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Chairman: Mr. Juliusz KATZ-SUCHY (Poland).

Question of the continuation of the functions of the United Nations Tribunal in Libya (A/2459, A/C.6/L.294) (*concluded*)

[Item 55]*

1. Mr. FERRER VIEYRA (Argentina) said that the three-member Tribunal, composed of nationals of States not directly interested in the economic and financial arrangements affecting Libya, had been set up at the fifth session of the General Assembly by resolution 388 (V) of 15 December 1950. The Tribunal had proved extremely useful, and in the two years of its existence had settled a number of important cases.

2. In its report (A/1726) to the fifth session, the *Ad Hoc* Political Committee had stated that the question of the continuation of the Tribunal should be considered at the General Assembly's seventh or eighth session in the light of progress and of the views of the Governments of Italy and Libya. Those two Governments, as could be seen from the Secretariat memorandum (A/2459), believed the continuation of the Tribunal to be desirable.

3. For that reason, and also because the Tribunal was currently dealing with the important question of property owned by the Italian Government, which in turn might give rise to various other questions having to be settled by the Tribunal, the Argentine delegation, jointly with the delegation of Egypt, had submitted a draft resolution (A/C.6/L.294) calling for the continuation of the Tribunal for a further period of two years. Since that draft referred only to the continuation of the Tribunal's functions, the Tribunal's composition and competence would remain as determined in General Assembly resolution 388 (V).

4. In conclusion he noted that, inasmuch as the composition of the Tribunal was the same as that of the Tribunal in Eritrea, and since the Tribunal in Eritrea would continue to function for some time, the expenditure of continuing the Tribunal in Libya for two more years would not be considerable. Perhaps the Secre-

tariat would prepare an estimate of the financial implications of the proposal made in the draft resolution.

5. Mr. TABIBI (Afghanistan) said that his delegation supported the joint draft resolution (A/C.6/L.294). The Tribunal had proved of great value, and it should be continued for long enough to enable it to settle the financial questions pending between Italy and Libya.

6. When the Tribunal was set up at the fifth session of the General Assembly it had been understood that it might prove necessary to extend its life beyond the period of the seventh or eighth session, and Sub-Committee 1 of the *Ad Hoc* Political Committee had supported the idea of such an extension. Formal requests for the Tribunal's continuation had now been received from the Italian and Libyan Governments. Since twenty-four cases were awaiting hearing and many more were likely to be added to the list, the Tribunal's continuation was of great importance to the two Governments concerned.

7. As a friend of that country since 1948 Afghanistan had strongly supported the United Nations' measures to create an independent Libya and the technical assistance which the Organization had subsequently given the young nation. Libya was faced with numerous economic problems, natural in the case of a State only two years old, and the Libyan Prime Minister's request that the expenses of the Tribunal should be borne by the United Nations therefore deserved every support.

8. Any decision to move the Tribunal's seat to Geneva, in accordance with the wish expressed by its President on behalf of its members, should be deferred until the Italian and Libyan Governments had been consulted. It was particularly necessary to consult the Libyan Government, since it was to help Libya that the Tribunal had been established.

9. The CHAIRMAN pointed out that the Committee was only considering the Tribunal's continuation. Its seat could only be changed by an amendment to resolution 388 (V), and no such amendment had been submitted.

10. Mr. LOUTFI (Egypt), as one of its sponsors, announced the following drafting alterations to the text of the joint draft resolution (A/C.6/L.294): in operative paragraph 1, the words "in accordance with this resolution" should be deleted; in operative paragraph 2, the words "regarding the continuation of the Tribunal's functions" should be deleted; and the French text of paragraph 2 should read:

"2. Invite le Secrétaire général, après consultation des gouvernements intéressés, à faire rapport à l'Assemblée générale lors de sa dixième session."

11. The question of the disposal of the former Italian colonies had been referred to the General Assembly under article 23 and annex XI, paragraph 3, of the Treaty of Peace with Italy, and the General Assembly had laid down economic and financial provisions relating to Libya in resolution 388 A (V), article X of which

* Indicates the item number on the agenda of the General Assembly.

vested in the Tribunal the important functions of interpreting that resolution. In addition, the resolution provided, in articles I, II, III, VI and IX, for special agreements between Italy and Libya. Negotiations had already begun on those agreements and they were likely to provide considerably more work for the Tribunal. The Tribunal should therefore be allowed to continue its valuable work.

