

Government could not undertake to prosecute offences committed abroad in cases in which such witnesses could not be produced.

66. Mr. JOCKEL (Australia) proposed that article 9 should be referred to the Sixth Committee. Until a legal opinion had been received, there was nothing to be gained from a decision by the Third Committee on the principle involved.

67. The CHAIRMAN put to the vote the Australian proposal to refer article 9 to the Sixth Committee.

*That proposal was adopted by 20 votes to 1, with 20 abstentions.*

68. The CHAIRMAN appealed to the Committee to make every effort to solve as many problems as possible itself before proposing that they should be referred to the Sixth Committee, which was already overburdened with work. His appeal, however, should not be regarded as prejudicing the decision already taken by the Third Committee to the effect that all problems of a strictly legal character should be referred to the Sixth Committee.

#### ARTICLE 10

69. The CHAIRMAN drew the Committee's attention to the United States amendment (A/C.3/L.13) to the effect that article 10 should be deleted.

70. Mrs. ROOSEVELT (United States of America) said that article 10 appeared to be inconsistent with the general principle that an offence should be prosecuted and punished at the place where it had been committed. Article 10 permitted such prosecution in any country where the offender might happen to be at the time of detection or arrest.

71. At the request of Mr. NORIEGA (Mexico), Mr. SCHACHTER (Secretariat) explained that the principle of article 10 had been taken from article 8 of the Convention of 1936 for the Suppression of the Illicit Traffic in Dangerous Drugs. Sub-paragraph *c* had been taken from the 1937 draft convention for suppressing the exploitation of the prostitution of others. The Social Commission had fully approved the text before the Committee.

72. Mrs. CASTLE (United Kingdom) proposed that article 10 should be referred to the Sixth Committee because it merely dealt with a third aspect of the highly complex legal problems raised by articles 8 and 9, which had previously been so referred. Her delegation would be unable to take any position on the United States amendment until a legal opinion on the whole article had been received.

73. Mr. BOKHARI (Pakistan) said that he had not opposed the reference of article 9 to the Sixth Committee because the United States amendment

had introduced legal difficulties which had previously not been apparent. He could not agree with the United Kingdom representative, however, that similar difficulties arose in connexion with article 10. Before that article was referred to the Sixth Committee, the Third Committee should be quite clear about the nature of the difficulties involved. Furthermore, the Third Committee should take care that the Sixth Committee was not asked to infringe purely social aspects of the question, which were entirely the responsibility of the Third Committee.

74. The United States representative had objected that offenders should not be prosecuted in a country other than their own or that in which the offence had been committed. Sub-paragraph *c*, however — which contained the essence of article 10 — expressly provided that prosecutions could take place in a third country only when the countries concerned had reciprocal arrangements for that purpose. It had not been shown that there were any inherent difficulties of a legal nature in such a conception.

75. Mr. JOCKEL (Australia) and Mr. OTAÑO VILANOVA (Argentina) supported the United Kingdom proposal.

76. Mr. ORTIZ MANCÍA (El Salvador) thought that the Third Committee should make every attempt to avoid referring further articles to the Sixth Committee, perhaps by enlisting the legal talent available among its own members.

77. Mr. CONTOUMAS (Greece) agreed with the Pakistan representative. The Third Committee should discuss all the articles thoroughly and send them to the Sixth Committee only if they found insuperable difficulty in coming to a decision.

78. Mr. CHA (China) said that article 10 should not be referred to the Sixth Committee; too many articles had already been so referred. If there were any difficulties in connexion with that article, members of the Third Committee could find some means of consulting the criminal codes of their countries to see whether the provisions of articles were compatible with existing law.

79. The CHAIRMAN said that he agreed with the representative of Pakistan that there were no difficulties connected with article 10 which could not be solved by the Third Committee itself. He would, however, put to the vote the United Kingdom's proposal that that article should be referred to the Sixth Committee.

80. He put the United Kingdom's proposal to the vote.

*The proposal was rejected by 21 votes to 8, with 12 abstentions.*

The meeting rose at 6.5 p.m.

