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CONTENTS

	Page
Agenda item 43: *Draft Declaration on the Elimination of All Forms of Racial Discrimination (continued)*	49

Chairman: Mr. Humberto DIAZ CASANUEVA (Chile).

AGENDA ITEM 43

Draft Declaration on the Elimination of All Forms of Racial Discrimination (A/5459, A/5503, chap. X, sect. II; E/3743, paras. 89-145; A/C.3/L.1065-1067, A/C.3/L.1068/Rev.2 and Add.1, A/C.3/L.1071-1072, A/C.3/L.1073/Rev.1, A/C.3/L.1074, A/C.3/L.1075/Rev.1, A/C.3/L.1076-1077, A/C.3/L.1079/Rev.1, A/C.3/L.1080/Rev.1, A/C.3/L.1082, A/C.3/L.1084-1087, A/C.3/L.1088/Rev.1, A/C.3/L.1089-1090 and Add.1, A/C.3/L.1092, A/C.3/L.1094-1100 and Add.1, A/C.3/L.1101-1114, A/C.3/L.1115/Rev.1, A/C.3/L.1116) (continued)

1. Mrs. KISOSONKOLE (Uganda) announced that her delegation was withdrawing its amendment (A/C.3/L.1095) and requested instead that the words "and information" should be inserted after "education" in the paragraph following the ninth preambular paragraph.

2. Mr. TUKUNJOBA (Tanganyika) remarked that there were two types of amendments before the Committee—those that tended to reinforce the spirit of the draft Declaration and those that served to weaken it. He could not understand why some countries should wish to weaken a document of such vital importance for all mankind. The essential purpose of the draft Declaration was to promote understanding between nations and individuals. That purpose was consistent with the objectives stated in the United Nations Charter and must therefore have the respect of every Member State.

3. The efforts of the smaller countries to wipe out the scourge of discrimination were to some extent being frustrated by the so-called great Powers. But history would not judge a country great merely because of its wealth or size; it would judge countries by their moral fibre and their devotion to the principles of human dignity and equality.

4. His own country, drawing inspiration from the flame lit atop Kilimanjaro upon Tanganyika's attainment of independence, had never practised, connived at or condoned discrimination. The Kilimanjaro symbol was one which all countries would do well to keep before them.

5. In accordance with those considerations, his delegation would oppose the amendments contained in documents A/C.3/L.1075/Rev.1, A/C.3/L.1079/Rev.1, A/C.3/L.1086, A/C.3/L.1087, A/C.3/L.1088/Rev.1, A/C.3/L.1089, A/C.3/L.1094 and A/C.3/L.1112. It would support the rest of the amendments, believing that they would strengthen the draft Declaration.

6. Mrs. PESIC-GOLUBOVIC (Yugoslavia) announced that her delegation would support the amendments of substance contained in the following documents: A/C.3/L.1065, A/C.3/L.1068/Rev.2 and Add.1, A/C.3/L.1072, A/C.3/L.1073/Rev.1, A/C.3/L.1080/Rev.1 and A/C.3/L.1084.

7. Her delegation had become a co-sponsor of the amendment in document A/C.3/L.1090 and Add.1 and found it difficult to understand the objections raised against it. The amendment proposed a course of action which the world must follow if it was to avert a tragedy of the kind it had lived through in the Second World War—that was an experience which her country and many others could not and must not forget. The United Nations should not accept a conception of freedom under which individuals or organizations could incite to aggression and threaten the lives of others because of false theories of racial superiority. Yugoslavia's desire to prohibit organizations preaching racial superiority was not in contradiction with the true meaning of freedom. Freedom was not an end in itself; it did not include the right to oppress others.

8. Her delegation had co-sponsored the amendment in document A/C.3/L.1097 because it was convinced that racial discrimination and policies of racial hatred as practised in the world today were a threat to international peace and security. The amendment was intended to emphasize that point in the draft Declaration. However, to meet certain objections, the sponsors were reconsidering the wording.

9. Mr. CUEVAS CANCINO (Mexico), explaining some of the amendments co-sponsored by his delegation, observed that those contained in document A/C.3/L.1102 were based on article 1 of the original draft prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/3743, para. 93). It represented, he believed, an excellent statement of the fundamental principle underlying the draft Declaration.