12. His delegation could not accept the United Kingdom amendment (A/C.6/L.301) because the Secretary-General would hardly be able to report in time for the ninth session of the General Assembly.

13. Mr. VALLAT (United Kingdom) was strongly in favour of the continuance of the Tribunal, since both the Governments concerned found its services of value, but felt that it should not be continued for longer than was necessary to give effect to resolution 388 (V). It was in everyone's interest that it should terminate as early as possible and that the Italian-Libyan negotiations should be concluded in the course of the coming year. Accordingly his delegation's amendment (A/C.6/L.301) to the joint draft resolution (A/C.6/L.294) proposed that the Secretary-General should report on the Tribunal's continuation to the General Assembly at its ninth instead of its tenth session.

14. It had been hoped, in 1950, that the Tribunal would finish its work in two or three years. After careful inquiry he had ascertained that the Tribunal had enough work on hand to keep it busy for another year, until the General Assembly's ninth session, and he very much hoped that it would not be found necessary to continue it beyond then. If the Secretary-General submitted his report to the ninth session the General Assembly would still be able to prolong the Tribunal's life should it think fit. He felt that his delegation's amendment improved the resolution, though his mind remained open on the subject.

15. Mr. SPIROPOULOS (Greece) supported the joint draft resolution. The question was administrative rather than political, and since both the Governments concerned desired the Tribunal to be continued there seemed no reason for not complying with their request.

16. Mr. CHAUMONT (France) also supported the joint draft resolution.

17. The practical question before the Committee was whether or not the United Nations was prepared to go on defraying the cost of the Tribunal; if it had simply been a question of maintaining a tribunal, Italy and Libya could have set up one of their own. The United Nations had created the Libyan State and had given it assistance to help it through its early years. To support the Tribunal was to give Libya the legal means of building itself up financially and economically, and surely the United Nations would not be unwilling to continue its contribution towards that constructive effort. Both the Governments concerned considered that the Tribunal had valuable work to do and had asked for its life to be extended. The French delegation thought that their request should be granted, and that the expenses of the Tribunal should be borne, as before, by the United Nations.

18. He was not in favour of the United Kingdom amendment (A/C.6/L.301) because the Secretary-General could not make a comprehensive report until the Tribunal's work was completed, which everyone agreed would take at least another year. It would be wiser to allow two years to elapse before he submitted his report.

19. He asked the sponsors of the joint draft resolution whether the words "after consultation with the Governments concerned", in operative paragraph 2, referred simply to Italy and Libya or also to France and the United Kingdom, the Powers which formerly administered the country. Since Italy and Libya had already been consulted there seemed no object in asking the Secretary-General to consult them again.

20. Mr. FERRER VIEYRA (Argentina) said in reply that the Governments referred to in operative paragraph 2 of the joint draft resolution were the Governments of Italy and Libya; since they had been mentioned in the second paragraph of the preamble it had not appeared necessary to mention them by name again. It was true that those Governments had been consulted already, but the consultations envisaged in the draft resolution would take place in 1955, when they would have something fresh to say on the subject of the Tribunal's continuation.

21. The cost of continuing the Tribunal would only be about one thousand dollars. It was the United Nations' duty to go on helping to support the new State which it had set up.

22. Mr. CHAUMONT (France) observed that the final version of the joint draft resolution, announced by the Egyptian representative, failed to make it clear what was to be the subject of the Secretary-General's report under operative paragraph 2; perhaps a word or two should be added to make the point clear.

23. The CHAIRMAN, Mr. CHAUMONT (France), Mr. FERRER VIEYRA (Argentina), Mr. LOUTFI (Egypt) and Mr. VALLAT (United Kingdom) took part in an exchange of views on the drafting of operative paragraph 2 of the joint draft resolution (A/C.6/L.294).

24. Mr. LIANG (Secretary to the Committee) suggested that the paragraph should read:

"Requests the Secretary-General, after consultation with the Governments concerned regarding the future of the Tribunal, to report to the General Assembly at its tenth session".

It was so agreed.

25. Mr. MOROZOV (Union of Soviet Socialist Republics), speaking on a point of order, observed that any amendment, however uncontroversial its nature might be, should be proposed by a delegation, not by the Secretariat, before the Committee took a decision upon it. The decision just taken ought not to constitute a precedent for submission of amendments by the Secretariat.

