

40. His delegation felt that the Committee should continue its work on the draft Declaration, but it was in such a labyrinth it was hard to tell which document to use as a basis for its work. Why should it use the Netherlands document, which had been distributed only towards the end of September, in preference to the draft prepared by the Sub-Commission in 1964, which represented the collective efforts of 30 members over an entire year? How could the matter be resolved in such haste? He was amazed that the Danish representative should have gone so far as to suggest that the Committee should examine the Netherlands text article by article, without even holding a general debate. There had been no debate on the item since 1967. He was also amazed at the flexibility of the Italian delegation, which had abandoned its position as reflected in its reply to the Secretary-General in favour of using the Netherlands text. The original Italian suggestion, namely, that the articles should first be examined by the Commission on Human Rights, was the appropriate one.

41. The best way out of the prevailing confusion was to submit all three documents, including the Netherlands text, and all the comments and replies of Governments, to the Commission on Human Rights, in order that it might decide which document should be used as a basis for the preparation of the final version of the draft Declaration.

42. Mr. COSTA COUTO (Brazil) said his delegation hoped it would be possible to avoid a procedural debate, since that would be contrary to the decision

adopted at the previous session by the General Assembly. Resolution 3027 (XXVII), which had been adopted by an overwhelming majority, clearly stated that priority should be given to the elaboration of the draft Declaration. The Committee must follow that mandate.

43. The Netherlands proposal was a most interesting and helpful one. His delegation would have no objection to starting the discussion on the basis of the Netherlands text. However, since, as the Byelorussian representative had pointed out, it had been distributed only towards the end of September, and in view of the difficulties some delegations were having, he suggested that the Committee should avoid a procedural debate by proceeding with the texts that had been before it for years. The analytical presentation of the observations received from Governments, prepared by the Secretariat and distributed in document A/9135, would be very useful; it should be studied together with document A/9134/Add.1, since the comments contained in the latter were not included in the analysis.

44. His delegation sincerely hoped that it would be possible to have an appropriate instrument to commemorate the twenty-fifth anniversary of the Universal Declaration of Human Rights. The draft Declaration on the Elimination of All Forms of Religious Intolerance could not be considered the work of any one group of countries; it represented the mandate of 101 Member States.

The meeting rose at 12.55 p.m.

2007th meeting

Friday, 26 October 1973, at 10.50 a.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.2007

AGENDA ITEM 53

Elimination of all forms of racial discrimination (*continued*) (A/9003 and Corr.1, chaps. XXIII, sect. A.1 and A.2 and XXX, sect. B; A/9018, A/9094 and Corr.1 and Add.1 and 2, A/9095 and Add.1, A/9139, A/9177, A/C.3/L.2016, 2017, 2018/Rev.1, 2019/Rev.1, 2020-2026):

(b) Draft Convention on the Suppression and Punishment of the Crime of Apartheid (*continued*) (A/9003 and Corr.1, chaps. XXIII, sect. A.2, A/9095 and Add.1, A/C.3/L.2016, 2017, 2018/Rev.1, 2019/Rev.1, 2020-2026)

1. Mr. MARTINEZ ORDÓÑEZ (Honduras), introducing amendments (A/C.3/L.2026) to the draft Convention (A/9095, annex, and A/9095/Add.1), said that the delegations of Bolivia, Chile, Colombia, Costa Rica, Haiti and Paraguay wished to be added to the list of sponsors.

2. The sponsors were proposing the amendment to article III in order to safeguard the principle of diplomatic immunity. If article III was left as it stood, the phrase "representatives of the State" could be inter-

preted as including diplomatic representatives who were covered by other treaties to which some States parties to the Convention might also be parties. The sponsors had therefore thought it desirable to add an introductory phrase to the article which would make it clear that it was without prejudice to the commitments entered into by States in other international instruments.

