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CONTENTS

Chairman: Mrs. Mara RADIĆ (Yugoslavia).

AGENDA ITEM 60

Question of the punishment of war criminals and of persons who have committed crimes against humanity (continued) (A/6703 and Corr.1, chap. XII, sect. VIII; A/6813, E/4322, chap. III; E/CN.4/928)

GENERAL DEBATE (continued)

1. Mr. KANKONDE (Democratic Republic of the Congo) paid a tribute to the members of the Commission on Human Rights for the remarkable work they had done in preparing the preliminary draft convention now under consideration and said that the problem of the punishment of war criminals and persons who had committed crimes against humanity was one of capital importance for his delegation, because such crimes were an obvious violation of man's fundamental rights and an outrage to human dignity. Declarations of rights adopted at the national level had today been supplemented by international instruments: apart from the Universal Declaration of Human Rights adopted by the United Nations in 1948, mention should be made of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which did not merely list rights but provided for machinery to ensure their protection. He hoped that that example would be followed by other States. The fundamental freedoms guaranteeing the safety of the human person were the subject of title II of his country's Constitution, articles 6 and 7 of which condemned, inter alia, torture and slavery. His delegation therefore welcomed with enthusiasm the principle of the non-applicability of statutory limitation to war crimes and rimes against humanity, because it considered that if it was accepted by all States, it would facilitate international relations in the field of human rights, particularly with regard to the extradition of certain criminals who found asylum in foreign countries where they were able to avoid prosecution.

2. While accepting the definition of war crimes and crimes against humanity as given in the Charter of the Nürnberg International Military Tribunal, to which reference was made in article I of the preliminary draft convention (E/CN.4/928), he would like to see a reference in the preamble of the convention to all the other crimes committed in the developing countries by mercenaries in the pay of imperialists and colonialists, because their deeds were clearly a form of aggression and a disguised war of conquest, as was shown by what was taking place at present in the Democratic Republic of the Congo.

3. Although his delegation was in favour of adopting a convention on the punishment of war criminals and persons who had committed crimes against humanity, the adoption of such a convention would entail a considerable change in its legislation, both constitutional and penal. Under article 8 of the Congolese Constitution, "no one may be prosecuted for an action or omission which does not constitute an offence at the time when it was committed and at the time of prosecution". Furthermore, the Congolese penal code stated that there were no offences other than those provided for by law and that the other penalties that could be imposed were those provided for by law at the time of the commission of the offence. In addition, Congolese penal law provided for statutory limitation, both with regard to prosecution of the offender and to enforcement of the penalty. He did not consider, however, that that difficulty was an insurmountable obstacle for his delegation because, under article 68 of the Congolese Constitution, "regularly ratified or approved international treaties or agreements have an authority greater than the law as soon as they are published". Thus, if the convention was adopted, its ratification by the Congolese Government would automatically entail the amendment of Congolese law. In conclusion, he repeated his conviction that the criminal liability of all war criminals and persons who had committed crimes against humanity should be internationally recognized.

4. Mr. BAHNEV (Bulgaria) said that the punishment of war criminals and persons who had committed crimes against humanity was one of the fundamental principles of post-war international legislation. The Moscow Declaration of 1943 and the Agreement for the establishment of an International Military Tribunal signed in London in 1945 had made it clear that the signatory Powers were acting on behalf of the United Nations as a whole. But the principle of the punishment of war criminals was not just a matter of fundamental concern to the peace-hungry society of the post-war period. It also had significance today, because nothing could wipe out the memory of the monstrous crimes committed by Hitlerism. After the Bulgarian people had gained power in 1944, they had imposed punishment for the war crimes committed with the complicity of the monarchist fascist dic-

tatorship. But the question of the punishment of war criminals also arose today, because there were not merely a few individuals, but some thousands of criminals who were still hiding in far-off lands and in the Federal Republic of Germany. The Bulgarian delegation was disturbed, and with reason, by the revanchist policy of the Bonn Government and the renaissance of the neo-nazi party in the Federal Republic. It had learned with indignation in November 1964 that the Bonn Government had decided to apply statutory limitation to nazi war crimes. East Germany, by contrast, had always stated that such crimes were not subject to statutory limitation.