## TWO HUNDRED AND FORTY-THIRD MEETING

*Held at Lake Success, New York, on Thursday, 6 October 1949, at 10.45 a.m.*

*Chairman: Mr. Carlos E. STOLK (Venezuela); later, Mrs. Ulla LINDSTRÖM (Sweden).*

### **Draft convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others (A/977 and A/C.3/520) (continued)**

#### ARTICLE 10 (continued)

1. The CHAIRMAN asked the representative of

the Legal Department to give some explanations with regard to article 10.

2. Mr. SCHACHTER (Secretariat) pointed out first of all that the principles set forth in the article were not new; they were already contained in other international conventions, for example, the Convention of 1936 for the Suppression of

the Illicit Traffic in Dangerous Drugs and the International Convention for the Suppression of Counterfeiting Currency. If article 8 of the first of those conventions were compared with the article under discussion, it would be seen that a third condition had been added, namely, that the alien who had committed an offence abroad should be prosecuted only if he was a national of a country under the law of which the courts had jurisdiction over offences committed abroad by aliens. Article 10 was therefore more restrictive than article 8 of the convention on dangerous drugs.

3. Mr. Schachter also drew attention to another difference. Sub-paragraph *b* of article 8 of the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs stated that the offender should be prosecuted and punished when the law of the country of refuge considered prosecution for offences committed abroad by foreigners admissible as a general rule. In sub-paragraph *b* of article 10 under discussion the words "as a general rule" were omitted and the application of the convention would undoubtedly be affected in consequence. The courts of many countries where the Anglo-Saxon legal system was in force did not have jurisdiction over all the offences committed abroad by aliens, but only over certain offences, such as counterfeiting for example. He therefore pointed out that if the words "as a general rule" were included there would be many countries to which article 10 would not apply.

4. Mr. CHA (China) asked for some clarification of the third condition mentioned in article 10.

5. Mr. SCHACHTER (Secretariat) stressed that the article had been taken from the draft convention for suppressing the exploitation of the prostitution of others prepared by the League of Nations in 1937, which had to be taken as the basis for the existing draft, in accordance with the instructions given to the Secretary-General. The article had moreover been approved by the Social Commission.

6. Mr. ALLEN (United Kingdom) said that it was not quite correct to state that article 10 had been approved by the Social Commission. The members of that Commission had realized that the article was extremely technical in character and they had thought that it would be thoroughly examined by legal experts in the Economic and Social Council and at the General Assembly.

7. Mr. ALAMAHEYOU (Ethiopia) asked whether the application of article 10 depended on the fulfilment of all three of the conditions listed in sub-paragraphs *a*, *b*, and *c*, or whether the fulfilment of any one of the conditions would suffice to bring the provisions into force. The English text was not clear on that point.

8. If all three conditions had to be fulfilled, he thought that article 10 would be too restricted in scope. His delegation would prefer to retain only the two conditions specified in sub-paragraphs *b* and *c*. As the refusal of the request for extradition was in itself a prerequisite, it should be mentioned in the first paragraph of the article.

9. Mr. SCHACHTER (Secretariat) replied that all three conditions would have to be fulfilled before the provisions of article 10 could apply.

*Mrs. Lindström (Sweden) took the Chair.*

10. Mrs. ROOSEVELT (United States of America) drew attention to the legal difficulties raised by article 10 and gave the reasons why her delegation proposed its deletion (A/C.3/L.13).

11. An important problem was raised by the phrase "as though the offence had been committed in that territory". In view of the inevitable divergencies between the legislations of the various States concerning the definition and prosecution of the offences dealt with in the convention, it might happen that a person who had committed an offence in one country would not be liable to prosecution in another country because of the particular legislative provisions in the country of refuge, for example, concerning rules of evidence and mental capacity. The reverse might also happen. Thus, the country of refuge might on the one hand be considered to be failing in its obligation to prosecute and punish an offender, and, on the other hand, it might find itself obliged to prosecute a person whose action was not considered punishable according to the legislation of the country where it had been committed.

