way the term "dignity" of a human being.

Mr. SPANIEN was anxious that the political criterion as laid down in article 2 of the Universal Declaration of Human Rights should be inserted in the text.

Mr. McNAMARA, in reply to Mr. Masani, stated that the sentence "by reason of his national origin...etc." should do away with his objection. Once that principle was established there might be other reasons, such as the security of the State, which might prevent an individual from exercising certain functions.

With regard to Mr. Spanien's proposal, Mr. McNamara was quite willing that the enumeration contained in article 2 of the Universal Declaration should be incorporated in Mr. Chang's text.

Mr. DANIELS asked whether he could still propose amendments to the draft International Covenant on Human Rights.

Mr. HUMPHREY (Representative of the Secretary-General) replied that the Commission on Human Rights would not submit the Covenant for the approval of the General Assembly before its 1950 session. The Sub-Commission could therefore make recommendations which the Commission would examine at its next session in March.

Mr. SPANIEN was not satisfied with the explanations given on the subject of Mr. Chang's draft resolution. A citizen should in no case be debarred from entering into a business, profession, vocation or employment by reason of his political opinions. He would therefore formally propose that the draft resolution should list all the criteria contained in article 2 of the Universal Declaration of Human Rights.



The CHAIRMAN recognized the force of Mr. Spanien's argument; moreover, he thought that the same wording should be adopted as hitherto.

Mr. CHANG accepted Mr. Spanien's proposal.

The CHAIRMAN put to the vote Mr. McNamara's amendment to the effect that the words "a citizen" in Mr. Chang's draft resolution should be replaced by "any person",

The amendment was rejected by 8 votes to 2, with 2 abstentions.

The CHAIRMAN put to the vote the draft resolution as a whole, as amended by Mr. Spanien's proposal.

The draft resolution was adopted by 7 votes to none, with 5 abstentions.

Mr. McNAMARA regretted that Mr. Chang had not pressed for the inclusion of paragraph (2) of his original draft resolution (E/CN.4/Sub.2/54) which he considered to be very important. The proposal which had just been adopted referred only to the draft International Covenant on Human Rights, which would probably not be ratified by Governments before two years had elapsed; Member States should therefore act in the light of the Universal Declaration on Human Rights. Consequently, he proposed that paragraph (2) should be inserted in Mr. Chang's new draft resolution, omitting the reference to article 7.

Miss MONROE thought it self-evident that all the Member States who had signed the Universal Declaration on Human Rights were bound to guarantee respect of the rights which it proclaimed, so that the paragraph in question would serve no useful purpose.

Mr. CHANG supported Mr. McNamara's proposal.

Mr. HUMPHREY (Representative of the Secretary-General) pointed out that the Sub-Commission was not competent to make recommendations to Member States; it might make recommendations to the Commission on Human Rights which, in turn, would submit them to the Economic and Social Council.

Mr. MASANI explained that he would vote against Mr. McNamara's proposed amendment because he saw no logical reason why articles 2 and 17 of the Universal Declaration on Human Rights should be mentioned rather than any other articles.

Mr. CHANG suggested that all reference to the three articles of the Declaration should be omitted and that the phrase should read "...in the light of the Universal Declaration on Human Rights...".

Mr. MASANI did not consider that solution satisfactory. Member States could not be asked to take steps to ensure respect for certain rights more than for others; all rights were of equal importance. If a recommendation was to be made to Member States, they should be asked to apply all the articles of the Declaration, without distinction.

Mr. McNAMARA did not share that opinion. The guarantee that minorities should have the right to work could not be left to the good-will of Governments; it was an important matter which involved the welfare of a considerable number of people.

The CHAIRMAN pointed out that the Sub-Commission had before it a new proposal.

Mr. ROY declared that, in that case, the time-limit for submitting proposals was past. He himself would vote against the proposal, which he considered of no value, since Member States who had signed the Universal Declaration on Human Rights were morally bound to respect it.

Mr. McNAMARA said that there was no question of a new proposal, but only of a re-draft of Mr. Chang's original draft resolution.

The CHAIRMAN put to the vote Mr. McNamara's amendment proposing that paragraph (2) of Mr. Chang's original draft resolution should be adopted, as amended.

The amendment was rejected by 7 votes to 2, with 2 abstentions.

The CHAIRMAN put before the Sub-Commission the proposal submitted jointly by Mr. Meneses Pallares, Mr. Roy and Mr. Shafagh (E/CN.4/Sub.2/59).

Mr. ROY recalled that Mr. Nisot had previously stated that the Sub-Commission was not qualified to address itself directly to the Secretary-General or the Economic and Social Council, but had to work through the Commission on Human Rights; the drafting of the proposal should therefore be amended to show that the Sub-Commission was submitting its recommendations to the Commission on Human Rights.