3. The amendment to article X had been proposed in order to safeguard the long-standing tradition of asylum which was so dear to the Latin American nations. It was most important to guarantee the right of the country granting asylum to qualify the alleged offence and decide whether the accused should be protected. Such protection was granted only in cases where it was considered that a person had been accused because of his political views rather than because of acts he had committed. Of course it could never be argued that a crime of *lèse humanité* should be considered a political act whose perpetrator might benefit from the right of asylum; where accusations were politically motivated, however, the accused should be protected. The additional sentence which the sponsors were proposing was similar to the second paragraph of article VII of the Convention on the Prevention and Punishment of the

Crime of Genocide (General Assembly resolution 260 A (III), annex).

4. On behalf of the sponsors of the amendments, he appealed to the delegations which had sponsored the draft Convention to accept the amendments proposed in document A/C.3/L.2026, as that would solve a serious problem for the various Latin American States. His country would, in any case, vote in favour of the draft Convention.

5. Mr. IRARRAZAVAL (Chile) said his delegation was sponsoring the amendments introduced by the representative of Honduras because they would solve certain legal problems which might otherwise make it necessary for countries that had long opposed the crime of *apartheid* to abstain in the vote on certain articles. It would indeed be unfortunate if the draft Convention could not be adopted by a large majority because of legal conflicts between the text and the internal legislation of various States.

6. In addition to sponsoring those amendments, his delegation accepted most of the others that had been submitted in the hope that the draft Convention would receive the widest possible support. However, even if the amendments it favoured were not adopted, his delegation would vote in favour of the draft Convention because, despite its shortcomings, it represented a valuable instrument in the struggle against *apartheid*.

7. Miss PRODJOLALITO (Indonesia) said that although her delegation had not actively participated in the elaboration of the draft Convention, it strongly supported it and hoped that all States would adhere to it.

8. She had some reservations, however, with regard to article XI, which called for the settlement of certain disputes by the International Court of Justice. Her country could not accept the compulsory jurisdiction of the International Court. It therefore felt that the article should stipulate that disputes arising out of the interpretation, application or implementation of the Convention could be brought before the International Court of Justice only at the request of all States parties to the dispute. She had no objection to the remaining articles of the draft.

9. She would like to ask the representative of the Union of Soviet Socialist Republics for clarification regarding the implications of the phrase "to take such action under the Charter of the United Nations as it considers appropriate", in the amendment contained in document A/C.3/L.2019/Rev.1.

10. She fully supported draft resolution A/C.3/L.2022, which would enhance the significance to the draft Convention.

11. Mr. BAL (Mauritania) said that article III of the draft Convention was one of the most important provisions of the entire text. He was surprised at the amendment to that article sponsored by certain Latin American delegations (see A/C.3/L.2026). It was contrary to the whole spirit of General Assembly resolution 2646 (XXV), on the elimination of all forms of racial discrimination, and would greatly restrict the scope of the draft Convention. Paragraph 5 of that resolution condemned the activities of those States which, by political, economic and military collaboration with the racist régimes of southern Africa, enabled and encouraged those régimes to enforce and perpetuate their policy of *apartheid* and other forms of racial discrimination. If

the sponsors of the amendment in question did not clarify what commitments they were referring to, he would have to take it that they were commitments of a political or commercial nature. His delegation appealed to the sponsors to withdraw the amendment. If they did not, his delegation would ask for a recorded vote and would vote against it.

12. With regard to the amendment to article X submitted by the same delegations, he respected their views and understood their desire to water down the draft Convention. As he had said on repeated occasions, the African countries could always tell who their friends were when it came time to vote, particularly on amendments.

13. Mr. GAHUNGU (Burundi) introduced the amendment contained in document A/C.3/L.2024, which proposed the replacement of the eighth preambular paragraph of the draft Convention by a new text. The amendment was designed to clarify the concepts embodied in the paragraph, namely, that *apartheid* was a *sui generis* crime against humanity, particularly as practised by the South African régime, and that its intensification and expansion to other countries seriously threatened international peace and security.

14. Mr. BADAWI (Egypt) said some changes should be made in his delegation's amendment to article IV (A/C.3/L.2017). The words "suppress as well as" should be inserted between the words "necessary to" and "prevent", and the word "doctrines" should be replaced by the word "policies".

15. Mr. KHMIL (Ukrainian Soviet Socialist Republic) said he agreed with the views expressed by the representative of Mauritania concerning the amendment to article III submitted by certain Latin American countries in document A/C.3/L.2026. Unless the sponsors clearly specified which international commitments they were referring to, he could not vote for that amendment.