26. The CHAIRMAN stated that the decision in question would not constitute a precedent.

27. He put to the vote the United Kingdom amendment (A/C.6/L.301) to the draft resolution (A/C.6/L.294) submitted by Argentina and Egypt.

The amendment was rejected by 20 votes to 10, with 16 abstentions.

28. The CHAIRMAN put to the vote the draft resolution (A/C.6/L.294) submitted by Argentina and Egypt, as modified in operative paragraph 1 by the Egyptian representative in the course of the meeting, and in operative paragraph 2 as agreed by the Committee.

The draft resolution was adopted by 42 votes to none, with 6 abstentions.

Appeal to States to accelerate their ratifications of, or accessions to, the Convention on the Prevention and Punishment of the Crime of Genocide, and measures designed to ensure the widest possible diffusion of the nature, contents and purposes of the Convention (A/2458, A/C.6/L.300)

[Item 67]*

29. The CHAIRMAN drew attention to the Secretary-General's note (A/2458) and to the joint draft resolution submitted by Cuba, France, Haiti, Liberia, Panama and Uruguay (A/C.6/L.300).

30. Mr. GARCÍA AMADOR (Cuba) introduced the joint draft resolution. Since the time when the General Assembly had adopted resolution 368 (IV) there had been eleven further accessions to the Convention, and he hoped that the joint draft resolution would help to make the Convention universally applicable.

31. Operative paragraph 2 of that draft resolution, calling for the diffusion of information regarding the Convention, was almost as important as paragraph 1, not only because the Convention was a major contribution to the development of international law, but also because publicity concerning that instrument would go a long way towards ensuring its observance by the parties to it.

32. He hoped that the Committee would have no difficulty in adopting the draft resolution, which was limited in scope and which followed the practice of the United Nations in urging States to ratify conventions, particularly conventions which it had sponsored.

33. Mr. BARTOS (Yugoslavia) stated that his country had been among the first to sign and ratify the Convention on Genocide, and to make the crime of genocide, as defined in the Convention, punishable under its Penal Code.

34. Since his delegation had always been in favour of making the Convention as widely applicable as possible, it would support the joint draft resolution, which was directed to that end. He thought, however, that paragraph 2 needed improvement. As it stood, it gave the impression that the Secretary-General had as yet done nothing to acquaint the peoples of the world with the nature, contents and purposes of the Convention. Actually, the Secretary-General had already done a great deal in that direction, by means of various publications, broadcasts, etc., and should merely be encouraged to continue in what was no more than the execution of his duty.

35. He therefore suggested that the words "to undertake" in paragraph 2 might well be replaced by "to continue to take". He also asked the Secretariat how many States had already ratified the Convention.

36. Mr. ALFONSIN (Uruguay) said that, although Uruguay had not yet ratified the Convention on Genocide, the necessary action had already been taken by one chamber of the legislature and the final steps would follow shortly.

37. His delegation had therefore had no hesitation in co-sponsoring the joint draft resolution.

38. Mr. MACNAUGHTON (Canada) recalled that at the third session of the General Assembly, in 1948, his delegation had supported the principle that the Convention on Genocide should receive the widest pos-

sible application, in the belief that its effectiveness would increase in direct ratio to the number of parties to it. The Canadian Parliament had ratified the Convention without any reservations, and the instrument of ratification had been deposited with the Secretary-General on 3 September 1952. In accordance with article V of the Convention, Canada had enacted the necessary legislation to give full effect to the provisions of the Convention.

39. Mr. Pearson, the Chairman of his delegation and Secretary of State for External Affairs, had told the Canadian Parliament that the Convention was important not only because of the nature of the matter with which it dealt, but because it was the first international convention in history which defined an international criminal offence—an offence to be prevented and punished by all the parties to the Convention, and for which a State could be held to account by other States. As mankind became more civilized, the rights of minority groups were increasingly protected by domestic law; the Convention on Genocide was the first attempt to protect them under international law.

40. Consistent with its attitude on the subject, his delegation would vote in favour of the joint draft resolution.

41. Mr. LOBODYCZ (Poland) said that, because of its experience during the Second World War, Poland was naturally anxious to prevent any further perpetration of the horrible crime of genocide. Accordingly, it had acceded to the Convention on Genocide in spite of its weaknesses and had taken part in the work of all the United Nations organs which had dealt with the subject.

42. Although the Convention had been opened for signature in 1948, many Member and non-member States had not yet adhered to it. The United Nations should make every effort to induce peace-loving States to become parties to the Convention. Under Article 56 of the Charter, it was the duty of Member States to do so.

