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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; A/C.3/L.1126/Rev.1, A/C.3/L.1131, A/C.3/L.1133, A/C.3/L.1137 and Add.1, A/C.3/L.1138, A/C.3/L.1142, A/C.3/L.1145) (continued)

1. The CHAIRMAN drew the Committee's attention to the drafting changes suggested by the Rapporteur with a view to bringing the various language versions of the draft Declaration into line (A/C.3/L.1142).
2. Mr. CUEVAS CANCINO (Mexico) fully appreciated the work done by the Rapporteur and the Secretariat's language services, but said that some of the suggested changes placed several Spanish-speaking delegations in a very delicate position. Those delegations could accept certain suggestions touching only the form, such as the amendments to the preamble; to article 1; to article 2, paragraph 3; to article 5; to article 9, paragraph 1; and to the end of article 10; but it was impossible for them to approve other changes, which altered the very substance of articles 2, 4 and 7, of article 9, paragraphs 2 and 3, and of the beginning of article 10.
3. In paragraph 1 of article 2, it was proposed, in the first place, that the word "establecerá" should be replaced by the word "hará". In his opinion, discrimination was something man-made, not a natural phenomenon; consequently, it was more correct to use the verb "establecer". Furthermore, the deletion of the words "el trato de las" seemed, to him, inappropriate; the paragraph in question would be complete if those words were retained after the words "lo que respecta a", which the Rapporteur proposed to add.
4. As for article 4, he pointed out that the revision envisaged was not the same in the case of governmental policies and legislative provisions. Consequently, the text adopted should be reverted to. The second change proposed for that article was acceptable to the Spanish-speaking delegations.
5. In article 7, the first change proposed was designed to lighten the text; the intention was praiseworthy, but the article was weakened as a result. Furthermore, the concept of "integridad personal" was perfectly clear in criminal law. If those words were replaced

by the expression "malos tratos", which was much vaguer, there was a risk of opening the door to abuses. In paragraph 2 of the same article, he considered it would be better to retain the order of the words adopted, namely, "remedy" coming first and "protection" second. So far as the Spanish-speaking delegations were concerned, the protection referred to in the paragraph was that granted by the courts when remedy was sought.

6. As for paragraph 2 of article 9, he saw no point in the changes suggested. The amendments to paragraph 3 were not acceptable to the Spanish-speaking delegations. In fact, the word "incitar" expressed a concept much more precise than "promover"; and incitement to discrimination was a punishable offence, whereas promotion was not. Furthermore, the expression "basados en" was clearer and more precise than the expression "por motivos de".

7. Finally, the first change proposed in article 10, which consisted in substituting the word "harán" for the words "tienen el deber de hacer" in the Spanish text, did not satisfy the Spanish-speaking delegations.

8. Mr. ALONSO OLEA (Spain) agreed with the Mexican representative's remarks, and stated the objections of the Spanish delegation to the proposed amendments to paragraph 3 of article 9. The word "promover" had no precise legal meaning; consequently, the bodies to which the paragraph referred, when implementing the terms of the Declaration, would have to give that word the meaning which it had in ordinary Spanish parlance. According to the dictionaries which the Spanish delegation had consulted, the meaning was "to start, to initiate and to encourage"; no precise action was involved and consequently there could be no punishment. On the other hand, the verb "incitar", which meant actively urging someone to do something, implied a specific action.

9. Like the Mexican delegation, the Spanish delegation preferred the words "basados en" to the words "por motivos de", which were much weaker.

10. He pointed out that, if the amendments to paragraph 3 of article 9 were approved, the Spanish-speaking delegations would be faced with a text fundamentally different from that which they had adopted. In that case they would be obliged to reconsider their position in regard to the draft Declaration as a whole.

11. Mrs. REFSLUND THOMSEN (Denmark), Rapporteur, stressed that the drafting changes (A/C.3/L.1142) were submitted solely as suggestions.