16. Mr. SMIRNOV (Union of Soviet Socialist Republics), referring to the request for clarification by the representative of Indonesia, explained that the new article proposed by his delegation was similar to article VIII of the Convention on the Prevention and Punishment of the Crime of Genocide. States could call upon the Special Committee on *Apartheid*, the Commission on Human Rights, or any other organ. If *apartheid* was to be characterized as a threat to international peace and security, there was a possibility that at some stage circumstances might make it necessary for the matter to be brought before the Security Council.

17. His delegation had no particular difficulty with the amendment to article X appearing in document A/C.3/L.2026, although it restricted the significance of the article on extradition. With regard to the amendment to article III in that document, however, his delegation agreed with the representative of Mauritania. He appealed to the sponsors not to press for the inclusion of that amendment.

18. Mr. GRAEFRAETH (German Democratic Republic), referring to the remarks made by the representative of Indonesia regarding article XI of the draft Convention, said that he did not interpret that article as providing for the compulsory jurisdiction of the International Court of Justice. The article provided that disputes should be brought before the Court "at the request of

the States parties to the dispute"; he understood that to mean the same thing as "all States parties". The article seemed to be in line with Article 36 of the Statute of the Court.

19. His delegation shared the difficulties encountered by others with regard to the amendment to article III in document A/C.3/L.2026. As to the amendment to article X, in the same document, he would like to ask the sponsors to include a reference to general international law such as appeared in other documents on asylum, specifically, in article 1, paragraph 2 of the Declaration on Territorial Asylum (see General Assembly resolution 2312 (XXII)). Such a provision would bring the article more closely into harmony with developments after 1948. He therefore suggested that the sentence should be amended to read: "... in accordance with their legislation, with general international law and with the treaties in force."

20. Mr. CHIRILA (Romania) said his delegation had consistently expressed the view that the Convention should be drafted in the most effective form possible. It reiterated its support for the draft Convention as it stood and wished to be included in the list of sponsors of draft resolution A/C.3/L.2022.

21. Mr. PETHERBRIDGE (Australia) said that the representative of the German Democratic Republic seemed to have misinterpreted the provisions of the Statute of the International Court of Justice in relation to article XI of the draft Convention. Article 36 of the Statute stated that the jurisdiction of the Court comprised all cases which the parties referred to it; that did not mean that disputes could be brought before the Court only at the request of all the parties involved.

22. Miss PRODJOLALITO (Indonesia) said she remained unconvinced by the explanations offered by the representative of the German Democratic Republic with regard to article XI.

23. Mr. MARTINEZ ORDOÑEZ (Honduras) said certain delegations had implied that the amendment to article III contained in document A/C.3/L.2026 was based on commercial considerations. Honduras did not engage in trade with South Africa and did not wish to do so as long as that country continued to apply the odious policy of *apartheid*. In Honduras and in most Latin American countries discrimination based on the colour of a person's skin was inconceivable.

24. The proposed amendment to article III was dictated primarily by the fact that the wording of that article seemed to imply that all representatives of States, including diplomatic representatives and members of parliament and Government, could be held criminally responsible for the crime of *apartheid*. As a signatory to the Vienna conventions on diplomatic and consular relations Honduras could not accept that provision, which also contradicted the provisions of the Honduran Constitution. The sponsors would be willing to withdraw their proposed amendment if the article in question could be reworded so as to make it clear that its provisions did not apply to diplomatic agents.

25. Mrs. WARZAZI (Morocco) proposed that the amendment to article X contained in document A/C.3/L.2026 should be reworded so as to conform exactly to the wording of article VII of the Convention on the Prevention and Punishment of the Crime of

Genocide: the words "in such cases" should be inserted immediately after the word "undertake".

26. She asked for an explanation of the meaning of the three dots after the words "empower the" in article IX.

27. The CHAIRMAN replied that the representative of the Soviet Union had proposed that the gap in question should be filled by the words "Commission on Human Rights".