12. That difficulty could probably be solved if article 10 were interpreted reasonably and in good faith.

13. It might be asked on what grounds the Government of the United States was proposing the deletion of article 10. That article appeared to be intended to ensure, in certain cases, that offenders who could not be extradited for a reason not connected with the act itself would be punished even though they were aliens and the acts had been committed in a country other than the country of refuge. Sub-paragraphs *b* and *c* appeared to be intended to safeguard the principle of the territorial jurisdiction of certain States. Nevertheless, the essential phrase in sub-paragraphs *b* and *c* was: "offences committed abroad by aliens". A few questions would suffice to show the lack of precision in that wording.

14. What was the meaning of the phrase? Should it be understood to mean — to cite a well-known case in international law — an offence such as those committed by the captain and watch officer of the *Lotus*, a Turkish ship, which had been regarded by the Permanent Court of International Justice as having been committed on Turkish territory? Or did it mean offences against the security of the State asserting jurisdiction which were not punishable in the State in which they had been committed? Finally, should it be taken to mean offences, of whatever nature, committed outside the territory of the State asserting jurisdiction?

15. Mrs. Roosevelt thought that no one would challenge the importance of that phrase. In accordance with the meaning given to it, the States represented on the Committee would or would not assume the obligation to punish offences under article 10 and would or would not allow other States to punish their nationals for offences committed outside the jurisdiction of those States. In her opinion, if a State were regarded as coming within the category of States the legislation of which gave their courts jurisdiction over offences committed abroad by aliens simply owing to the fact that those courts punished piracy, all the States represented on the Committee would incur that obligation for themselves and the risk of prosecution for their nationals. On the other hand, if the criterion were that the State granted

jurisdiction to its courts over all offences committed abroad by aliens, whether they came under its own law or the law of the State on whose territory they were committed, few or none of the States represented would be bound by that obligation.

16. If it were suggested that the criterion should be comparable or similar offences, representatives would probably all agree that the offences referred to in the draft convention were not similar to any others and that it was very difficult to determine similarity between different offences. The United States Government would be compelled to reject any interpretation of that kind.

17. If article 10 really meant that countries, the courts of which already had jurisdiction over offences committed abroad by aliens, would have to act in the same way with regard to offences mentioned in the draft convention before the Committee, the article would be superfluous and should be deleted.

18. If the meaning of article 10 were broader and if its intention were to treat procurement in the same way as piracy, for example, the United States Government would have serious objections on principle to the article.

19. A similar problem had arisen during the examination of the convention on genocide, but the text of that convention finally approved by the General Assembly wisely contained no provision for the prosecution and punishment of the guilty which might contravene the principle of territorial jurisdiction, even in the case of atrocious crimes against humanity. The convention provided that the crime should be punished only in the country in which it had been committed.

20. It would be very rash to attempt to write exaggerated refinements into the convention in anticipation of cases which would arise only very rarely. The value which the United States Government attached to the principle of territorial jurisdiction outweighed the possible benefits of article 10, even supposing that any agreement could be reached upon its scope.

21. She would be interested to hear the views of other representatives on that subject. She herself believed that the Committee should ask the Sixth Committee for an opinion on such a difficult question.

22. Mr. CONTOUMAS (Greece) thought that, after the very clear explanation given by the representative of the Legal Department of the Secretariat, no difficulty existed. Those guilty of offences such as counterfeiting, traffic in narcotics and, if the draft convention under discussion were adopted, the exploitation of the prostitution of others must not, in his opinion, remain unpunished. It was true that the courts of a country did not generally have jurisdiction to try offences unless they had been committed on the territory in which they were sitting and, with certain reservations, if they had been committed abroad by nationals of their own country. Nevertheless, all those who wished to prevent an offence from remaining unpunished would acknowledge the usefulness of article 10. If it were not adopted, the offender would escape justice whenever extradition could not be granted.

23. In order to allay the uneasiness of the United States delegation, Mr. Contoumas pointed out that the application of article 10 was subject to

three conditions which, as the representative of the Legal Department had stated, would all have to be fulfilled and that would probably be a very rare occurrence.

24. Mr. RIVERA HERNÁNDEZ (Honduras) said that his delegation did not consider the reply to the Ethiopian representative's question satisfactory. It believed that the fulfilment of one of the conditions listed in article 10 ought to suffice to bring into operation the obligation to prosecute those guilty of any of the offences mentioned in articles 1 and 2; otherwise, the margin of impunity would be too wide.