12. As for paragraph 3 of article 9, the Secretariat and the Rapporteur had used the Russian version of that paragraph as a basis. The Russian word translated into Spanish by "promover" signified both "to promote" and "to encourage". Consequently a choice had had to be made, in the Spanish text, between "fomentar" and

"promover". It was essential that the different language versions of the draft Declaration should be as close to each other as possible.

13. The CHAIRMAN said there was no doubt that the changes suggested by the Rapporteur were designed to harmonize the versions in the various languages. However, as the representatives of Mexico and Spain had pointed out, some of them modified the Spanish text. He therefore suggested that, if no Spanish-speaking delegation objected, it would be understood that paragraph 3 of article 9, as it appeared in document A/C.3/L.1131, would be the authentic text for those delegations, when the vote was taken.

14. Mr. ALONSO OLEA (Spain) emphasized that, although the Spanish-speaking delegations had some objections to make concerning the text submitted in document A/C.3/L.1142, they none the less extended their very sincere congratulations to the Rapporteur, who had done most valuable work.

15. Mr. GHORBAL (United Arab Republic), did not agree with the representative of Mexico concerning the proposed amendment to paragraph 2 of article 7, an amendment which was suggested in all languages. Protection should be mentioned before remedy, for everyone should be able to rely on the protection of the law; it was thanks to such protection that the victim of discrimination would be able to institute proceedings before a court. Furthermore, it was self-evident that the exercise of the remedy implied the protection of the victim against a repetition of the discrimination which he had suffered.

16. He pointed out that the order which he recommended was in accordance with that adopted in the Universal Declaration of Human Rights. Article 7 of the Universal Declaration stated that "All are equal before the law and are entitled without any discrimination to equal protection of the law", and article 8 stated that "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law".

17. He reserved the right to speak again later in order to make any comments he thought necessary.

18. Mrs. DICK (United States of America) said that, if it were accepted that the text of paragraph 3 of article 9, as it appeared in document A/C.3/L.1131, would be the authentic version for the Spanish-speaking delegations when the vote was taken, the Spanish version of that text and the Russian and English versions would not have the same meaning.

19. Mrs. RAMAHOLIMIHASO (Madagascar) considered that the Rapporteur and the language experts of the Secretariat had done painstaking and extremely constructive work. The drafting changes proposed (A/C.3/L.1142) gave to the text the flexibility and perfection which the articles adopted by the Committee had lacked. She agreed especially with the Rapporteur's suggestions concerning the first, second, seventh, ninth, eleventh and thirteenth preambular paragraphs as well as that concerning article 3.

20. The only point on which she desired clarification was the amendment to paragraph 1 of article 2 in the French text. She did not see why the word "groupe" should be deleted when it appeared in the article's paragraph 2.

21. Furthermore, she recalled that, after the Committee had adopted article 10, several delegations had

observed that the text of that article was not well balanced. The first sentence provided that the United Nations, the specialized agencies, States and non-governmental organizations should do all in their power to abolish discrimination, whereas the second sentence provided for a study of the causes of discrimination. But it was obvious that discrimination must be studied before appropriate measures were envisaged. Furthermore, such study should be a compulsory stage and not an optional one, as the present text suggested. The Malagasy delegation had understood that the Rapporteur would restore the logical sequence of ideas. If the correction promised were not made, the Malagasy delegation would formally propose a text restoring the order preferred by many delegations.

22. Finally, on the question of the title to be given to the draft declaration, she recalled that General Assembly resolution 1780 (XVII), which had been the origin of the draft's preparation and for which incidentally the Third Committee had been responsible, spoke of "a draft declaration on the elimination of all forms of racial discrimination". Moreover the twelfth preambular paragraph of the draft stressed the necessity of speedily eliminating racial discrimination, and article 8 spoke of steps to be taken with a view to eliminating racial discrimination. Again, she considered that a title like "Draft Declaration against All Forms of Racial Discrimination" would suggest a statement of purely negative principles. It would also suggest that it was solely a question of a declared campaign against discrimination, whereas the draft Declaration had a higher objective—the elimination of discrimination. Combating discrimination was only a first step in the action which should be undertaken, as was clearly brought out, for instance, in the second sentence of article 10. Finally, the notion of aggressiveness contained in the word "against" was not compatible with the solemn character normally assumed by a declaration.