5. He was convinced of the need to adopt a convention on the non-applicability of statutory limitation to war crimes in order to prevent new crimes, a need which was all the greater because the modern world was torn by war and dominated by the atomic threat. In resolution 1158 (XLI) the Economic and Social Council had urged all States to take "any measures necessary to prevent the application of statutory limitation to war crimes and crimes against humanity". The Committee's task was thus very simple and essentially a technical one: it had to adopt a convention which was of the nature of a declaration and brought together principles that already existed in international law. Statutory limitation with respect to war crimes did not exist in Bulgaria, nor in the legislation of many countries, as shown in the study "Question of the non-applicability of statutory limitation to war crimes and crimes against humanity" (E/CN.4/906, para. 63) submitted by the Secretary-General. Although statutory limitation was known in the domestic law of many countries, it had always been very controversial, and in some countries applied to some crimes but not others. All international documents dealing with international criminal law, moreover, pass over the question of the non-applicability of statutory limitation in silence. He considered that international law should give particular attention to the punishment of war criminals and persons who had committed crimes against humanity because of the odious nature of those crimes and the danger for society if they were repeated. He stated that no moral considerations could justify the application of statutory limitation to such crimes, citing the opinion of Colombia reproduced in the study by the Secretary-General (E/CN.4/906, para. 72) to the effect that there was "no valid justification for limitation of time or any other limitation in the case of crimes of this kind, since they are criminal acts which violate Christian morality, the customs of civilized peoples, international justice and the legal conscience of mankind". His delegation shared that view and found it outrageous that anyone should propose to pardon such odious crimes. What should be done, on the contrary, was to take all necessary measures to confirm a principle which already existed in international law. The preliminary draft convention seemed to him to provide a very good basis for discussion. He would, however, have some reservations to make about the escape clauses, to which he would return at a later stage.

Mr. Nettel (Austria), Vice-Chairman, took the Chair.

6. Mr. CIASULLO (Uruguay) said that he intended merely to state the general position of his delegation on the basic legal problems raised by the preliminary draft convention before the Committee, i.e. on the non-applicability of statutory limitation to war crimes and crimes against humanity and on the retroactivity of the relevant laws. The texts on which the draft convention was based were the 1945 Agreement establishing the Nürnberg International Military Tribunal and the Charter of the Tribunal, Law No. 10 of the Control Council for Germany, the Charter of the International Military Tribunal for the Far East, the Convention on the Prevention and Punishment of the Crime of Genocide and the relevant resolutions of the General Assembly. Reference should also be made, among the sources of the convention, to the studies of the International Law Commission codifying the principles of international law set forth in the Charter and judgement of the Nürnberg Tribunal, which stated, inter alia, that international law imposed duties on individuals, who could not shelter behind their national law, and that persons guilty of crimes recognized as such by international law were subject to the penalties provided for in international law. Those studies thus supported the supremacy of international law over domestic law in that field.

7. Moreover, the International Law Commission had defined those crimes and undertaken the study of a draft international criminal code, consideration of which had been postponed in 1954 by General Assembly resolution 897 (IX) pending the adoption of a definition of aggression. The study of the question of an international criminal jurisdiction and that of a draft code of offences against the peace and security of mankind had been postponed for the same reasons in 1954 and 1957 respectively. The question under consideration was related to many complex problems and should be examined from a legal standpoint.

8. His delegation was in favour of developing the notion of crimes under international law, but it felt that the question was a very broad one the legal and political implications of which should be studied first: in particular, the principle of non-retroactivity, and the principle of the non-applicability of statutory limitation, which the draft convention was intended to confirm, warranted a thorough study. It would, however, be necessary to adopt a much broader view and take account of the underlying causes of war, which constituted a crime in itself; he noted in that connexion that under the provisions of the United Nations Charter the international community was responsible for preventing resort to force.