25. He therefore challenged the interpretation given by the representative of the Secretariat and was prepared to submit an amendment to the effect that article 10 should be applicable if any one of the conditions listed in sub-paragraphs *a*, *b* and *c* was fulfilled.

26. Mr. BOKHARI (Pakistan) emphasized that the discussion had revealed legal difficulties which he himself had not suspected the previous day when he had opposed referring article 10 to the Sixth Committee.

27. He agreed with the Greek representative in thinking that it was particularly important that the suppression of the offences condemned in the draft convention should be ensured so far as possible. He would therefore be reluctant to see article 10 deleted. He acknowledged, however, the need to obviate all legal difficulties which might jeopardize the intended objective. A legal opinion by the Sixth Committee therefore seemed indispensable at that stage of the discussion.

28. Nevertheless, the exact reasons for referring the matter to the Sixth Committee should be given. The Third Committee should draw the Legal Committee's attention to the points which it wished clarified. After hearing the observations of the various delegations, he proposed that the Committee should adopt the following text, in which he had attempted to summarize the points at issue:

"It is the view of some delegations that the words 'as though the offence has been committed in that territory' in the main paragraph of article 10 and the words 'have jurisdiction over offences committed abroad by aliens' in sub-paragraphs *b* and *c* of the same article have a vague connotation and indefinite scope and are therefore likely to raise serious difficulties in their application.

"The Sixth Committee is therefore requested to advise the Third Committee on these points, keeping in view: (*a*) the general purpose and aim of the article; and (*b*) the articles of a similar nature, included in other international conventions and agreements such as . . . (*list would follow*)."

29. That wording indicated that the Committee for the moment had no intention whatever of abandoning the general principles of article 10. Furthermore, it drew to the Sixth Committee's attention the fact that similar provisions were contained in other international conventions and that article 10 therefore did not introduce any new principle of jurisprudence.

30. Mr. CHA (China) supported the proposal to refer article 10 to the Sixth Committee. He would, however, have liked that Committee's

opinion to be requested on sub-paragraph *c*, the application of which appeared, in the opinion of his delegation, to raise difficulties. Taking the hypothetical case of a person accused of having taken part in white slave traffic and having taken refuge in China, and supposing that the conditions stipulated in sub-paragraphs *a*, *b* and *c* were fulfilled, Mr. Cha wondered if, under sub-paragraph *c*, the Chinese courts could have jurisdiction if the offender's country of origin did not regard white slave traffic as a crime.

31. Mr. SCHACHTER (Secretariat) thought that the representative of China was giving too narrow an interpretation to sub-paragraph *c*. The only condition stipulated therein was that the country of which the offender was a national should also have jurisdiction over offences committed abroad by aliens.

32. One point, however, was not entirely clear: must that country accept the principle of the extra-territoriality of penal jurisdiction as a general rule, or was it sufficient that it should apply that principle to one or two offences? Mr. Schachter thought that the latter interpretation should be upheld, but acknowledged that the point might be contested.

33. Mr. BAROODY (Saudi Arabia) thought that article 10 could give rise to abuses and become a source of dispute between States. As, however, no offence should remain unpunished, some other method of prosecuting and punishing offenders should be found. In his opinion, it would be possible to inform all States parties to the convention of the names of the offenders. Thus, they would speedily become undesirables in every country in which they sought refuge. They would escape justice only if they resided in a country which had not ratified the convention.

34. Mr. AQUINO (Philippines) reminded the Committee that his delegation had been one of the first to caution it against the essentially legal difficulties which would arise in connexion with certain articles of the draft convention. In some cases, such difficulties became apparent only in the light of discussion. That was true of article 10.

35. The principal difficulties had already been pointed out by the representative of the United States and Saudi Arabia. Mr. Aquino added the following observations:

36. One of the conditions required for the prosecution of aliens who had committed abroad one of the offences specified in articles 1 and 2 of the convention was to reject a request for extradition for a reason not connected with the act itself. That reason could be the non-existence of an extradition treaty between the country of refuge and the country where the offence had been committed. In such a case, article 10 would have no practical value.