23. The CHAIRMAN observed to the representative of the United Arab Republic that the protection to which he referred, in connexion with article 7, was the protection by the State, in the broad sense, already mentioned in paragraph 1 of that article. It was not to be confused with the strictly legal concept, attached in Spanish legal terminology to the word "amparo", which was always associated with the word "recurso" and which designated a judicial procedure.

24. With regard to the United States representative's remarks concerning paragraph 3 of article 9, the Spanish word "promover", though having the same origin as the English word "promote", had lost strength in Spanish; "incitar" was therefore a more accurate translation, in Spanish, of the word "promote".

25. Mr. SOLODOVNIKOV (Union of Soviet Socialist Republics) said that the Committee had already adopted, separately, every article of the draft Declaration. His delegation had thought it reasonable to allow the Rapporteur time to study the texts in the different working languages, in order to bring them into line with each other; and she had worked hard to do so, in co-operation with the delegations and the language services of the Secretariat. However, the text as a whole must now be adopted and the essential requirement was that each of the texts, in its final form, should conform to the spirit of the provisions which had been adopted previously. That was the case with the Russian text, and he believed that the same

could be said for the English and French texts. If the Spanish-speaking delegations considered that the changes proposed by the Rapporteur altered the spirit of the text for which they had already voted, all they had to do was revert to that text.

26. While supporting the position of the Malagasy delegation concerning the title of the draft Declaration, he was surprised that that delegation should suggest changing article 10, which had already been adopted by the Committee.

27. The CHAIRMAN informed the representative of Madagascar that it was too late to submit amendments to the text of the draft Declaration and that her proposal regarding article 10, if a formal one, would have to be put forward in plenary meeting, when the text was submitted to the General Assembly.

28. Mr. COMBAL (France) thanked the Rapporteur and the language services for their suggestions, most of which improved the French text considerably. However, two of them affected the substance of the draft; first, the word "nationale" in the second paragraph of the preamble had not appeared in the original text on which the French delegation had voted; second, the last phrase of article 8 was the result of an amendment submitted in French by Tunisia (A/C.3/L.1072), so that there was no reason to replace the words "ainsi que" by the word "et" in the penultimate line.

29. The CHAIRMAN pointed out that the word "national" had appeared in the English and Spanish texts of the second paragraph of the preamble, and had therefore been adopted by those delegations which had voted for one or other of those texts.

30. Mrs. REFSLUND THOMSEN (Denmark), Rapporteur, informed the representative of Madagascar that she had not intended to delete the word "groupe" in paragraph 1 of article 2; it was owing to a typing error that the word had been included in brackets with the word "aucun".

31. She and the language services had endeavoured, in all objectivity, to bring into line as far as possible, texts which, owing to the large number of amendments put before the Committee, had sometimes contained substantial differences. That was why, for example, she had added the word "nationale" in the second paragraph of the preamble of the French text.

32. Miss TABBARA (Lebanon), supported by Mr. KABBANI (Syria), endorsed the Malagasy delegation's proposal concerning article 10. It would be recalled that, after the voting on article 10 and on the various amendments to it, the representative of the United Arab Republic, supported by other delegations, had pointed out that the order in which the measures specified in that article had been listed was illogical, and that it would be better to study the causes of discrimination before recommending measures to eliminate it. Several delegations had said at the time that they would like the Rapporteur to adjust the text accordingly. She personally considered that it was a mere question of adjustment which did not necessarily call for a vote. Nevertheless, she would, if necessary, resign herself to proposing such an amendment at the plenary meeting.

33. Mr. LAMANI (Albania) said that he had asked for the floor earlier, in order to oppose deletion of the word "groupe" in paragraph 1 of article 2, and that he had taken note of the correction made by the Rapporteur.