9. The item before the Committee had its origin in the horrors of the Second World War. It should be remembered, however, that Hitler had benefited from the complicity of the great Powers, which had tolerated the rearming of the Third Reich and the pogroms, and had even concluded pacts with Nazi Germany although the latter had been guilty of flagrant violations of the most sacred human rights. The Federal Republic of Germany was now suffering the consequences of that inertia, and his delegation wished to refute certain accusations made against Germany and the German people. That country had done everything it could to punish all the Nazi war criminals, but in many cases it had had to contend with the ill-

will of certain Governments, which had allowed a number of criminals to escape punishment. Twenty years after the events in question, the German people wished to forget the past; they wanted to live in peace and be associated with the activities of the international community. It was the duty of other States to encourage the efforts of the Federal Republic of Germany and to conclude the peace treaty which would permit that State to take its place in the concert of nations. The tragic past of the German people was still remembered, but their virtues should also be recognized, and they deserved praise for their liberal legislation, their democratic organization and their desire to live in peace.

10. The task of drafting a convention on war crimes should be approached with all calmness and objectivity, without rancour or any spirit of revenge and with the will to build a better future, so that human beings, freed from persecution and protected by the international conventions, could enjoy in peace, all the freedoms to which they were entitled, safe from hunger, poverty and unemployment, as also from tyranny, and could dedicate themselves to higher tasks. The international community must assume that obligation, which was one of the essential conditions of peace.

11. His delegation could not accept the principle of the retroactivity of a rule of international law, however grave the crime committed, for it was deeply attached to the technico-juridical principle of legality; in other words, it considered that the stability of codes of law should be guaranteed, particularly in the field of criminal law. It also condemned the principle of retroactivity for humanitarian, philosophical and moral reasons, and it stressed the value of pardon and forgiveness. Man was largely the reflection of his economic and social environment, and factories and schools should be built before prisons.

12. Under Uruguayan legislation, statutory limitation could be applied to all crimes, the period of limitation depending on the severity of the punishment. He recognized, however, that in the present instance, since international law prevailed over domestic law, war crimes and crimes against humanity could be excluded from the range of applicability of the rules regarding statutory limitation, or at least that the periods of limitation could be prolonged in the case of such crimes. However that might be, Uruguay could never impose the death penalty on war criminals or persons guilty of crimes against humanity. His country had always taken a consistent stand on that point during the study of any relevant international convention. His delegation considered that after crimes under international law had been defined, the rules governing the accusation, trial and punishment of the criminals by an international body should be formulated. The agenda item should therefore be considered in all its aspects by the Sixth Committee, and it should be taken up again by the International Law Commission, which should envisage the codification of international criminal law into a system with its own trial procedures, and make provision for the establishment of an international criminal court to judge offences under international law; in that connexion, he observed that very flexible rules for the extradition of the accused would have to be adopted.

13. Lady GAITSKELL (United Kingdom) recalled that two years earlier, when the Committee had been considering the report of the Economic and Social Council her delegation had welcomed the initiative of the Polish delegation in putting the question of the punishment of war crimes and crimes aginst humanity before the Commission on Human Rights. Her delegation still held that position and felt that there was a good case for the international community's taking action in that particular field of human rights.

14. As her Government had explained in its reply to the Secretary-General's questionnaire, there was no prescription or statute of limitation under the criminal law of the United Kingdom which would preclude persons from being tried for war crimes or crimes against humanity because of the date on which the crime was committed (E/CN.4/927/Add.2, para. 14). Some States, however, were not in that same position. If the proposed convention was to be generally acceptable it must take into account the legal systems of the different countries. Her delegation understood the objections of those States under whose legislation the period of limitation had already expired and which considered that to re-open proceedings in respect of crimes the time-limit for the prosecution of which expired would be to offend against the principle of non-retroactivity recognized in their criminal law. It would be dangerous, as the representative of Cyprus had stated, to violate existing recognized principles of law in drawing up a convention. She was therefore in favour of the proposal on that subject which the Greek delegation had made in the Commission on Human Rights (see E/4322, para. 155) and which it had now put before the Committee (1515th meeting). Some delegations had argued that the convention should not include any reservations clauses, such as those appearing in article VIII in the Secretary-General's preliminary draft. That, however, would not solve the problem, for an instrument which included no reservations clause would, in practice, allow States Parties the possibility of making reservations. Moreover, if some States made reservations on the grounds of the principle of non-retroactivity, objections might be raised by other States Parties, which would not fail to insist that such reservations were incompatible with the purpose of the convention and which might cite in that connexion the advisory opinion of the International Court of Justice concerning reservations to the Convention on the Prevention and Punishment of the Crime of Genocide.[1/] Uncertainty as to the extent of the obligation of each State under the convention would result, and disputes would arise between reserving and objecting States. Unless therefore, the Committee solved that problem, the convention would simply serve to increase rather than reduce the possibility of enmity and friction between States. It was with a view to avoiding that danger that her delegation favoured the Greek amendment.