10. He did not agree with the Ghanaian representative that the amendment in document A/C.3/L.1104 contained a negative statement of the problem. The sense of the amendment was positive: when protection was given to certain racial groups it did not constitute discrimination but a procedure to avoid discrimination. The amendment was very clear and precise, and he strongly recommended its adoption. The second sentence of article 2, paragraph 2 had been deleted owing to a mistranslation in the Spanish text, and the sponsors were reconsidering the matter in the light of the corrected text.

11. The proposal in amendment A/C.3/L.1105 was intended to replace an unusual Spanish formulation by wording which should be acceptable to all languages. In amendment A/C.3/L.1109, the sponsors proposed the addition of the word "protection", feeling that "remedy" was insufficient. In amendment A/C.3/L.1110, the expression "without delay" was proposed in order to make the wording conform to that of article 5. The proposal to reverse the order of articles 8 and 9 was intended to add strength to the draft Declaration. In amendment A/C.3/L.1112, the sponsors presented a more forceful text taken from the draft prepared by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.

12. Notwithstanding his co-sponsorship of a number of amendments, he wished to draw the Committee's attention to annex I of the General Assembly's rules of procedure, in which it was stated, inter alia, that "a Main Committee, by the very fact of its size, was not particularly fitted to draft conventions". Several members of the Committee had found that to be very much the case with respect to the document now under consideration. He accordingly proposed that the Committee should vote first on the draft Declaration as it appeared in document A/5459.

13. Mr. PISANI MASSAMORMILE (Italy) recalled the emphasis his delegation had laid on the soundness and balance of the original text and on the desirability of preserving them. Amending the draft at that late stage might upset its structure, and he therefore supported the Mexican representative's proposal and would refrain from commenting on the amendments.

14. Mrs. DICK (United States of America) expressed surprise that her delegation's position had been described by the USSR representative (1220th meeting) as an ultimatum. Her delegation merely found itself unable to accept amendments which ran counter to the Constitution of the United States, and had said so. Any delegation placed in a similar position would surely do the same. The United States vote would not have a decisive influence on whether or not the draft Declaration was approved; but the question might well be asked whether the incorporation of some of the amendments unacceptable to the United States warranted sacrificing unanimity. The convention which was to be drafted later might include many of the points raised in the amendments.

15. Mr. BAROODY (Saudi Arabia) strongly supported the Mexican proposal that the draft Declaration, as submitted in document A/5459, should be voted on first. He was very anxious to see a convention adopted at an early date, because only a convention could provide legal safeguards against racial discrimination. If the Committee failed to adopt the draft Declaration unanimously or if it voted a document which was half-declaration, half-convention, those who did not really desire the adoption of a convention would have a pretext for postponing indefinitely the preparation of a legally binding instrument.

16. Mr. DELGADO (Senegal) felt it would be wrong to drop the amendments, which had been submitted after a week of constructive work. The draft Declaration had been prepared by a small group and did not adequately reflect the views of the 111 Member States, particularly the African nations. He could not accept the argument that the convention which was to be elaborated later would cover many of the matters raised in the amendments. The declaration, being mainly of moral import, should be wider in scope. The convention would have to be more specific; it would impose penalties in certain instances and its provisions would have to be narrowly circumscribed, if they were to be acceptable to the countries called upon to ratify it. He had no wish to prepare a document which was half declaration and half convention, but merely wanted to see those amendments adopted which clearly improved the original draft. There was wide agreement on principles, and unanimity might yet be achieved. The Committee should begin to vote on the amendments to the preambular paragraphs at once, while consultations concerning the text of the articles continued.

17. Mr. DOE (Liberia) agreed that the African and Asian nations had strong feelings on colonialism and racial discrimination; it should, however, be recalled that the Liberian delegation was represented in the Commission on Human Rights and had helped prepare the draft now before the Third Committee.

18. The CHAIRMAN said that, in accordance with the General Assembly's rules of procedure, the Committee should vote on the amendments, now that the list of speakers in the general debate was exhausted. However, the Committee might perhaps wish to vote on the Mexican proposal.