34. Mrs. VILLGRATTNER (Austria) congratulated the Rapporteur on having accomplished her task so well, a task that was particularly difficult since a common denominator between the different languages did not always exist. The Mexican representative's remarks regarding the second change suggested for the Spanish text of paragraph 1 of article 2 applied equally to the English text, which she would prefer to remain in the form adopted as a result of the amendment submitted by her own delegation and that of Nigeria (A/C.3/L.1074).

35. Mr. COMBAL (France) said that, in view of the difficulties mentioned by the Chairman, his delegation would not press for deletion of the word "nationale" in the second paragraph of the preamble, even though it had not adopted that word in the course of the vote. On the other hand, it insisted that the last phrase of article 8 should be kept as adopted, as the result of an amendment submitted in French.

36. Mr. GHORBAL (United Arab Republic) observed that, apart from purely linguistic differences, the text of the draft Declaration still contained certain illogicalities, which it would be wise to repair if such an important declaration was to compare favourably with the other instruments already adopted by the United Nations. The proposal of the representative of Madagascar, for example, would improve the text. Similarly, in article 4 the word "shall" was used in the first sentence of the English text, whereas the word "should" was used twice in the second sentence; in order for the article to be coherent, the latter word should be replaced, the second time, by "shall".

37. Amendments of that nature would improve the form of the text without changing its substance, and it would seem better to resolve such questions immediately, through consultations within the Committee, rather than to adopt a text on which the debate might have to be reopened in plenary meeting. However, he would not oppose the Committee's wish, if it preferred to adopt the text in its present form.

38. Mr. PISANI MASSAMORMILE (Italy) said that he found himself in a somewhat difficult situation, since his delegation necessarily had to make a translation from one of the working languages. In paragraph 3 of article 9, for instance, the English and French texts expressed two ideas—"promote" and "incite"—whereas the Spanish text expressed only one, by using the single verb "incitar".

39. Mr. BARODY (Saudi Arabia), speaking on a point of order, expressed the fear that the Committee, by engaging in a discussion of semantics, would prolong its debates excessively. He himself found the English text acceptable, if sometimes clumsy, and neither the other English-speaking delegations, nor the Chinese-, nor Russian-speaking delegations had raised any objections. He therefore proposed formally that the Committee should proceed to vote on the draft Declaration, it being understood that, in accordance with normal practice, the Spanish- and French-speaking delegations would iron out, with the Rapporteur, any differences between their texts and the English text before the draft Declaration was transmitted to the General Assembly.

40. The CHAIRMAN said that he shared the feelings of the Saudi Arabian representative but, before ruling on the latter's proposal, would like to give the floor to other representatives using the various working languages.

41. Mr. HUANG (China) thanked the Rapporteur for having suggested amendments which constituted a general improvement to the text and also improved the Chinese translation which he had prepared in consultation with the Secretariat's language services.

42. Mr. MORENO SALCEDO (Philippines), while recognizing the merit of the amendments suggested by the Rapporteur, whose task had been very difficult, feared that, in certain cases, they did not accurately reflect the spirit of the provisions already adopted by the Committee. For example, the proposed amendment to paragraph 2 of article 7 would change the actual meaning of the article. Paragraph 1 postulated the general protection which was the subject of the entire draft Declaration, whereas paragraph 2 postulated the protection to which everyone had a right through recourse to tribunals. He himself thought that the Committee should aim essentially at preserving, in the final text, the meaning of the decisions it had already taken.

43. Mr. BECK (Hungary) who was in the same position as the Italian delegation, and spoke all the working languages except Chinese, said that apparent differences of form did not necessarily involve differences of substance: words of the same origin could express different ideas in two different languages. Such was the position, for instance, as the Chairman had pointed out, with the English word "promote" and the Spanish word "promover". In the particular case in question, the word "incitar" seemed to him to correspond exactly to the words used in the Russian, French and English texts.