15. Turning to the various texts which the Committee had before it, she observed that so far the discussion had concerned mainly the Secretary-General's preliminary draft, but that the report of the Working

[1/] Reservations to the Convention on Genocide, Advisory Opinion: I.C.J. Reports 1951, p. 15.

Group of the Commission on Human Rights (E/4322, para. 155) contained revised versions of certain articles. The Committee thus had a choice between various proposals. She found the preamble to the Secretary-General's preliminary draft acceptable. Her Government had voted in favour of all the resolutions enumerated in the first two paragraphs of the preamble and it had, of course, been a party to the London Agreement of 1945, under which the Nürnberg International Military Tribunal had been set up. It was not an exaggeration to state, in the third paragraph of the preamble, that war crimes and crimes against humanity were "among the gravest crimes in international law". As to articles II and III, she preferred the drafts produced by the Working Group of the Commission on Human Rights. Article I seemed to her to be satisfactory. The definition of war crimes proposed in article II, paragraph 1, on the other hand, was inprecise. Since the alternatives proposed so far would oblige the Committee to choose between either a vague formulation or a detailed enumeration, she would prefer the version submitted by the United States to the Working Group. The definition of crimes against humanity proposed in article 11, paragraph 2, also seemed to her too vague, for the expression "inhuman acts" could be interpreted in any number of ways. She would therefore prefer a detailed enumeration such as that proposed by the United States. For article II, paragraph 3, the wording submitted by the Working Group seemed to her acceptable.

16. Speaking more generally, she said she shared the Saudi Arabian representative's views on the subject of war, and agreed with him that crimes against humanity need not follow in the wake only of the vanquished. Those who did not profess pacifism could only try to provide the best safeguards for humanity against the crimes committed in its name.

17. She deplored the unconstructive attacks made by certain delegation against other States during the debate, which should not be turned into an East-West propaganda battle. Raking up the past could not help the Committee in its work. Noting the particularly harsh things that had been said by the representative of the Byelorussian SSR against the Government of the Federal Republic of Germany, which was not represented in the Committee, she observed that it would be easy for her, too, to criticzie the attitude adopted by several countries towards nazism and fascism, particularly in the years 1939 and 1940. She preferred, however, to refrain, and would merely express the deepest sympathy for the terrible sufferings undergone by all the peoples of Europe during the last war. While she was certainly disturbed by the revival of nazism and fascism, she considered that a democratic society must tolerate all political views, even those of totalitarian parties on the extreme right or on the extreme left. She for her part was convinced that the democratic forces of West Germany were strong enough to resist the challenge of any resurgence of nazism.

18. Mr. MAMIMOUE (Congo, Brazzaville) observed that the agenda item had been considered by the Commission on Human Rights and the Economic and Social Council, and had been the subject of a study by the Secretary-General; recalling Council resolution 1158 (XLI), he expressed gratification that the Committee had documents before it on which a fruitful discussion could be based.

19. The keystone of international security was clearly the prohibition of war. While the law of war had formerly constituted the essential part of international law, present international law tended to prevent war rather than to regulate it, for war had become a crime which must be punished or, better still, prevented. War could be considered from the sociological, philosophical, ethical, political, military or historical points of view, for it was germane to all. But the aim should rather be to efface war from the memory of men, who must settle international disputes peacefully, in a way that was not detrimental to international peace and security, or to justice.