28. Mr. MARTINEZ ORDOÑEZ (Honduras) said that the sponsors of the amendment in document A/C.3/L.2026 to article X would be prepared to add the words "in such cases", if that would solve the difficulties of certain delegations.

29. Mrs. MARICO (Mali) said her delegation was not entirely satisfied with the explanation offered by the representative of Honduras with regard to the proposed amendment to article III. That article stated that international criminal responsibility should apply to representatives of the State. The words "representatives of the State" meant representatives of the Government in South Africa who were responsible for the policy of *apartheid*. If an exception was made in respect of those individuals, the very foundation of article III would be destroyed. Her delegation could accept the proposed amendment only if the words "except for the Vienna Conventions" were inserted after the word "instruments". Her delegation would abstain in the vote on the amendment to article X proposed in document A/C.3/L.2026.

30. Mr. ACAKPO (Dahomey) said that his delegation wished to become a sponsor of draft resolution A/C.3/L.2022. It hoped that the draft resolution would be adopted by an overwhelming majority, if not unanimously. The adoption of new legal instruments to combat *apartheid* was urgently required, since the continued suppression of the majority in South Africa could only lead to serious conflict.

31. Mr. AL-QAYSI (Iraq) pointed out that the amendment to the eighth preambular paragraph proposed by the representative of Burundi (A/C.3/L.2024) contained the words "*apartheid* in its policy of continued intensification and expansion", which did not make sense in view of the fact that *apartheid* itself was a policy. He therefore proposed that that phrase should be replaced by the words "the continued intensification and expansion of the policy of *apartheid*".

32. Mr. ACEMAH (Uganda), speaking on behalf of the delegation of Burundi, said the latter had revised the amendment in question to read "*Observing that the Security Council has emphasized that *apartheid*, its continued intensification and expansion, seriously disturbs and threatens international peace and security*".

33. Mr. VALTASAARI (Finland), speaking on behalf of the five Nordic countries, said he wished to make clear their views on the draft Convention before the vote. The Nordic Governments considered *apartheid* to be a particularly abhorrent form of racism and unique in the fact that it constituted the foundation of an entire social system. *Apartheid* was a threat to the sound development not only of southern Africa but of the world as a whole.

34. The Nordic Governments had consistently advocated continued and increasing pressure by the international community on those who practised *apartheid*. To

that end they had signed the International Convention on the Elimination of All Forms of Racial Discrimination, had implemented Security Council resolutions relating to the arms embargo against South Africa and the Territories under Portuguese domination and had supported Security Council decisions on sanctions against Southern Rhodesia. It was a deplorable fact that despite those resolutions and decisions the policy of *apartheid* was still being pursued. However, the Nordic Governments had reservations with regard to the adoption of an international legal instrument which would make *apartheid* subject to universal jurisdiction, and doubted whether any wide measure of support for such an instrument could be found in the international community. Indeed, the adoption of such an instrument would create an undesirable precedent. Accordingly, the delegations of the Nordic countries would abstain in the vote on the draft Convention. That position in no way altered the long-standing commitment of the Nordic countries to the struggle against *apartheid*.

35. Mr. SHEN (China), speaking in explanation of vote before the vote, said his delegation had consistently supported the peoples of Africa in their just struggle against imperialism and racism and in their efforts to achieve and safeguard national independence. Concrete and effective measures were urgently required to give effect to the many United Nations conventions and resolutions on racism and *apartheid* which had been adopted in the past.

36. The draft Convention under consideration was directed against racist rule in South Africa. Accordingly, his delegation would vote in favour of the draft as a whole. However, some of the articles of the draft had legal implications which required more detailed study by the Office of Legal Affairs. For that reason, his delegation would not take part in the vote on the individual articles of the draft and would state its views on them at the appropriate time and in the appropriate forum.

37. Mr. SÖYLEMEZ (Turkey) said the United Nations as a whole was united in its support for international measures to combat the evil of *apartheid*. As a matter of principle and policy, his delegation always supported such measures and would continue to do so in the future. As a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination, it unreservedly condemned *apartheid*.

38. His delegation felt that the Committee should have discussed the draft Convention in more detail before voting on it. Such a discussion would have helped clarify most of the legal difficulties in the draft and would have paved the way for its unanimous adoption.