37. It was apparent moreover that article 10 was intended by the authors of the draft convention to complete articles 8 and 9. Those articles, however, set up a complicated system of extradition which made the provisions of article 10 superfluous.

38. The Philippine delegation, therefore, failed to see the use of retaining in the draft convention provisions of dubious practical value, and therefore, as a matter of logic and common sense, it would vote against the adoption of that article.

39. Mr. RAMADAN (Egypt) drew attention of the representative of the Legal Department to two points. First, a number of national legislations provided for the expulsion of aliens regarded as undesirable. Secondly, there was the legal doctrine of passive personality, according to which a State would assert jurisdiction over an alien if one of its nationals was the victim of the offence committed by that alien. That doctrine was controversial and had not been accepted generally; the Permanent Court of International Justice had even handed down a decision to that effect. He wondered whether article 10 did not conflict with that decision.

40. Mr. SCHACHTER (Secretariat), in reply to the representative of Egypt, agreed that the doctrine of passive personality was sometimes quoted in support of extra-territorial jurisdiction. That principle was not universally recognized, and the Anglo-American countries in particular did not accept it. Article 10, however, was not based on the principle of passive personality, since it did not limit the jurisdiction of States to extra-territorial offences committed against the nationals of the State asserting jurisdiction. Article 10, in his opinion, was rather based on the principle that States could assert their extra-territorial jurisdiction when they were parties to an international treaty under which they were bound to repress a crime. That principle had been recognized in the Bustamante Code which was in force in a number of Latin-American republics. Indeed, States parties to that Code would probably be able to punish aliens for engaging in white slave traffic abroad, even in the absence of article 10.

41. Mr. AZKOUL (Lebanon) did not think that it would be wise to decide at the moment that article 10 should simply be deleted; it would be advisable to refer it to the Sixth Committee for an advisory opinion.

42. The text proposed by the representative of Pakistan was excellent, but it might be advisable to add a reference to the point raised by the representative of Honduras as to whether the fulfilment of only one of the three conditions should be listed in article 10 would suffice to bring the provisions of the article into force.

43. Mr. Azkoul said that the wording of the French text—*lorsque les conditions suivantes sont réunies*—could not in any way be misinterpreted. As, however, the other texts seemed to be less explicit and as the representative of Honduras had expressed the opinion that the fulfilment of only one of the conditions should be sufficient for the application of the article, it might be advisable to ask the opinion of the Sixth Committee.

44. He personally did not agree with the representative of Honduras. Such an interpretation would lead to impossible legal situations. For example, a State might find itself obliged to prosecute an alien who had committed an offence abroad simply because it could not, under its legislation, grant extradition. That obligation would still apply even if, under the law of the country, its courts had no jurisdiction over the case.

45. The difficulty mentioned by the representative of China with regard to sub-paragraph *c* arose from the fact that it was not specified that the country of which the alien was a national

would have to be a party to the convention for the fulfilment of the condition. If the country of origin was not a party to the convention, it could not consider the offences listed in articles 1 and 2 as punishable offences. In such cases, would a contracting State be entitled to prosecute a national of such a country, even if its courts did have jurisdiction over offences committed abroad by aliens? He personally did not think so and he would be glad to know the Sixth Committee's opinion on that point as well.

46. Mrs. KRIPALANI (India) asked why sub-paragraph *c* had been added to article 10 when there was no similar provision in the corresponding article of the Convention of 1936 for the Suppression of Illicit Traffic in Dangerous Drugs.

47. Mr. SCHACHTER (Secretariat) said that the provision set forth in sub-paragraph *c* was contained in the draft convention prepared in 1937 by a committee of experts of the League of Nations. The authors of the 1937 draft had introduced the provision because they had considered that the principle of extra-territorial jurisdiction should be applied with a certain amount of reciprocity. If the country of origin did not recognize that principle, the application of article 10 might give rise to complications on the international level. The jurisdiction of the country of refuge might be contested, the accused might apply for diplomatic protection, etc.

48. The first drafts of the Convention for the Suppression of Illicit Traffic in Dangerous Drugs had contained a similar clause. The Commission on Narcotic Drugs had decided not to retain the clause because it had not wished to establish two classes of offenders, the one liable and the other not liable to prosecution abroad, according to the respective legislation of their countries of origin.