43. He would therefore support the joint draft resolution.

44. Mr. CHAUMONT (France) said his delegation had co-sponsored the joint draft resolution. The traditional position of the French delegation on the subject of genocide was well known. Since 1946, it had supported all efforts made in the United Nations to develop international criminal law, whether they related to the definition of concepts or to the establishment of institutions. The Convention on Genocide represented an important advance in the matter of the definition of international offences, since by virtue of it genocide, which had been the vaguest of notions, had become a punishable crime. His delegation was equally interested in the development of an international criminal jurisdiction, which would administer the punishment, and considered some of the provisions of the Convention particularly valuable in that respect.

45. France had been among the first twenty States to ratify the Convention, and had therefore helped to bring it into force. As French legislation contained the provisions necessary for the application of the Convention and as the French Government supported all efforts to institute an international criminal jurisdiction, as contemplated in that instrument, France was complying fully with the obligations it had assumed under the Convention.

* Indicates the item number on the agenda of the General Assembly.

46. The change suggested by the Yugoslav representative in paragraph 2 of the joint draft resolution would improve the wording without altering the meaning, and for his part he would be happy to accept it.

47. Mr. LIANG (Secretary of the Committee) said, in reply to the Yugoslav representative's question, that so far forty-two States had ratified or acceded to the Convention on Genocide, while seventeen other States had signed it but had not yet deposited their instruments of ratification or accession with the Secretary-General. In accordance with the instructions of the General Assembly, the Secretary-General had invited twenty-three non-member States to become parties to the Convention.

48. For the Committee's information he added that the Secretariat had indeed made every effort to give extensive publicity to the Convention on Genocide and to the successive ratifications and accessions. Information on the subject had been given in press releases; in daily reports to the United Nations information centres, which in turn disseminated it throughout the region in which they were active; in every issue of the *Yearbook of the United Nations*; in such publications as a special pamphlet containing the text of the Convention and statements regarding it made in the Sixth Committee in 1948, the *United Nations Bulletin* and the *United Nations Reporter*; and in radio broadcasts in twenty-five languages. If the Committee wished the Secretariat to take additional measures, the Secretariat would be happy to provide estimates of the financial implications of any concrete steps proposed. If, however, the Committee accepted the Yugoslav representative's suggestion, the financial position would remain unchanged and the Secretariat would continue with its present programme.

49. Mr. TARAZI (Syria) said that the adoption of the Convention on Genocide had been one of the noblest acts of the United Nations, which for the first time in the world's history had defined as a crime and provided for the punishment of an atrocity which wiped out whole cultures more effectively than war itself.

50. He would therefore vote for the joint draft resolution.

51. He pointed out that in the resolution adopted on the subject by the Commission on Human Rights at its ninth session, in 1953,¹ and in Economic and Social Council resolution 502 (XVI) there appeared to be some confusion between racial discrimination and genocide. The confusion was unwarranted. Discrimination involved unfavourable treatment of some part of the population; genocide, on the other hand, involved a deliberate intention utterly to destroy a specific group. Discrimination was a political problem, whereas genocide was a recognized juridical concept.

52. Mr. AZKOUL (Lebanon) said his delegation had taken a keen interest in the Convention on Genocide from the outset. It had defended the need for a separate convention on the subject in the Economic and Social Council in 1947 and in the General Assembly in 1948, and had supplied a Rapporteur for the committee set up by the Council to draw up the text of the convention.

53. As the Lebanese Parliament had just ratified the Convention, he would be particularly pleased to vote

for the joint draft resolution, which appealed to other States to become parties to it.

54. The main reasons for his delegation's interest in the subject were that, through the Convention, the General Assembly had proclaimed the inviolability of human groups, thus complementing the Charter, which spoke mainly of individuals and peoples or States; and that the Convention also complemented the Charter from the legal point of view by providing for international jurisdiction over the most heinous crime, other than war, known to mankind, a crime which would otherwise have fallen within the scope of Article 2, paragraph 7, of the Charter. Since the Convention on Genocide was, in a sense, a companion piece to the Charter, he hoped that it would have at least as many signatories.

