

to consider all the proposed amendments before coming to a decision on article 17.

62. Mr. NORIEGA (Mexico) shared the view expressed by the representative of Saudi Arabia. Article 17 was very important and it was essential to know exactly what provisions it was desirable to include in it. The United Kingdom representative would be able to submit a final text at the next meeting.

63. If a drafting committee were set up, however, it should consider whether article 17 should not become article 7, as its logical position was after article 6.

64. The CHAIRMAN, replying to the Mexican representative, said that the point would be considered when the Committee had concluded examination of the draft convention and had heard the opinion of the Sixth Committee.

65. The United Kingdom amendment, as amended by the New Zealand representative, would read:

"... for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in this Convention".

66. Drafting amendments had also been proposed by the representatives of Afghanistan, Australia, France, Ecuador, Mexico, Greece, the Dominican Republic, the Philippines and Norway. All those proposals, with the exception of that made by the

Afghan representative, appeared to be covered by the revised text of the United Kingdom amendment.

67. Mr. MESSINA (Dominican Republic) and the representatives of AFGHANISTAN, AUSTRALIA, FRANCE, ECUADOR, MEXICO, GREECE, the PHILIPPINES and NORWAY, pointed out that they had not made any formal proposal and said they were satisfied with the United Kingdom amendment.

68. In reply to Mr. CONTOUMAS (Greece) who asked whether the French expression *rééducation et reclassement* was an accurate translation of the words "rehabilitation and social adjustment", Mr. HESSEL (Secretary of the Committee) said that those were the words in current use in French.

69. Mr. NORIEGA (Mexico) urged that the Committee should not continue consideration of article 17 until it had before it the written text of the final version of the United Kingdom amendment. It was essential that article 17 should not be able to give rise to difficulties of interpretation; Governments which signed the convention must be in a position to know precisely what they were undertaking. They must know, for example, whether they were to enact measures for the rehabilitation and social adjustment of prostitutes only or whether those measures were to be extended to their dependants.

The meeting rose at 1 p.m.

TWO HUNDRED AND FORTY-FIFTH MEETING

Held at Lake Success, New York, on Monday, 10 October 1949, at 3 p.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 17 (*continued*)

1. The CHAIRMAN said that, as most of the amendments to article 17 submitted at the previous meeting had been withdrawn, the Committee had before it only two amendments: one by the delegation of Afghanistan, the other submitted jointly by the United Kingdom and New Zealand (A/C.3/L.15).

2. Mrs. ROOSEVELT (United States of America) said that the United States could not accept the Afghan amendment to replace the word "or" at the beginning of the text by the word "and". In fact, the Federal Government could undertake no engagement that would commit it to action beyond its powers.

3. Mr. BOKHARI (Pakistan) thought that the same difficulty existed for all Governments. The Afghan amendment would oblige Governments to intervene with private organizations which would thereby lose their individual character. It was therefore necessary to retain the conjunction "or".

4. The CHAIRMAN requested the Committee to take a decision on the Afghan amendment.

The amendment was rejected by 25 votes to 13, with 7 abstentions.

5. The CHAIRMAN asked the Committee to take a decision on the amendment submitted jointly by the United Kingdom and New Zealand, to modify the last phrase of article 17 as follows: "for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in this Convention".

The amendment was adopted by 43 votes to none, with 7 abstentions.

6. The CHAIRMAN put article 17, as amended, to the vote.

Article 17, as amended, was adopted by 47 votes to none, with 3 abstentions.

ARTICLE 18

7. Mr. FREYRE (Brazil), basing his argument on the regulations governing the conditions under which aliens were admitted to his country, thought that the best method of combating the traffic in persons was to keep watch in the ports at which emigrants disembarked. He therefore proposed the addition in article 18, sub-paragraph *c*, of the words "and arrival" after the words "ports of embarkation". It was true that those words already appeared in sub-paragraph *a* but, in order to avoid any misunderstanding, they should be repeated in sub-paragraph *c*.