49. The question to be decided in connexion with sub-paragraph *c* was how far the principle of extra-territorial jurisdiction should be extended.

50. Mr. RIVERA HERNÁNDEZ (Honduras) agreed that article 10 should be referred to the Sixth Committee. He emphasized, however, that he particularly wished that Committee's opinion to be asked on the point raised by his delegation. The aim of his delegation was to ensure that in no case should there be any impunity.

51. Mr. BOKHARI (Pakistan) referred to the remarks made by the representatives of Honduras and Lebanon and said that, in his opinion, it was for the Third Committee alone to decide whether the fulfilment of any one of the conditions listed in sub-paragraphs *a*, *b* and *c* would suffice to make article 10 operative. On the other hand, the Third Committee should ask the Sixth Committee whether it was legally possible to make the application of article 10 dependent on the existence of only one of those conditions. The reply to that question would enable the Third Committee to decide with full knowledge of the facts on the conditions which should govern the application of the article.

52. Mr. AZKOUL (Lebanon) believed that the Committee should take an immediate decision on the very pertinent proposal which had just been made by the representative of Pakistan.

53. The Sixth Committee should also be asked whether the wording of sub-paragraph *c* which, as it was drafted, did not state that the alien in question had to be a national of a State party to

the convention, might not give rise to some difficulties.

54. Mr. BAROODY (Saudi Arabia) thought that the Committee should vote in the first place on the United States proposal to delete article 10 (A/C.3/L.13).

55. The CHAIRMAN pointed out that the Pakistan proposal, which was of a procedural nature, must be the first to be put to the vote.

56. In reply to a query by Mr. ALLEN (United Kingdom), the CHAIRMAN said that the Secretariat had just drafted a text incorporating the proposal submitted orally by the Pakistan representative.

57. Mr. HESSEL (Secretary of the Committee) then read out that text:

"Taking into account the aims of article 10 and similar articles in other international conventions, the Sixth Committee is requested to consider the legal difficulties mentioned during the debate on article 10 in the Third Committee and to submit its recommendations to the Third Committee."

58. Mr. BOKHARI (Pakistan), in reply to the CHAIRMAN, said that his delegation accepted the text as read by the Committee Secretary.

59. Mr. AZKOUL (Lebanon) pointed out that, while he found the text satisfactory, the proposal as presented orally by the Pakistan representative had the advantage of putting specific questions to the Sixth Committee. Would the Secretariat communicate to the Sixth Committee a summary of the various issues on which the Third Committee desired clarification, or would it merely attach to the text just read the summary records of the meetings at which the Third Committee had considered article 10?

60. Mr. HESSEL (Secretary of the Committee) stated that the Secretariat would transmit the summary records of the Third Committee meetings to the Sixth Committee.

61. Mr. BOKHARI (Pakistan) pointed out that the summary records of the Third Committee meetings should not be communicated to the Sixth Committee before delegations had had an opportunity to make corrections.

62. Mr. OTAÑO VILANOVA (Argentina) was of the opinion that the United States proposal to delete article 10 should be considered as an amendment and, consequently, should be voted upon first. Further, as the Committee had decided at the 242nd meeting that article 10 should not be referred to the Sixth Committee, the Pakistan proposal would require a two-thirds majority for its adoption.

63. Mr. BAROODY (Saudi Arabia) supported the latter observation of the Argentine representative.

64. Mr. NORIEGA (Mexico) also felt that the Committee should first take a decision on the United States proposal. The Committee would be giving needless work to the Sixth Committee, if it adopted the Pakistan proposal and then decided to delete article 10.

65. The CHAIRMAN again pointed out that the Pakistan proposal related to procedure and must therefore be put to the vote first.

66. Mr. CONTOUMAS (Greece) said that, in his opinion, a two-thirds majority was not necessary.

At the previous meeting, the Committee had merely decided not to refer article 10 to the Sixth Committee without previous discussion. If, during the discussion of the article in question, any legal difficulties arose which the Third Committee was not competent to solve, it was free to consult the Sixth Committee on the matter, in accordance with the decision it had taken previously.