39. The draft Convention constituted a new departure from traditional approaches to the matter. At the same time, it posed substantial legal and political problems for many countries, including his own, and some of its provisions inevitably ran counter to certain elements in national legal systems. Moreover, the broad scope of international criminal jurisdiction as envisaged in the draft posed new problems in international law. The concept of international criminal responsibility was a relatively unexplored one, and must evolve over a period of time.

40. His delegation would have preferred to see wider and more thorough consideration of the draft Convention, perhaps in a working group analogous to that set up by the Commission on Human Rights. Such a procedure, through the clarification of certain legal problems, would have been a contribution towards ensuring the success of the instrument. As it stood, the definition of the crime of *apartheid* in the draft Convention was open to widely varying interpretations. Furthermore, the provisions relating to the criminality of organizations and institutions appeared to run counter to the principle of and practice in respect of, criminal responsibility of their agents. The will of those agents constituted the criminal responsibility of such organizations and institutions while the agents were acting on their behalf.

41. The section dealing with territoriality appeared to be valid with specific exceptions. In connexion with the provisions relating to extradition, he recalled that his country's legal practice obliged the criminal courts to decide initially whether a case involved a political or an ordinary crime. Since, with regard to political crimes, the Government had discretion on matters of extradition, the automatic character of the article in the draft Convention posed legal problems for his country.

42. He suggested that the text should be referred to the Sixth Committee for examination from a purely legal point of view before it was submitted to the General Assembly.

43. His delegation would vote in favour of the Latin American amendments (A/C.3/L.2026) and all other amendments which had been submitted, with one exception. He would also vote in favour of the adoption of the draft Convention as a whole, but he wished to place on record his delegation's legal and political misgivings concerning certain articles.

44. Mr. ROUX (Belgium) said that, although his delegation was convinced that the fight against *apartheid* should be encouraged, it would, for legal reasons, abstain in the vote on the adoption of the draft Convention and on the draft resolution (A/C.3/L.2022). Firstly, the provisions relating to the principle of extraterritoriality were too broad, and could not be accepted by his delegation. Moreover, article III did not define adequately which persons would be subject to international criminal responsibility, and left the matter open to arbitrary interpretation.

45. In addition to those points, other elements in the draft Convention might well have benefited from examination by specialists, either—as proposed by the New Zealand delegation at the fifty-fourth session of the Economic and Social Council—by the International Law Commission, or by the Sixth Committee, as several members of the Commission on Human Rights had suggested at its twenty-eighth session and as the representative of Turkey had just proposed. In general, he wished to associate himself with the concern expressed by the representative of Turkey in his statement.

46. Mrs. CHIMOMBE (Lesotho) said that her country's position on *apartheid* had been set out by its Minister for Foreign Affairs during the general debate in the General Assembly (2137th plenary meeting). It was on the basis of that position that her delegation had voted in favour of General Assembly resolution 2923 (XXVII). Her Government had also acceded to the International Convention on the Elimination of All

Forms of Racial Discrimination, as had the Government of Botswana.

47. Her delegation and the delegation of Botswana would abstain in the vote on the adoption of the draft Convention, since their countries would find it difficult to implement some of the articles. At the same time, the two delegations reaffirmed their total rejection of the system of *apartheid*, and reiterated their solidarity with peoples subjected to *apartheid* and all forms of racial discrimination.

48. Mr. WIGGINS (United States of America) recalled that he had already explained the problems raised by the draft Convention in connexion with his country's legal system and with international law. He did not believe that the draft Convention constituted a significant addition to existing international instruments in the same general field: the International Convention on the Elimination of All Forms of Racial Discrimination effectively outlawed all forms of racial discrimination, and made a specific reference to *apartheid*. In addition, offences associated with *apartheid* were punishable under the terms of the Convention on genocide. Priority should be given to the implementation of previously adopted conventions.

49. The draft Convention, while considerably extending the scope of international jurisdiction, provided no effective implementation procedures and relied on the provisions of national legal systems. However, countries which wished to pursue the aims of the draft Convention could already do so under their own domestic laws—in the case of the United States, the Civil Rights Act entered into that category.