55. Mr. RIVERA REYES (Panama) said that his country, which was a co-sponsor of the joint draft resolution, had been among the first to support the adoption of a convention on genocide, and had therefore unhesitatingly accepted the recommendation of the Economic and Social Council that the General Assembly should once more appeal to States which had not yet done so to become parties to the Convention. There had been only forty-two ratifications so far, which meant that the Convention was not as effective as it should be and that the appeal was needed.

56. He was prepared to accept the slight change in the joint draft resolution suggested by the Yugoslav representative.

57. Mr. VENKATARAMAN (India) said that his delegation would abstain in the vote on the draft resolution, not because his Government in any way disagreed with the principles set forth in the Convention, but because it had not yet been able to ratify the instrument.

58. Mr. SANSON TERAN (Nicaragua) said that his country and people had from the very start taken a deep interest in the question of the prevention and punishment of genocide, and considered the adoption of the Convention to have been a great contribution to the development of international law.

59. Nicaragua had ratified the Convention in 1951 and accordingly his delegation supported the joint draft resolution.

60. With particular reference to paragraph 2 he said he had no intention of disparaging the Secretariat's efforts, which were often admirable, but he felt bound to mention the question of the geographical distribution of posts in the Secretariat. In the past his delegation had pointed out repeatedly that no Nicaraguan had been appointed to an important post, and that criticism still applied. He supported paragraph 2 as originally drafted.

61. Mr. AMADO (Brazil) said that his country had taken an active part in the drafting of the Convention at the different stages in the United Nations and it now supported the joint draft resolution, both as an appeal for further ratification and as likely to lead to great publicity concerning the meaning of the Convention.

62. As the French representative had correctly pointed out, the adoption of the Convention on Genocide was of great value in clearly establishing for the first time that genocide was a crime, and that groups, nations and races had a fundamental right to exist. The concept had not previously existed in legal

¹See *Official Records of the Economic and Social Council, Sixteenth Session, Supplement No. 8, para. 235.*

theory or in the conscience of mankind. Furthermore, as the Syrian representative had noted, the Convention made it clear that the crime of genocide presupposed the intention not merely to kill, but to kill a specific group.

63. Mr. MOROZOV (Union of Soviet Socialist Republics) said that his delegation had consistently voted in the various United Nations bodies in favour of action which would encourage States to become parties to the Convention on Genocide; accordingly it would support the draft resolution under consideration.

64. Mr. LOUTFI (Egypt) announced that he would vote in favour of the draft resolution, his Government having ratified the Convention.

65. Mr. MAURTUA (Peru) expressed support for the joint draft resolution, even though his country had as yet been unable to ratify the Convention for constitutional reasons.

66. He agreed with the Syrian representative that the Commission on Human Rights seemed to have confused discrimination against minorities with the crime of genocide. That was clearly a distortion of the definition of the crime contained in the Convention, which involved criminal intention to destroy a group as such and which was punishable as an offence against international law. Whereas discrimination could affect the rights of a group, genocide by its nature was a crime directed not merely against the rights but against the very existence of a group.

67. Consequently, while he supported the draft resolution, he felt that every care should be taken to see to it that the information disseminated under paragraph 2 was accurate; the United Nations should not itself create confusion in the matter.

68. Ato Addimou TESEMMA (Ethiopia), recalling that his country had signed and subsequently ratified the Convention, said that he would vote in favour of the draft resolution before the Committee.

69. The CHAIRMAN noted that apparently all the sponsors of the joint draft resolution accepted the oral Yugoslav amendment to paragraph 2. He accordingly put the draft resolution (A/C.6/L.300) to the vote, with that change.

The draft resolution, as amended, was adopted by 44 votes to none, with 6 abstentions.

70. Mr. VALLAT (United Kingdom) said that, when his delegation had voted in favour of the General Assembly resolution 260 (III) approving the Convention for signature and ratification, it had indicated that the Convention might give rise to some domestic difficulties of a legal nature, requiring investigation. Believing that the obligations resulting from a convention became operative as from ratification, the United Kingdom Government had not yet ratified the Convention on Genocide in view of the technical difficulties involved which were still under consideration, and his delegation had abstained in the vote on the draft resolution, even though in principle it agreed with the text.

71. Mr. AIKMAN (New Zealand) said that his Government's position, too, was that it could not ratify an instrument until it had passed the necessary legislation to give effect to it. For that reason it had not as yet been able to ratify the Convention on Genocide. Hence, although his Government had signed the Convention in 1949 and was fully in sympathy with the draft resolution, his delegation had been forced to abstain.

The meeting rose at 5.40 p.m.