8. Mrs. ROOSEVELT (United States of America) pointed out that the United States delegation had submitted an amendment concerning only the English text of sub-paragraph *c*, to replace the words "to ensure the supervision of" by "to have a watch kept in" (A/C.3/L.13). In the United States, the railway stations and other places enumerated in the article in question were the property of private companies, and were thus free from State supervision. Admittedly, however, the State could carry out a certain degree of supervision. The United States delegation would therefore agree to withdraw its amendment on the understanding that the United States Government would not be expected to do more in that respect than it was already doing, namely, to have a watch kept in the places in question without being obliged to ensure such supervision.
9. Mr. BOKHARI (Pakistan) pointed out to the Brazilian representative that sub-paragraph *a* merely mentioned places of arrival and departure, whereas sub-paragraph *c* drew a distinction between ports and airports. He asked the Brazilian representative whether he would accept, instead of "ports of embarkation and arrival", the term "seaports".
10. Mr. FREYRE (Brazil) agreed to that proposal.
11. Mr. CONTOUMAS (Greece) shared the opinion of the Pakistan representative, but did not think the choice of the term "seaports" was a fortunate one as it would have the effect of limiting unduly the sphere of application of the convention, since there were many ports which were not seaports. The reference should be simply to "ports" and "airports".
12. Mr. RAMADAN (Egypt) observed that, while the original French text of sub-paragraph *a* contained the word *promulguer* (to promulgate), the revised text stated only that the parties undertook to *publier* (publish) the regulations in question. He proposed that the word *promulguer* should be retained, as it was stronger.
13. Mr. DELIERNEUX (Secretariat) said that the Egyptian representative's observation was entirely justified and that the original text should be restored.
14. Mrs. CASTLE (United Kingdom) said she agreed with the wording of the English text as it stood, and would not wish to see the word "publish" used.
15. The CHAIRMAN pointed out that the amendment to restore the word *promulguer* applied only to the French text; the words "to make such regulations" remained unchanged in the English text.
16. Mr. AZKOUL (Lebanon) thought it strange that under sub-paragraph *d* the parties to the convention undertook "to notify the appropriate authorities" when such authorities were their subordinates and not, obviously, foreign authorities. It would be preferable to say: "to take appropriate measures for the notification of the competent authorities . . ."
17. Mr. JOCKEL (Australia) requested the Secretariat representative to explain why, when the convention concerned the traffic in persons of either sex, the text of sub-paragraph *a* mentioned only women and children who were immigrants or emigrants: that seemed to imply a restriction.
18. Mr. DELIERNEUX (Secretariat), in reply to the Australian representative, recalled that article 18 had been taken from the 1904 convention which dealt mainly with the protection of women and children, who were more particularly exposed and vulnerable to danger.
19. Mr. JOCKEL (Australia) thought that the mention of women and children could be omitted and that it would be sufficient to say "the protection of immigrants or emigrants".
20. Mr. DELIERNEUX (Secretariat) pointed out that such wording would eliminate any idea of special protection for women and children. The following formula might perhaps be used: "for the protection of immigrants or emigrants and particularly women and children".
21. Mr. ALAMAHEYOU (Ethiopia) thought that sub-paragraph *a* would be more effective if the words "to them" were deleted after the word "necessary". The beginning of that paragraph would then read: "To make such regulations as may seem necessary for . . ."
22. Mr. NORIEGA (Mexico) noted that international traffic in persons could be carried on elsewhere than in railway stations, airports and seaports, and he wondered whether towns and frontier districts were covered by sub-paragraph *c* of article 18. Officials of the immigration services might carry out supervision in those places.
23. Mr. DELIERNEUX (Secretariat) thought that article 18 should not stipulate measures which it would, in practice, be impossible to apply. Governments could not be asked to supervise every road and every footpath, and that was why the Secretariat, while aware of the fact that traffic in persons, like any illicit traffic, could also be carried on by road, had not mentioned that point in article 18.
24. Mrs. ROOSEVELT (United States of America), having pointed out that the English text of sub-paragraph *d* should include the words "the principals or accomplices" in order to bring it into line with the French text, the CHAIRMAN said that the Secretariat would make the necessary change.
25. Mr. AZKOUL (Lebanon) noted that sub-paragraph *c* dealt with international traffic in persons, and wondered whether Governments should not also prevent the traffic which was carried on inside their countries. He therefore suggested the deletion of the adjective "international".
26. Mr. DELIERNEUX (Secretariat) having pointed out that article 18 dealt with the engagements which parties to the convention agreed to undertake in regard to immigration and emigration, which were essentially of an international nature, Mr. AZKOUL (Lebanon) said that he would not maintain his suggestion.
27. The CHAIRMAN asked the Committee to take a decision on article 18 and the amendments to it proposed by various representatives. He pointed out that the Egyptian amendment to retain the word *promulguer* concerned only the French text and suggested that the change should be made by the Secretariat.
- It was so decided.*
28. The CHAIRMAN put to the vote the Ethiopian amendment to delete the words "to them" in sub-paragraph *a*.
- The amendment was adopted by 27 votes to 5, with 16 abstentions.*