50. If the draft Convention had been merely redundant, it would have received his delegation's support in view of the obviously widely shared desire for further action to combat *apartheid*. Unfortunately, he felt that certain of its provisions could damage the structure of international law and even the constitutional structure of the United Nations itself.

51. In terms of international law, his country could not accept the draft Convention's assumption that *apartheid* constituted a crime against humanity. Such crimes were so grave that, at the current stage, their legal definition must be very strictly construed. He had already expressed concern at the problems that the considerable extension of international jurisdiction under the draft Convention would raise for common-law countries such as his own. He associated himself with the remarks of the representative of Turkey on that matter.

52. His delegation's difficulties in accepting the draft Convention would be increased by the inclusion of a reference to the Commission on Human Rights in article IX. That would raise the constitutional question of whether States parties to a convention could confer powers on an existing United Nations body. Furthermore, the Commission on Human Rights would, under article IX, be faced with a practical dilemma, since it would find itself in the difficult position of supervising the implementation of an instrument which most of its members had not acceded to and did not support.

53. Article XII provided for accession to the Convention by all States, but left vague the definition of "State". He felt that the original drafters of the Convention might have intended to leave open the possibil-

ity of accession to it by liberation movements; however, it was also possible that any insurgent movement might endeavour to obtain a measure of international recognition by acceding to the Convention.

54. His delegation was glad to note that, as a result of discussion, the number of ratifications required under article XIV had been increased to 20. That was the minimum number which should be required for an international instrument raising such broad problems. Unfortunately, however, his delegation would not be able to support the adoption of the draft Convention as a whole. Many members of the Third Committee were not lawyers and could not envisage the implications of the draft Convention; consequently, his delegation strongly endorsed the suggestion of the Turkish representative that the text should be referred to the Sixth Committee for consideration by legal experts.

55. Mr. CATO (Ghana) said that his delegation had noted with particular regret the position of the Nordic countries on the draft Convention. His country and others had always appreciated the genuine support the Nordic countries had provided to those struggling against the policies and practices of *apartheid* and the concrete assistance they had given to efforts to eliminate *apartheid*.

56. His delegation's support for the draft Convention was based on the view that nothing could be more appropriate than the adoption by the international community, in the year of the twenty-fifth anniversary of the Universal Declaration of Human Rights, of further strong measures which, with goodwill and support from all countries, could lead to the elimination of *apartheid*. South Africa's contempt for and ridicule of the international community, as manifested in its flagrant disregard of United Nations decisions, constituted a direct challenge which the Organization must meet. The adoption of the draft Convention provided it with an opportunity to do so.

57. He regretted the submission of the Latin American amendments (A/C.3/L.2026), which risked upsetting the tradition of solidarity between the peoples of Africa and Latin America. If accepted, those amendments might undermine the force of the entire Convention. He appealed to the sponsors to withdraw their amendment to article III: if they did so, his delegation would be able to support their amendment to article X.

58. Mrs. MAIR (Jamaica), noting that her delegation was a sponsor of the draft resolution before the Committee (A/C.3/L.2022), expressed the hope that the Committee would adopt the draft Convention on as wide a basis as possible. The fact that various bodies had considered such a convention to be necessary indicated that it had been very difficult to implement previous conventions, and also indicated the insidious ability of a crime such as *apartheid* to extend its influence outside the immediate area of southern Africa and corrupt the will of those who in principle sincerely condemned it.

59. Since it had become independent, her country had never encountered any problems in refusing to compromise with *apartheid* in any shape or form. The countries of the Caribbean region had relatively recently emerged from slavery, which did not differ in any great degree from the institution of *apartheid*.

60. She did not underestimate the complexities of developing an instrument of international law or the problems and misgivings expressed by a number of delegations. However, her delegation's legal advisers had assured her that the legal problems raised by the draft Convention were by no means insurmountable.