20. Any act that endangered international peace and security be penalized, and all war criminals and persons guilty of crimes against humanity must be punished, as had been done by the Nürnberg International Military Tribunal, and as would have to be done in future. All States should take the necessary steps to ensure that such criminals were apprehended. The Congolese delegation considered that homicide, offences against the physical integrity of the person and the destruction of property on a large scale should be regarded as international offences under the Geneva Conventions of 1949 for the protection of war victims, and that they should be punished, wherever they had been committed. The same applied to crimes against humanity, such as genocide, which were crimes under the ordinary law perpetrated on a large scale and from political or racial motives.

21. It was painful to recall the atrocities committed during the two world wars, and his delegation thought that the punishment of the criminals should be so exemplary as to prevent the commission of the same crimes by others. Moreover, such punishment was for Germany a legal obligation arising from, among other things, the Potsdam Agreements of 2 August 1945. The Congolese Government regarded the application of international law on the subject as one of its essential tasks. It considered, moreover, that there could be no statutory limitation in the case of war crimes and crimes against humanity, and it thought that the punishment of such crimes was an international legal obligation on a par with the prohibition of aggression. Respect for that obligation could not be left to the discretion of individual States, especially former aggressor States. It was for that reason that all peace-loving States should, as required by Economic and Social Council resolution 1074 D (XXXIX), see to it that criminals of war were punished. In that respect, the preliminary draft submitted to the Committee seemed generally satisfactory. If peace was to be assured in future, a clear and precise Convention should be prepared.

22. Humanity must henceforth reject war and, in keeping with the trend of history, use the funds so far devoted to armaments for the purposes of peaceful development. As Pope Paul VI had said, an urgent task had to be accomplished; the peace of the world and the progress of mankind were at stake, and all

men and all peoples must shoulder their responsibilities.

23. Mr. OZGUR (Cyprus) said he would like to reply to the statement made at the preceding meeting by the representative of the Ukrainian Socialist Soviet Republic. She had started from the assumption that the draft convention under consideration should be adopted in order to confirm the principle of the non-applicability of statutory limitation to war crimes and crimes against humanity. In her view, it was logical that limitation should not apply to such crimes, since domestic law itself recognized exceptions to the rules of limitation, and since the nature and gravity of of the crimes justified exceptionable treatment. With reference to those two affirmations, he would point out that the crimes to which the rules of limitation were not applicable under domestic law were very precisely defined. They were therefore publicly known to be not subject to the principle of limitation, even before the criminal act had been committed; and in that respect they were radically different from the crimes committed during the Second World War. There had indeed been no precise definition of those crimes in international law at the time when they were committed, nor had there been any provision relating to the applicability or non-applicability of the rules of statutory limitation. The absence of any reference to that in international law was regarded by some as proof of the existence of the principle of non-applicability in international law. In his opinion, that was not the case, for international law was not yet as developed as domestic law, and it was to the characteristics and weaknesses of international law that its silence on that point was due. His own views on the validity and usefulness of the rules of limitation had already been stated.

24. The Ukrainian SSR representative had also said that the lapse of time could not diminish the gravity of such crimes, which meant that they could be neither forgiven nor forgotten for the sake of humanitarian principles. He wondered from what viewpoint the Committee was supposed to approach those problems. The question under study certainly had a large number of legal aspects, and it should be considered from the legal point of view.

25. While the principle of statutory limitation was well established in domestic criminal law, the non-applicability of statutory limitation to war crimes and crimes against humanity, on the other hand, did not constitute an established principle of international law. It was true that new principles which would apply to future crimes could always be adopted in international law, provided the crimes were clearly defined, but such principles could not have any retroactive effect. However that might be, the convention would not be effective unless the United Nations completed certain work that had been left pending, such as the definition of aggression, the preparation of a code offences against the peace and security of mankind, the establishment of an international criminal jurisdiction and the conclusion of an international treaty on extradition.