29. The CHAIRMAN put to the vote the Australian amendment, modified as suggested by the Secretariat representative, to use the following wording in sub-paragraph *a*: "for the protection of immigrants or emigrants and particularly women and children."

The amendment was adopted by 47 votes to none, with 6 abstentions.

30. The CHAIRMAN put to the vote the Brazilian amendment, modified as suggested by the representative of Pakistan, to use the word "seaports" instead of "ports of embarkation" in sub-paragraph *c*.

The amendment was adopted by 29 votes to 1, with 19 abstentions.

31. The CHAIRMAN asked the Committee to vote on the Lebanese amendment proposing that the beginning of sub-paragraph *d* should be altered to read: "to take appropriate measures for the notification of the competent authorities".

The amendment was adopted by 17 votes to 1, with 27 abstentions.

32. The CHAIRMAN put to the vote the text of article 18 as a whole, as modified by the amendments previously adopted.

Article 18 was adopted by 44 votes to none, with 4 abstentions.

33. Mr. NORIEGA (Mexico) pointed out that the Spanish text of article 18 did not agree exactly with the French and English texts. The drafting committee responsible for drawing up the final text of the convention would have to establish concordance on the basis of the French text.

ARTICLE 21

34. Mrs. ROOSEVELT (United States of America) stated that her delegation was prepared to support article 21. She would, however, like to make it clear that supervision of employment agencies would involve for the United States Government the exercise of an authority which it did not have. Even with the inclusion in the draft convention of a "federal-State" article as proposed by her delegation for article 30, it should be clearly recorded as the understanding of the United States delegation that the obligation of the United States Government, under article 21, would be limited to the punishment of employment agencies which committed offences involving the transportation of females, or their enticement to go from one place to another, in interstate or foreign commerce for purposes of prostitution, or the importation of aliens into the United States for purposes of prostitution.

35. Mr. KATZNELSON (Israel) pointed out that it was women and children in search of employment who were most exposed to the danger of prostitution. It would, therefore, be advisable to make special mention of them in article 21, and he proposed the addition after the words "seeking employment", of the words "particularly women and children".

36. The CHAIRMAN put to the vote the amendment proposed by the representative of Israel.

The amendment was adopted by 31 votes to none, with 10 abstentions.

Article 21, as amended, was adopted by 48 votes to none, with 1 abstention.

ARTICLE 22

37. Mr. JOCKEL (Australia) asked whether a similar article was included in previous conventions. He was particularly anxious to know what the financial implications of the article were and whether its adoption would involve Governments in any additional expense. Would it not be preferable for the United Nations to formulate the request as a resolution addressed not only to the States parties to the convention but to all Member States?

38. Mr. DELIERNEUX (Secretariat) recalled that in 1946 the General Assembly had by its resolution 51 (I), requested the Secretary-General to assume the technical and non-political functions of the League of Nations. Those functions included the publication of a report on the measures adopted by Governments to combat the traffic in women and children. At its last session, the Social Commission had, for reasons of economy, recommended that the report should be published not every year but every two years.

39. The purpose of article 22 was to facilitate the Secretariat's task by imposing upon the parties to the convention the obligation to communicate such information regularly. It would not involve governments in any additional expense.