Mr. NISOT stated that the proposal could not be supported until the term "minority" had been defined, and proposed that its consideration should therefore be postponed.

Mr. MENESES PALLARES could not agree with Mr. Nisot's view. All the proposals so far submitted concerned minorities which actually existed, a fact of which the very name of the Sub-Commission was proof.

Mr. NISOT said, in reply, that Governments with an uneasy conscience could always say that they had no minorities, and the Sub-Commission should be in a position to make a statement to the contrary, showing what is understood by the term "minority".

Mr. SPANLEN considered that it was for the Sub-Commission to determine whether certain minority groups might claim the status of a minority. Once that status was recognized, the Sub-Commission could call the respective Governments to account. The authors of such proposals as that under consideration had something else in mind, namely enquiries concerning groups which might claim the status of a minority, but the text of their resolutions was drawn up as if that status were already defined.

It was in order to clear up that point that Miss Monroe and he had submitted a working document and, in his opinion, it would be advisable to examine that document first, to see whether there were any further gaps which might be filled by the adoption of a proposal such as that submitted by Mr. Meneses Pallares, Mr. Roy and Mr. Shafagh. As he considered that the latter might cause confusion, however, he would have to abstain if it were put to the vote.

/Mr. ROY

Mr. ROY, replying to Mr. Nisot, thought that the Sub-Commission could not postpone the examination of every proposal which mentioned minorities.

Mr. NISOT said he did not desire the postponement of the examination of all the proposals, but only of those which raised questions which might be prejudicial to the Governments concerned.

Mr. SPANIEN again emphasized that he did not want to avoid discussing the proposal, but that it was necessary to be as specific as possible. Certain Governments with an uneasy conscience would seek all kinds of pretexts to evade any request for investigation and information with regard to the status of minorities. The questionnaire should be carefully drafted so as not to assist such efforts and so that the Governments concerned would be obliged to reply to it.

Mr. DANIELS asked whether no other proposal would be examined before the working paper submitted by Miss Monroe and Mr. Spanien.

Miss MONROE replied that the authors of proposals could always demand that they should be examined.

Mr. DANIELS requested that all the proposals should be examined in the chronological order of their submission after the working paper had been studied.

Mr. McNAMARA recalled that Miss Monroe had said that the working paper did not take into account all the proposals submitted. He thought, therefore, that those which had not been taken into consideration should be examined.

Mr. MENESES PALLARES thought the Sub-Commission would certainly succeed in defining minorities; for the time being, it was admitted that minorities existed; that was the basis for requesting the Governments to supply information.

Mr. ROY supported the proposal submitted by Mr. Meneses Pallares and Mr. Shafagh, although he did not wish his name to be associated with the substance of that proposal. The authors of the proposal wished a

provision to be inserted in the Covenant and there was every reason to expect that the Sub-Commission would have succeeded in defining a minority by the time the Covenant was ratified. The words "as defined subsequently" could perhaps be added after the words "regarding the status of any minority".

Mr. DANIELS asked for the opinion of the Secretary-General's representative on that question.

Mr. HUMPHREY (Representative of the Secretary-General) replied that the proposal invited the Secretary-General to request Governments to furnish information upon specific application or in reply to questionnaires. He was not very clear about the difference between the two methods; in the absence of further details, it was difficult to say beforehand what the contents of the questionnaire would be. If the draft resolution was approved first by the Commission on Human Rights and then by the Economic and Social Council, the Secretariat would prepare a questionnaire on the basis of the discussions which had taken place. He also pointed out that the Governments could be requested to supply information only about certain groups, and that they would be free to decide what minorities existed within their territory.

Mr. SPANIEN stated that that explanation had enlightened him, and he was now prepared to vote on the resolution immediately.

Miss MONROE thought that the representative of the Secretary-General had raised important points. She wished to know how the questionnaire would be drafted and what body would instruct the Secretariat. Furthermore, according to the proposal, Governments would be invited to furnish information about minorities and, if they requested explanations, the Sub-Commission must be in a position to inform them of what it understood by a minority.

Mr. McNAMARA asked the representative of the Secretary-General to state how and by whom questionnaires so far sent to Governments had been drafted. The Sub-Commission should not be held up by the difficulty mentioned by Miss Monroe.

/Mr. HUMPHREY

Mr. HUMPHREY (Representative of the Secretary-General), in reply to Mr. McNamara, said that four questionnaires had so far been sent to the Governments: the first had been sent at the request of the Commission on the Status of Women, which had given definite instructions to the Secretariat; the second questionnaire had been circulated before the United Nations Conference on Freedom of Information and had been approved by the Economic and Social Council; the third had concerned the measures of implementation of the International Covenant on Human Rights, and had been submitted for approval to the Commission on Human Rights and annexed to its report; the fourth was the Trusteeship Council's questionnaire, which was drawn up by the Council itself.