26. The Ukrainian SSR representative had touched upon the subject of the retroactivity of laws. After recalling that that problem had been dealt with in the statement he had made at the preceding meeting, he observed that the London Agreement on 8 August 1945, which had empowered the Nürnberg International Military Tribunal to judge the war criminals, had implicitly recognized the principle of the retroactivity of the relevant laws. It had in fact established, on the one hand, the principle of individual criminal responsibility for violations of international law committed by acts of State (at the time when those violations had taken place, only the principle of collective criminal responsibility had been recognized) and, on the other hand, the principle of individual criminal responsibility for acts which, at the time when they were committed, had not been regarded as violations of the rules of existing international law but only as violations of the rules of morality. That had been denied, on the grounds that the principle of individual criminal responsibility had already been established by the Briand-Kellogg Pact. The Nürn-Tribunal had referred to various international agreements in attempting to prove that an illegal war was an international crime within the meaning of the Pact. He pointed out, however, that other military tribunals prior to Nürnberg had rendered their judgement on the basis of positive national criminal law, i.e. on the law of States which had incorporated in their own criminal law the provisions of The Hague Convention of 1907 respecting the laws and customs of war on land. Before the Nürnberg Trial and the London Agreement, no system of national criminal law had prohibited resort to war, and, of course, no military tribunal had ever judged persons for resorting to an internationally illegal war. Resort to war was necessarily the act of a State, and international law did not recognize the responsibility of individuals for illegal resort to war. It should also be noted that no treaty, either pre-war or post-war, had ever defined the legal bases of aggression, and that there was no satisfactory definition of aggression at the present time. He said the above explanation was also addressed to the United States representative, who had spoken of the desirability of establishing the principle of the non-applicability of statutory limitation to war crimes, and of not going into the definition of such crimes. However that might be, any over-hasty condemnation of aggression as such must be avoided, and it should be remembered, too, that not every war of defence was legal. Thus, under the Briand-Kellogg Pact, any State could legally resort to war against a State Party which had violated the Pact by going to war against any of the States Parties to the PACT. Under the Pact, therefore, a State Party could go to war with another State, even if that other State had not attacked it. In those circumstances, it was the aggression that was legal and not the reply to it. Other examples could be quoted from the peace-keeping operations of the Security Council.

27. In paragraph 22 of the Secretary-General's study (E/CN.4/906), it was stated that the Charter of the Nürnberg Tribunal had been the expression of international law existing at the time of its creation. He noted with regret that that document attempted to justify the opinion of the Tribunal, and he was sorry that it did not constitute an exhaustive statement of all the arguments on both sides. He was surprised that it went so far as to challenge the principle of nullum

crimen sine lege, and he noted that while in paragraphs 123, 125 and 126, it contained several quotations of those who were opposed to that principle, it mentioned not a single one of those who were in favour.

28. Since the Bulgarian representative had quoted paragraph 63 of the Secretary-General's study (E/CN.4/906), he observed that the paragraph was drafted in such general terms as to be of very little use to the reader. He wondered, for example, what could be meant by the phrase "limitation... may be set aside", in sub-paragraph (a). The meaning of sub-paragraph (b) was distorted by the use of the word "apparently", which was out of place in a paragraph dealing with the situation that existed in various countries on the subject of limitation.

29. In conclusion, he expressed agreement with views stated by the delegation of Uruguay.

30. Mrs. DIRZHINSKAITE-PILYUSHENKO (Union of Soviet Socialist Republics), exercising her right of reply said that, in considering the question of war crimes and crimes against humanity, she had in mind not the ordinary criminal offences mentioned by the representatives of Cyprus and the United States, among others. The Nürnberg verdicts had clearly indicated that nazi crimes had been of a special nature and were unlike ordinary crimes in that they shared their characteristics but to a higher degree.

31. Certain delegations had said that the principle of international law leading to the punishment of the nazi criminals was not binding on particular States, being in contradiction with their domestic legislation. In point of fact, that principle was obligatory for all United Nations Member States, and was in line with Article 107 of the Charter.