40. Mr. AZKOUL (Lebanon) pointed out that the first sentence of the French text of article 22 was ambiguous. It might be thought that the parties to the convention were bound to communicate to the Secretary-General all the laws and regulations already promulgated in their countries. It should, therefore, be made clear that the reference was only to laws relating to the subject of the convention.

41. The CHAIRMAN stated that the Secretariat would make the necessary change in the French text.

42. He put article 22 to the vote.

Article 22 was adopted by 46 votes to none, with 4 abstentions.

ARTICLE 23

43. The CHAIRMAN asked the Committee to consider article 23, to which two amendments had been submitted: one by the delegation of the Ukrainian SSR (A/C.3/L.10), and the other by the United States delegation (A/C.3/L.13).

44. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) stated that the actual aim of the convention did not interest the Ukrainian SSR, where the Soviet socialistic system had suppressed prostitution by means of social and legal measures. His delegation was perfectly aware that the convention would not remove the deep-lying causes of prostitution in the capitalist countries, but it recognized the need to combat them and it would therefore support the convention. In order, however, that it should be more effective, the convention should be modified and completed, and it was for that reason that his delegation had submitted amendments to articles 23, 24 and 27 (A/C.3/L.10).

45. With regard to the procedure mentioned in article 23 for the settlement of disputes which might arise in connexion with the interpretation or application of the convention, he pointed out that it could hardly be applied, since it was re-

quired that both parties to the dispute should agree to submit it to the International Court of Justice, and that they should both be parties to the Statute of the Court. That would not always be the case, and the settlement of disputes might thus be delayed. It was for that reason that his delegation proposed that instead of submitting the dispute to the International Court of Justice, the parties should submit it to a referee chosen by mutual agreement.

46. Mrs. ROOSEVELT (United States of America) said she approved of article 23 in principle but thought that in its existing form it was ambiguous. It did not make it clear whether the agreement of the parties to a dispute was necessary in order that the dispute should be referred to the International Court of Justice or whether it was sufficient that any one of the parties should ask for that to be done. That point required clarification, and that was just what the United States delegation had in view in proposing that the last clause should be modified to read: "the dispute shall, at the request of any one of the parties to the dispute, be referred to the International Court of Justice".

47. The United States delegation was opposed to the amendment submitted by the Ukrainian SSR because it was contrary to United Nations general policy, which was to make increasing use of the services of the International Court of Justice. The taking of all decisions concerning the interpretation and application of international conventions should be entrusted to one and the same body.

48. Mr. SUTCH (New Zealand) reminded the Committee that article 23 was based on the 1933 convention and the draft convention drawn up by the League of Nations in 1937. The Social Commission had made a slight change in the article in order to take account of an amendment similar to the one submitted by the delegation of the Ukrainian SSR. As representative of New Zealand, he had proposed that the words "by diplomatic means" should be replaced by the words "by other means". That wording did not exclude the possibility of settling disputes arising under the convention by means of arbitration, and it was that wording that the Commission had finally adopted.¹

49. With regard to the United States amendment, he thought that if it were necessary to wait until one of the parties to the dispute had requested its reference to the International Court of Justice, it might very easily happen that the dispute would never be settled. If reference to the Court was obligatory, why should one of the parties to the dispute have to request such reference? If the procedure mentioned in article 23 was not in conformity with international practice, he thought the representative of the Legal Department would point that out.

50. Mr. SCHACHTER (Secretariat) remarked that under the existing text of article 23 or the text proposed by the United States delegation, the contracting parties were under obligation to refer the dispute to the International Court of Justice if it could not be settled by other means.

51. In addition, the proposed article would have the legal effect of conferring jurisdiction upon the Court, in accordance with article 36, paragraph 1,

of the Statute of the Court. The question of jurisdiction, however, must be distinguished from that of procedure. The proposed article, while providing a legal basis for the Court's jurisdiction and entailing a legal obligation to refer disputes to the Court, did not mean that disputes were automatically considered by the Court. It was still necessary—and that was the answer to the query put by the New Zealand representative—for a State to lay the matter before the Court.