61. Her delegation wished to request a recorded vote on the draft Convention and the amendments to it.

62. Mrs. MOHAMMED (Nigeria) said that, while her delegation respected the views of those who found difficulty with specific provisions of the draft Convention, it could not understand objections to the principle of adopting a convention on the suppression and punishment of *apartheid*. The Commission on Human Rights¹ and the Special Committee on *Apartheid*² had approved the draft Convention. Her delegation appealed to members of the Third Committee to adopt the draft Convention with a view to eradicating the wicked and inhuman practices of *apartheid* and alleviating the suffering of

¹ See *Official Records of the Economic and Social Council, Fifty-fourth Session, Supplement No. 6*, chap. XX, resolution 16 (XXIX).

² See *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 22*, para. 124.

those under its yoke. Nigeria would vote in favour of its adoption.

63. Mr. PETROPOULOS (Greece) said that his country's traditions left no doubt as to its position on the question of *apartheid*. For example, Greece had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination, which contained a specific reference to *apartheid*. At the same time, his delegation was not convinced that a number of serious legal problems raised by the document had been overcome by the amendments submitted. It could not give unqualified approval to an international instrument which had not reached the point where it could command universal acceptance, and would consequently abstain in the vote on the draft Convention.

64. Mr. MOUSSA (Niger) expressed gratitude to all those who had contributed to improving the draft Convention. His country, which had suffered colonial domination, welcomed the Convention's broadness of scope and would vote in favour of its adoption.

The meeting rose at 12.55 p.m.

2008th meeting

Friday, 26 October 1973, at 3.10 p.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.2008

AGENDA ITEM 53

Elimination of all forms of racial discrimination (continued) (A/9003 and Corr.1, chaps. XXIII, sect. A.1 and A.2 and XXX, sect. B; A/9018, A/9094 and Corr.1 and Add.1 and 2, A/9095 and Add.1, A/9139, A/9177, A/C.3/L.2016, 2017, 2018/Rev.1, 2019/Rev.1, 2020-2026):

(b) Draft Convention on the Suppression and Punishment of the Crime of *Apartheid* (concluded) (A/9003 and Corr.1, chap. XXIII, sect. A.2, A/9095 and Add.1, A/C.3/L.2016, 2017, 2018/Rev.1, 2019/Rev.1, 2020-2026)

1. Mr. SMIRNOV (Union of Soviet Socialist Republics), explaining his vote in advance, said that the USSR was pleased to be one of the 33 sponsors of the draft Convention on the Suppression and Punishment of the Crime of *Apartheid* (A/9095, annex, and A/9095/Add.1), which it believed would have a decisive moral, political and legal influence in bringing about the elimination of that crime. His delegation was surprised at the unfounded misgivings expressed by some delegations, which had nevertheless refrained from making comments when they had had the opportunity to do so during the article-by-article consideration of the draft Convention. His delegation did not consider that the machinery provided for in the draft was complex or detrimental to the constitutional structures of United Nations organs. Moreover, if the draft Convention posed problems in connexion with the Constitution of a particular State, consideration should be given to mod-

ifying the constitutional structure of that State if progress was to be made in the struggle against *apartheid*.

2. The vote on the draft Convention and the related draft resolution (A/C.3/L.2022) would show which countries genuinely wished to combat *apartheid* and which countries were helping to perpetuate racism and racial discrimination in South Africa.

3. Mr. KABINGA (Zambia) said that Zambia was a sponsor of draft resolution A/C.3/L.2022 and would vote for the draft Convention and for all the amendments thereto, except for those contained in document A/C.3/L.2026, which in its opinion weakened the text. His delegation did not believe that the draft Convention posed legal problems, and it was convinced that the legal arguments adduced against the draft could ultimately be reduced to the national interests of a particular country and the way in which those interests were related to South Africa. In other words, those arguments were based on purely political considerations. Moreover, it was necessary to help to make international law more progressive, and his delegation found it regrettable that it was not possible to relate legal norms to justice. It should be reiterated that there was a marked parallel between nazism and *apartheid*, and it was surprising to find one Power affirming that, legally, *apartheid* was not a crime against humanity. He did not believe that legality could be divorced from reality. His country had therefore been extremely concerned about the reservations regarding the draft Convention which had been expressed at the previous meeting.

4. Miss FAROUK (Tunisia) said that her delegation considered that the draft Convention still required