19. Mr. CUEVAS CANCINO (Mexico) urged that very course. Under rule 132 of the General Assembly's rules of procedure, the Committee was free to decide on the order in which it should vote on any proposals before it. He asked all delegations to examine their consciences. If the text of the draft Declaration as submitted in document A/5459 was most likely to promote the cause which they all had at heart, surely it would be better to vote on the text as it stood.

20. The CHAIRMAN said that in his view, rule 131 rather than rule 132 applied. To avoid a long and sterile debate in which matters of substance and procedure would be confused, he called upon the representative of the Office of Legal Affairs of the Secretariat to give his advice on the procedural situation which had arisen.

21. Mr. SCHREIBER (Secretariat) said that the Committee had before it a proposal, which was the draft Declaration, and a number of amendments. Rule 132, which referred to two or more proposals, was therefore not applicable. Rule 131 clearly said that amendments to a proposal should be voted on first. Under the rules of procedure, therefore, the Committee could not vote on the original draft without first voting on the amendments.

22. The CHAIRMAN recalled that, under rule 114, he had to decide immediately on any point of order raised. In view of the legal advice obtained and having regard to rule 131, he ruled that the Committee should proceed to vote on the amendments.

23. Mr. CUEVAS CANCINO (Mexico) said that, while he respected the judgement of the representative of the Office of Legal Affairs, he still believed that the Committee must decide the point at issue. To proceed immediately to the voting on the amendments would be to ignore the proposal of the representatives of Mexico, Panama and Saudi Arabia.

24. Mr. BAROODY (Saudi Arabia) said that he too respected the opinion of the representative of the Office of Legal Affairs, but United Nations organs

had decided on many occasions that they must be the masters of their own procedure. He therefore requested the Chairman to withdraw his ruling, which disregarded those precedents, and to proceed by putting the Mexican proposal to the vote.

25. The CHAIRMAN recalled that he had invited delegations to withdraw their amendments (1220th meeting); obviously, therefore, he was personally in sympathy with the Mexican proposal. Nevertheless, he had been obliged to act in accordance with the rules of procedure, and he asked whether any representative wished to appeal against his ruling. The Committee would, nevertheless, be free to decide whether or not to vote on each amendment as it came up.

26. Mr. BAROODY (Saudi Arabia) remarked that to appeal against a ruling by the Chair was a serious matter. Surely the earlier suggestion had been in the nature of a ruling and could be reinstated.

27. The CHAIRMAN said that he had made no decision on the Mexican proposal prior to his ruling under rule 114. He would not regard an appeal as very serious, but for the sake of harmony he suggested that the Committee should accept his decision and proceed to vote on the amendments; if it was felt that a given amendment should not be put to the vote, a vote on that point could be taken when the amendment in question came up.

28. Mr. Antonio BELAUNDE (Peru) formally appealed against the Chairman's ruling.

The Chairman's ruling was upheld by 47 votes to 17, with 8 abstentions.

29. Mr. DELGADO (Senegal) said that he did not understand why a vote had been taken, as the Chairman's ruling had been based on the rules of procedure and on the opinion of the representative of the Office of Legal Affairs.

30. Mr. BAROODY (Saudi Arabia) asked whether the representative of the Office of Legal Affairs would interpret rule 164 of the rules of procedure in connexion with the point under discussion. He also asked whether it was not necessary for the Committee, having exceeded the number of meetings originally allotted to the agenda item under discussion, to take a new decision on the question.

31. The CHAIRMAN remarked that the number of further meetings to be devoted to the item depended to a large extent upon the Committee itself.

32. Mr. SCHREIBER (Secretariat) said that he had felt obliged, when called upon to give an opinion, to adopt a position that was orthodox and seemed to him most in conformity with the rules of procedure. He was not familiar with all the precedents to which the representative of Saudi Arabia had referred, but he believed that the Chairman had met that point by ruling that a decision could be taken on the question whether to vote on a specific amendment when it came up for action.

33. Rule 164 related to an amendment of the text of the rules of procedure, which could not result from a sudden decision by a Committee of the General Assembly, but could be made only after a special committee had given the matter due consideration and reported to the Assembly.

34. The CHAIRMAN announced that the voting on the amendments to the draft Declaration would commence at the 1222nd meeting.

The meeting rose at 6.35 p.m.

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