52. Procedurally, a dispute might be submitted to the Court in two ways; either following a special agreement between the parties to the dispute, or by a unilateral application by a single party on the basis of a provision of a convention such as the one under discussion. The United States amendment related to such a procedural aspect and would make it entirely clear that, on the basis of the proposed article, a dispute might be submitted to the Court by any one of the parties, acting unilaterally.

53. Mr. Schachter pointed out that the majority of international conventions entered into under the auspices of the League of Nations contained a provision similar to the one proposed by the United States delegation.

54. Mr. AZKOUL (Lebanon) drew attention to the importance of article 23 and the need for drafting it in terms allowing of precise legal interpretation.

55. The Lebanese delegation thought, in the first place, that General Assembly resolution 171 (II) C of 14 November 1947, favouring recourse to the International Court of Justice for any legal dispute arising between Member States, should be respected. The delegation did not, therefore, think that the Committee could retain the amendment submitted by the Ukrainian SSR, particularly since the existing text of article 23 in no way excluded the procedure advocated in the amendment.

56. The Lebanese delegation would, on the other hand, vote for the amendment submitted by the United States delegation. That amendment seemed, at first sight, to reduce the obligation of the parties to a dispute to submit their case to the International Court of Justice and to make that recourse optional. In fact, if any one State had the right to lay its dispute before the Court, the other party to the case would find itself obliged to accept the Court's jurisdiction. There could be no doubt on that point, whereas the original text of the article implied that consent of both parties was a preliminary condition of any appeal to the International Court of Justice.

57. In the second place, the Lebanese delegation considered that article 23 should be interpreted as making it obligatory for signatory States to submit to the International Court of Justice not only disputes relating to the application of the convention, but also any dispute arising from the refusal of one of the signatories to recognize the very existence of a dispute.

58. Mr. Azkoul did not think that the latter interpretation could be challenged, but if it were, he would reserve the right to present a formal amendment, so that there should be no doubt on a point to which his delegation attached importance, in order to avoid a recurrence of the situation with which the *Ad Hoc* Political Committee was then dealing.

¹ See document E/CN.5/SR.74.

59. Mr. BOKHARI (Pakistan) expressed his preference for the original text of article 23. He refrained for the time being from stating his opinion with regard to the interpretation given to that article by the representative of Lebanon; but he stated there and then his opposition to the Ukrainian and United States amendments.

60. The Ukrainian amendment limited the scope of article 23 in that it eliminated appeal to the International Court of Justice, while it introduced no new element, since arbitration was certainly included among the means of settlement to which the parties to a dispute were bound to have recourse, under article 23, before appealing to the Court.

61. Moreover, the purpose of the United States amendment might be praiseworthy, but the amendment itself was drafted in such a way as even to run counter to that purpose. In fact, far from making the meaning of article 23 clearer, it made it more obscure; in addition, it weakened its effect since, instead of making it compulsory to submit to the International Court of Justice any dispute relating to the application of the convention, it made such submission depend on the initiative of one of the parties.

62. Mr. CONTOUMAS (Greece) thought that, on the contrary, the United States amendment very happily defined the meaning to be given to article 23. The expression "the Parties concerned shall refer the dispute to the International Court of Justice", which appeared in the original text, might imply that the Court could only take cognizance of a case if all the parties concerned agreed to submit it. But international practice allowed any party to a dispute to bring that dispute before the International Court of Justice, even if the other party did not consent. That practice was already in operation at the time of the League of Nations and the Permanent Court of International Justice. The text advocated by the United States delegation would grant that right to all signatories of the future convention. The Greek delegation would therefore vote for its adoption.

63. Mr. Contoumas raised another question with regard to article 23. If the existing text was applied, the parties to a dispute could only appeal to the International Court of Justice after they had exhausted all other means of settlement at their disposal. Who was to judge whether that had been done? Would it be incumbent on the State wishing to bring the case before the Court to prove that it had exhausted all existing means of settlement? Mr. Contoumas pointed out that because of that difficulty most treaties of conciliation, arbitration or judicial settlement made detailed provision for the procedure which was to precede appeal to the International Court of Justice, as also the periods of time to be allowed at each stage of that procedure.