67. Mr. HESSEL (Secretary of the Committee) confirmed the validity of the Greek representative's remark. The Committee had decided not to refer article 10 to the Sixth Committee without previous discussion, on the understanding that the Committee would be free to decide, by a simple majority, to consult the Sixth Committee on legal difficulties which might emerge during the discussion on the article in question.

68. The CHAIRMAN put to the vote the Pakistan proposal, as worded by the Secretariat.

*The proposal was adopted by 33 votes to none, with 13 abstentions.*

69. The CHAIRMAN noted that discussion on article 10 would have to be suspended until the opinion of the Sixth Committee had been received. She accordingly requested the Committee to begin the discussion on article 11.

70. Mrs. ROOSEVELT (United States of America) pointed out that the Committee could hardly study article 11 until a reply had been received and a decision taken on article 10.

71. The CHAIRMAN recognized the validity of the objection raised by the United States representative. Recalling that it had already been decided to refer article 12 to the Sixth Committee, she suggested that the Committee should consider article 13.

72. Mrs. ROOSEVELT (United States of America), supported by Mr. ALLEN (United Kingdom), stated that, if the Committee proceeded immediately to discuss article 13 without awaiting the opinion of the Sixth Committee on the articles already referred to it, members would have to take up a definite position and by so doing would prejudice the attitude still to be adopted by their respective delegations in the Sixth Committee in regard to article 4. Both articles raised the question of domestic jurisdiction.

73. The CHAIRMAN suggested that consideration of articles 11 and 13 should be postponed and that discussion on article 14 should be opened at the beginning of the following meeting.

*It was so decided.*

The meeting rose at 12.45 p.m.

## TWO HUNDRED AND FORTY-FOURTH MEETING

*Held at Lake Success, New York, on Friday, 7 October 1949, at 11.10 a.m.*

*Chairman:* Mr. Carlos E. STOLK (Venezuela).

### **Draft convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others (A/977 and A/C.3/520) (continued)**

#### ARTICLE 14

1. Mrs. ROOSEVELT (United States of America) submitted a drafting amendment to article 14 (A/C.3/L.13) proposing that the expression "letters of request" should be replaced by "rogatory letters" which was the term in more general use in the United States.

2. Mrs. CASTLE (United Kingdom) pointed out that the expression "letters of request" was the one used in the corresponding provisions of the various international conventions in force, whereupon Mrs. ROOSEVELT (United States of America) said that she would not press her amendment, provided it was clearly understood that the phrase had exactly the same meaning as was conveyed by the American legal term "rogatory letters".

3. Mr. CONTOUMAS (Greece) said that, among the methods of transmission of letters of request listed in article 14, there was no mention of the most usual method, namely transmission through direct diplomatic channels from the diplomatic representative to the Foreign Ministry of the country to which the request was made.

4. Moreover, the article did not take into account the bilateral agreements which usually governed the transmission of letters of request as well as other questions of judicial assistance.

5. Under article 14, Governments would be obliged to effect the transmission through one of

the three methods provided in sub-paragraph *a*, *b*, and *c*. Once they had announced the method of transmission they had chosen, they would be unable to change to any other, even if they were bound by a bilateral agreement concerning judicial assistance.

6. He did not think that such a procedure was advisable in cases where bilateral agreements between two Governments were successfully applied. In his opinion, it would be better for the second paragraph to state that the transmission of letters of request *could* be effected by one of the three methods listed, and for the sixth paragraph to be amended to read: "*Failing* such notification, its existing procedure in regard to letters of request shall remain in force". In that way Governments would be given more freedom of action and, at the same time, the most usual practice concerning letters of request would be recognized in the convention.

7. Finally, Mr. Contoumas said that, in the French text, the word *actuelle* which appeared in the sixth paragraph was too restrictive in sense. What was meant was certainly not the procedure in force at the time of the signature of the convention but the procedure used as a general rule in the country concerned. He therefore suggested that the word *actuelle* should be replaced by the words *en vigueur*. The proposed change did not affect the English text.

8. Mr. AQUINO (Philippines) did not agree with the interpretation of article 14 given by the representative of Greece. In his opinion, article 14 was the most complete one of the whole draft convention since it mentioned all the possible