44. The CHAIRMAN said that the Committee could now proceed to the vote, as the Saudi Arabian representative had proposed. He explained that all the Rapporteur's suggestions (A/C.3/L.1142) which had not given rise to objections should be regarded as incorporated in the text of the draft.

45. Mr. FINGER (United States of America) said he would like to know exactly which text the Committee was going to vote upon: there was a considerable difference between the English version of article 9, paragraph 3, which contained the word "promote", and the Spanish version already adopted, which contained the verb "incitar". It was very regrettable that the Russian original had not been correctly translated into Spanish and that, in the vote on article 9, the Spanish-speaking delegations should have voted on a text which was out of line with the French and English versions. In any case, in the interests of propriety, steps should be taken to harmonize the four versions of the draft before a vote was taken.

46. Mrs. REFSLUND THOMSEN (Denmark), Rapporteur, asked the Chairman what would happen to those suggestions, in document A/C.3/L.1142, which had given rise to objections: would they be purely and simply disregarded?

47. The CHAIRMAN replied that, on all points on which the Rapporteur's suggestions had given rise to objections, the initial text (A/C.3/L.1131) should be reverted to.

48. Mr. SHERVANI (India) wondered which of the Rapporteur's suggestions should be regarded as having given rise to objections. He suggested that the Committee should take a separate decision with regard to each of the suggestions in question.

49. The CHAIRMAN pointed out that the Rapporteur's suggestions differed for each of the four language versions of the draft and that it was impossible, for example, to ask the Spanish-, Russian-, and English-speaking delegations to vote on a change which affected only the French text.

50. Mr. Antonio BELAUNDE (Peru), referring to the Spanish translation of article 9, paragraph 3, said that there was in Spanish a word which accurately conveyed the idea expressed in English by "to promote" and in French by "encourager"—the verb "fomentar".

51. The CHAIRMAN expressed astonishment that the Peruvian representative should have made such a suggestion at so late a stage, and that the Spanish-speaking delegations should not have reached agreement in advance on the text recommended by them. He appealed to all representatives not to delay any further the adoption of a text which the whole world was impatiently awaiting. The very reputation of the Third Committee was at stake.

52. Mr. MELOVSKI (Yugoslavia) suggested that the Secretary should indicate to the Committee those of the Rapporteur's suggestions which had not given rise to objections; thereafter the Committee could proceed to the vote. With regard to article 9, paragraph 3, there seemed to be no objection to the Spanish version containing the word "incitar", if that was the word most acceptable to the delegations concerned.

53. Mr. GELDERS (Belgium) suggested that the vote be deferred until the 1245th meeting. In order to facilitate the work, the Chairman could ask the Committee, paragraph by paragraph and article by article, whether it accepted the Rapporteur's suggestions.

54. The SECRETARY expressed readiness to tell the Committee which of the Rapporteur's suggestions had given rise to reservations and which had encountered no objection. The suggestions concerning the four language versions of the preamble and article 1 had met with no criticism. The suggestion concerning the English version of article 2, paragraph 1 had given rise to reservations which also applied to the Spanish version; the other suggestions in regard to the Spanish version, unlike the change affecting the French text, had also been criticized. In the case of article 3, the only change suggested had to do with the French text, and had encountered no objection. In article 4, the suggestion affecting the Spanish version had given rise to criticism. In article 5, neither the suggestion concerning the French text nor that concerning the Spanish text had met with objection. In the case of article 7, criticism had been voiced in regard to the suggested amendment to the Spanish version of paragraph 1, and to the suggested amendments to paragraph 2 in all languages. In the case of article 8, the suggestion concerning the English version had encountered no objection; nor, it appeared, had the suggested amendments to the French text, except in the case of the second. In article 9, only the suggestion concerning the Spanish text of paragraph 1 had given rise to no criticism. As for article 10, neither the suggestion concerning the English text, nor that in regard to the Russian text, nor the suggestions concerning the Spanish text (except for the first) had given rise to any objections. In the case of article 11, neither the suggestion affecting the Spanish text, nor that concerning the French text, had encountered objection.

The meeting rose at 1.15 p.m.