64. In the opinion of Mr. AQUINO (Philippines), there was no doubt that recourse to the International Court of Justice should be looked upon as the last stage of conciliation and it was for the Court itself to decide whether all other means of settlement had been exhausted or not. It was precisely because article 23 contemplated that the parties to a dispute would resort to all the means of settlement at their disposal, including arbitration, before appealing to the International Court of Justice, that the Philippines delegation considered the Ukrainian amendment as restrictive, and would vote against it.

65. Although the jurisdiction of the International Court of Justice would undoubtedly extend to all disputes relating to the application of the convention, the Court would not, however, automatically take cognizance of such cases; the latter would have to be submitted to it. They could only be submitted by one of the parties to the dispute. The other party could then no more escape its jurisdiction than any person against whom an action for damages had been brought could escape the jurisdiction of the law courts. The United States amendment was thus of practical utility and the Philippines delegation would vote for it.

66. Finally, as regards the question raised by the representative of Lebanon, Mr. Aquino pointed out that any refusal to recognize the existence of a dispute was in itself a dispute. Mr. Azkoul's interpretation was beyond challenge and there seemed to be no point in making the text more explicit in that direction.

67. In reply to a question by Mr. NORIEGA (Mexico), Mr. SCHACHTER (Secretariat) stated that article 23 based the jurisdiction of the International Court of Justice on Article 36, paragraph 1, of the Statute of the Court, according to which the jurisdiction of the Court extended to "all matters specially provided for . . . in treaties and conventions in force". The Court would, therefore, be competent to settle any dispute relating to the application of the convention, even in cases where the signatory States had not made the declaration referred to in paragraph 2 of the same Article.

68. With regard to the interesting legal questions raised by the representative of Greece, Mr. Schachter pointed out that the question of its own jurisdiction would, of course, be decided by the Court itself if that jurisdiction were challenged.

69. Mr. Schachter did not think that too rigid an interpretation should be put upon the text under discussion, which had been drafted on the model of other arbitration clauses to be found in the majority of multilateral conventions concluded under the auspices of the United Nations, such as the Convention on the Prevention and Punishment of the Crime of Genocide, or the Convention on the International Transmission of News and the Right of Correction. It would be for the International Court of Justice to decide in the future on the practical application of that model clause. It would also, as the Philippines representative had said, have to determine whether the other methods of settlement had been exhausted or not.

70. Finally, Mr. Schachter pointed out to the representative of Pakistan that the United States amendment was concerned with a question of procedure. Under article 23, all signatories were obliged to bring their disputes, in the last resort, before the International Court of Justice. There were two ways of making an appeal; either by notification of a special agreement, or by application from one of the parties to the dispute. The United States amendment had the advantage of providing for the latter procedure, which would have to be applied in the absence of mutual agreement.

71. If the amendment were not adopted, article 23 would retain a certain ambiguity; Judge Hudson, who was an authority on the subject, had declared that in the absence of a special clause, unilateral appeal to the International Court of

Justice "may be possible". It was evident from the careful terms in which the statement was couched that it touched on a controversial matter. One could not, therefore, be too exact on the matter. At all events, the United States amendment left no room for ambiguity on the subject.

72. Mr. AZKOUL (Lebanon) stressed the interpretation to be given to article 23, as regards the jurisdiction of the International Court of Justice, not only for recognized disputes, but also for those of which one or more parties challenged the existence. The *Ad Hoc* Political Committee was discussing the question whether the United Nations could ask the International Court of Justice to hear and pass judgment on a matter dividing the signatories to the peace treaties with Romania, Hungary and Bulgaria, when one of the parties refused to recognize the existence of the dispute. That was a new situation in the history of diplomatic relations. The discussion which was taking place in the *Ad Hoc* Political Committee proved that the question raised certain doubts. There could be no doubts in the minds of the delegation of Lebanon, and for that reason it insisted the Committee should state its interpretation of article 23. If that interpretation was in conformity with its own, the delegation of Lebanon would not submit any formal amendment.