32. It had been argued that war criminals could not be prosecuted under retroactive legislation. The Soviet Union delegation considered that the question of retroactivity should not arise, and that the nazi criminals were not relieved of their responsibility despite the efforts of the Federal Republic of Germany to absolve them.

33. The countries which had been victims of the nazi atrocities could not forget them. The Soviet Union had experienced tortures, mass extermination and unspeakable sufferings.

34. She could not understand how it was possible that two of the butchers guilty of the vilest atrocities could not be leading a most peaceful existence in the United States, of which they had become citizens. She was referring to the butchers Yankus and Impulyavichyus, who had been responsible for the extermination of masses of people. It was impossible to understand why the United States Government had felt it necessary to shelter from justice those Hitlerite butchers who had committed monstrous crimes.

35. The United Nations fundamental task was to save succeeding generations from the scourge of war, and to do so it should draw up a document prescribing condign punishment for such criminals so as to ensure that the crimes they had committed would never recur.

ESTABLISHMENT OF A JOINT WORKING GROUP OF THIRD AND SIXTH COMMITTEES

36. The CHAIRMAN informed the Committee that some of the delegations had requested a short suspension of the meeting so that the consultations of the composition of the Joint Working Group to prepare the text of the convention could be completed.

The meeting was suspended at 12.30 p.m. and resumed at 1 p.m.

Mrs. Mara Radić (Yugoslavia) resumed the Chair.

37. The CHAIRMAN recalled that because of the humanitarian nature of the question of the punishment of war criminals and of persons who had committed crimes against humanity, the General Assembly had referred it to the Third Committee but had also recommended, in view of the legal difficulties involved in forming the convention concerning the non-applicability of statutory limitation to war crimes and crimes against humanity, that the Chairmen of the Third and Sixth Committees should engage in consultations with a view to setting up a joint working group. The Chairmen of those Committees had had discussions with the representatives of all the regional groups, and in an endeavour not to follow or create any precedent regarding the geographical distribution of the members of the Joint Working Group, were proposing that the Third Committee designate Dahomey, France, Guinea, India, Lebanon, Mexico, the of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and the United States of America as members of the Joint Working Group.

It was so decided.

38. The CHAIRMAN explained that the Joint Working Group's terms of reference would be to prepare the draft convention on the non-applicability of statutory limitation to war crimes and crimes against humanity, taking into consideration the various documents transmitted to the General Assembly by the Economic and Social Council in its resolution 1220 (XLII), namely, the preliminary draft convention prepared by the Secretary-General (E/CN.4/928), the report of the Working Group established by the Commission on Human Rights at its twenty-third session (E/4322, para. 155), all the proposals submitted to the Commission (E/4322, paras. 151 and 157-165), and the records of the discussions of the Commission on the matter (E/CN.4/SR.919, 921, 931 and 933-935). The Joint Working Group would also take account of the general debate in the Third Committee at its 1514th to 1518th meeting, and would report to the Third Committee on 1 December 1967 at the latest.

39. Mrs. JIMENEZ MARTINEZ (Cuba), while approving the choice of Mexico as representative of the Latin American region, pointed out that her country was systematically excluded from the Latin American Group and had not been consulted.

40. Mrs. MANTZOULINOS (Greece), exercising her right of reply and referring to the previous meeting, said that the interference of the Ukrainian SSR delegation in the internal affairs of her country was intolerable.

41. Mrs. HARRIS (United States of America), replying to the Soviet Union representative, said that the United States immigration and naturalization services made thorough enquiries about persons who applied for United States citizenship. In the cases cited by the representative of the USSR, the United States Government was not informed of the accusations until many years after citizenship had been granted—in 1962 in one case and in 1964 in the other. The United States delegation was not in a position to express an opinion on those allegations, the truth of which had not been established. The United States deplored the atrocities committed during the Second World War, and she, for her part, was sorry that the Soviet Union delegation had undermined the spirit of co-operation so essential to the Third Committee if it was to succeed in adopting the convention.

The meeting rose at 1.10 p.m.

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