The Secretariat had had full responsibility for the preparation of the questionnaires only in the case of part of the one circulated by the Commission on the Status of Women. The Secretariat would be prepared to draft a questionnaire, but would find it difficult to do so if it did not receive the necessary instructions from the Sub-Commission.

The CHAIRMAN proposed that the Sub-Commission should immediately undertake the study of the working paper submitted by Miss Monroe and Mr. Spanien (E/CN.4/Sub.2/69).

Miss MONROE said that Mr. Spanien and she were submitting that paper in all humility and were prepared to accept any amendments the members of the Sub-Commission might wish to make. The document took into account all suggestions which had been advanced during the discussion. It was divided into three parts: Part I related to the studies which must be undertaken, not only because the Sub-Commission's terms of reference included such studies, but because two issues had emerged as a result of the debate. Firstly, it was necessary to define what was meant by a minority, in view of the fact that the members of the Sub-Commission themselves did not agree on that question. Secondly, the Sub-Commission had found the same difficulties as the General Assembly in formulating provisions of world-wide application. If the work were to be useful, an attempt must first be made to define a minority and to draw up a classification of the different types of minorities.

Part II contained recommendations. Of all the rights which minorities could claim, the only one not stated in the Universal Declaration of Human Rights was the right to teach the language of minority groups and to use it in the courts. The authors of the paper had not tried to substitute a new text for the proposals made by Mr. Daniels and Mr. Borisov, but to set out the considerations which should guide the Sub-Commission. They had wished to indicate in that second part that the Sub-Commission was perturbed by the difficult situation in which it had been placed as a result of the adoption of resolution 75 of the Economic and Social Council. The draft resolution, therefore, emphasized that the fact that they had accepted the Universal Declaration of Human Rights laid upon the Governments represented in the Commission on Human Rights and on the Economic and Social Council the moral obligation to take more satisfactory measures to deal with communications received by the Secretariat. It was therefore advisable that a procedure for the admission of groups to the status of a minority and laying down the expedients open to such minorities should be established as soon as possible.

Part III contained conclusions and clearly showed that it was not the intention of its authors to defer the solution of the problem, but rather to ensure that the proposal submitted by the Sub-Commission should be the best possible. It indicated what the members of the Sub-Commission should do before the session in January, and in particular drew their attention to two questions of extreme importance which should serve as a starting point: the classification of the different types of minorities and the procedure for the admission of groups to the status of a minority.

Mr. HUMPHREY (Representative of the Secretary-General) pointed out that it was not certain that the Sub-Commission would meet before the following January. The Interim Committee on Programme of Meetings could always modify the programme of the conferences of subsidiary organs of the Council.

Miss MONROE thought that the Sub-Commission should express the desire to meet in the following January and draw up a programme of work for that session forthwith.

Mr. NISOT thought it would be rash to give the impression that the Sub-Commission could examine and adopt resolutions on the /important problem

important problem of minorities in the space of a few days; the Sub-Commission should therefore insist upon the necessity of meeting in January.

Mr. HUMPHREY (Representative of the Secretary-General) said that the Secretary-General could be requested to draw the attention of the Commission on Human Rights to that point.

Mr. McNAMARA thought that the Secretariat should circulate the provisional agenda of the Sub-Commission well in advance and ask members for suggestions on the way in which the Sub-Commission should carry out its work.

Mr. HUMPHREY (Representative of the Secretary-General) observed that the agenda of the current session had been circulated before the previous autumn. He did not see the use of requesting members to forward suggestions, as decisions about the provisional agenda were taken by the Sub-Commission itself at the beginning of its session.

Mr. BORISOV wished to know when Mr. McNamara would submit the proposals provided for in item 8 of the provisional agenda.

Mr. McNAMARA said that he would submit them on the following day. He wished to have further information on certain points.

He admitted that the agenda had been circulated well in advance of the session; however, it was only at the last minute that the members of the Sub-Commission had received information about the questions with which they would be dealing.

Mr. McNamara repeated that it would be useful to ask the members of the Sub-Commission in advance for suggestions about the way in which it should carry out its work; the Secretariat would be able to summarize such suggestions and there would be no further need to return to that question at the beginning of the session.

Mr. BORISOV requested that Mr. McNamara should submit his proposals in writing on the following day at the latest.

/ Mr. McNAMARA



Mr. McNAMARA pointed out that document E/CN.4/Sub.2/SR 16 showed that there was an error in the agenda. Item (b) was a variant of item (a). He would submit his proposal to the Secretariat on the following morning. He intended to propose only item (b), with certain changes.

The meeting rose at 5.30 p.m.