73. Commenting next on the United States amendment, Mr. Azkoul pointed out to the representative of Pakistan that the purpose of article 23 was not to oblige the parties to a dispute to appeal to the International Court of Justice in every case, but to enable them to do so each time they deemed it necessary.

74. The United States amendment had the merit of fulfilling that purpose exactly because, by granting one of the parties to a dispute the option of referring the question to the Court, it imposed on the other party the obligation of accepting the jurisdiction of the Court.

75. The obligation of appealing to the International Court of Justice seemed to be laid down more emphatically in the original text. In fact, by stating, "the Parties concerned shall refer the dispute to the International Court of Justice" one inferred: "if they agree". But, even admitting that mutual consent was not necessary, the practical difficulties of applying so vague a formula were not excluded, because the parties concerned could each shift upon the other the responsibility for an appeal to the Court.

76. Finally, Mr. Azkoul drew the attention of the representative of Greece to the fact that article 23 did not oblige the parties to a dispute to exhaust all the possible means of settlement before appealing to the International Court of Justice. In fact, the article stated that the parties concerned should refer the dispute to the Court, if that dispute could not be satisfactorily settled "by other means", and not "by all other means", at their disposal.

77. Mr. STEPANENKO (Byelorussian Soviet Socialist Republic) supported the Ukrainian amendment. Article 23, in its existing wording, could not apply to the case where one or more of the parties concerned had not adhered to the Statute of the International Court of Justice. Moreover, arbitration would solve an eventual dispute in a more cordial atmosphere than that of a judicial tribunal. That atmosphere was more propitious

to final agreement, because the country on which the arbitral award had laid the blame would submit to it more willingly. Finally, by discarding the existing text, one could avoid the danger there might be of any country making fallacious accusations against another country and forcing that country to go before the International Court of Justice, where it would succeed in imposing its views on the majority of the judges and would thus obtain an award which would be tantamount to interference in the domestic affairs of the second country.

78. The delegation of Byelorussian SSR hoped that the Committee would not maintain the text as it stood. It would vote against the United States amendment.

79. Mr. OTAÑO VILANOVA (Argentina) recalled the fact that his country was one of the most ardent defenders of the system of the peaceful settlement of disputes. It had not hesitated to accept arbitration procedure even when important territorial interests were at stake. However, Argentina had always refused to limit its freedom of choosing the most appropriate procedure for each particular case. His delegation would willingly agree to a text which would make it possible to choose, in the case of a dispute concerning the interpretation of the convention, between arbitration and an appeal to the International Court of Justice. For lack of such a text, it would vote for the Ukrainian SSR amendment, which corresponded to Argentina's traditional attitude.

80. Mr. BOKHARI (Pakistan), while approving the principle which had inspired the United States amendment, did not think that the wording was felicitous. The representative of the Secretariat had said that, if that amendment were adopted, one of the parties "might" refer the dispute to the International Court of Justice. According to the representative of Lebanon, one of the parties "would have the right" to refer to the Court. The two interpretations stressed the optional nature which the appeal to the Court would have. Because, if one of the parties "might" refer the dispute to that Court, it could also not do so. If it had the right to do so, it could also not exercise that right. One could perfectly well foresee a situation in which none of the parties would use that right.

81. In its existing wording, article 23 provided for quite a different situation. The two parties were obliged to refer the dispute to the International Court of Justice. Any possibility of avoiding that obligation was excluded. The obligation defined by the original text was therefore preferable, because it was more precise.

82. Mr. CISNEROS (Peru) stated that his delegation would have voted for article 23 in the conviction that the International Court of Justice would take cognizance of a dispute only in the case where the two parties were agreed to refer the dispute to it. But several speakers had just contested that interpretation. The differences of interpretation to which article 23 had given rise stressed the necessity of appealing to the wisdom of the Sixth Committee.

83. The representative of Peru proposed that article 23 should be referred to that Committee, together with the summary of the discussion to which that article had given rise in the Third Committee.

84. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) was surprised to hear that his delegation's amendment excluded the jurisdiction of the International Court of Justice. Nothing in that amendment lent itself to such an interpretation. It was a question of calling upon an arbiter whom the parties were to choose by mutual agreement. Nothing prevented the parties from designating the International Court of Justice as an arbiter. Far from being restrictive in character, as the representative of the Philippines had stated, the amendment aimed at broadening the scope of article 23.

85. The representative of the Ukrainian SSR was opposed to the United States amendment. Moreover, he warned the Committee that certain countries would hesitate to sign the convention should the obligation to have recourse to the International Court of Justice be maintained.

86. Mr. CHA (China) was opposed to referring article 23 to the Sixth Committee.

87. Mr. CONTOUMAS (Greece) wished to know what the Committee proposed asking the Sixth Committee. Was it a new text of article 23, or an opinion concerning the legal implications of the existing text and the amendments submitted to it? But the problems arising with regard to that article were perfectly simple, and the Third Committee should decide them. In the first place, the question was whether the International Court of Justice should take cognizance of disputes concerning the interpretation of the convention. In the second place, it had to be decided whether it sufficed for one of the parties to lodge a complaint to that effect before the Court.

88. Mrs. ROOSEVELT (United States of America) recalled the fact that the Committee had asked the Sixth Committee to examine the whole draft convention and to state its opinion concerning all the articles which had legal implications. In the circumstance, that should be enough. There was

no reason to postpone the decision concerning article 23 any further.

89. The CHAIRMAN put to the vote the proposal of the delegation of Peru to refer article 23 to the Sixth Committee.

That proposal was rejected by 30 votes to 4, with 16 abstentions.

90. The CHAIRMAN put to the vote the Ukrainian amendment, which consisted in replacing the words: "to the International Court of Justice" by the words: "for settlement to an arbiter to be chosen by mutual agreement between them".

That amendment was rejected by 28 votes to 9, with 11 abstentions.

91. The CHAIRMAN put to the vote the United States amendment to replace article 23 by the following text (A/C.3/L.13):

"If any dispute shall arise between the Parties to this Convention relating to its interpretation or application and if such dispute cannot be satisfactorily settled by other means, the dispute shall, at the request of any one of the parties to the dispute, be referred to the International Court of Justice."

That amendment was adopted by 21 votes to 17, with 10 abstentions.

92. Since the adopted text was substituted for the original text of article 23, the CHAIRMAN stated that it was not necessary to vote again on the whole article.

ARTICLES 24 AND 27

93. Mrs. CASTLE (United Kingdom) proposed postponing the discussion on article 24 until the Committee had begun the examination of article 27, since the Ukrainian amendment concerning article 24 logically implied the deletion of article 27.

That proposal was adopted by 30 votes to 5, with 10 abstentions.

The meeting rose at 5.55 p.m.

TWO HUNDRED AND FORTY-SIXTH MEETING

Held at Lake Success, New York, on Tuesday, 11 October 1949, at 10.45 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)

ARTICLES 24 AND 27 (continued)

1. The CHAIRMAN reminded the Committee that it had been decided at the previous meeting that article 27 should be examined before article 24. He placed before the Committee the United States amendment to article 27 (A/C.3/L.13) and the amendments to articles 24 and 27 submitted by the delegation of the Ukrainian Soviet Socialist Republic (A/C.3/L.10).

2. Replying to the representative of PAKISTAN, the CHAIRMAN said that representatives could refer to the substance of article 24 when they spoke on article 27, as the Committee had decided that those articles were closely interrelated.

3. Mr. NORIEGA (Mexico) said that experience had shown that the Powers administering Non-Self-Governing and Trust Territories did not fulfil their obligations, under Chapters XI, XII and XIII of the Charter of the United Nations, to encourage political and social development in such territories. At the previous meeting, representatives of the Administering Authorities had stated that the provisions of the draft convention could not be extended automatically to non-metropolitan territories owing to the existence of organs of local self-government there. That argument could not possibly be valid for Trust Territories because they were not colonies and could not, therefore, be subject to a colonial application clause. At least seventeen million persons lived under the Trusteeship System; the Third Committee of the General Assembly was directly responsible for them as far as social affairs were concerned. Furthermore, nowhere in the Trust Territories were there responsible legislative bodies of local self-govern-