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MEETING

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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.1133, A/C.3/L.1137 and Add.1, A/C.3/L.1138, A/C.3/L.1144-1145, A/C.3/L.1148) (continued)

ADOPTION OF THE DRAFT DECLARATION AS A WHOLE

1. The CHAIRMAN requested the Committee, before proceeding to vote on the text of the draft Declaration incorporating the Rapporteur's suggestions which had been accepted at the 1244th meeting (A/C.3/L.1148), to take a decision regarding the title. He suggested that the declaration should be entitled "United Nations Declaration on the Elimination of All Forms of Racial Discrimination".

It was so decided.

2. The CHAIRMAN put to the vote the draft Declaration as a whole (A/C.3/L.1148).

At the request of the Cuban representative, a vote was taken by roll-call.

Iceland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Jamaica, Japan, Jordan, Kuwait, Laos, Lebanon, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Tanganyika, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Algeria, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cambodia, Cameroon, Central African Republic,

Ceylon, Chad, Chile, China, Colombia, Congo (Leopoldville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Dominican Republic, Ecuador, El Salvador, Ethiopia, Gabon, Ghana, Guatemala, Guinea, Hungary.

Against: None.

Abstaining: Iceland, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Norway, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Canada, Denmark, Finland, France, Greece.

The draft Declaration as a whole (A/C.3/L.1148) was adopted by 89 votes to none, with 17 abstentions.

3. Mr. SHIELDS (Ireland) explained that his delegation had been prepared to support the draft Declaration as submitted to the Committee and also to accept such amendments as did not alter its spirit, disturb its balance or tend to deflect it from its objective. The great avalanche of amendments had threatened to nullify the painstaking efforts of the Commission on Human Rights and to create both substantive and technical difficulties. At the 1244th meeting, for instance, it had been found that article 9 was substantially different in the various language versions; it was unwise to adopt a document capable of being variously interpreted.

4. The people of his country had always abhorred racial discrimination as being fundamentally evil, since it attacked the very nature of man himself, and the Irish delegation in the United Nations had never failed to condemn such discrimination and all other violations of human rights, no matter where they were perpetrated. He therefore regretted that article 9 of the draft Declaration had been amended in such a way as to interfere with the freedoms of expression and association and thus make it impossible for him to support the draft Declaration as a whole. He did not believe that one human right should be safeguarded at the expense of others; nor did he think that provisions laying down formal obligations should be embodied in a declaration, which should affirm principles of universal application. Despite his inability to vote for the document, he fully recognized its great moral influence and value, an influence and value which would have been heightened had its language commanded the Committee's virtually unanimous support.

5. MISS LOPES (Portugal) said that the reproaches against Portugal made by some delegations were completely groundless. There was no racial discrimination whatever in her country, where all lived in harmony and exercised equal rights. In fact, Portugal could well be considered the pioneer in anti-racism, since it had been the first nation to enter into relations with coloured peoples without a trace of prejudice. The Portuguese had, indeed, incurred the displeasure of racists by freely mixing and marrying with persons of other races.

6. Her delegation had abstained in the votes on the fourth preambular paragraph and on articles 8 and 11 because references to General Assembly resolution 1514 (XV) did not fit into the general context of the draft Declaration. It had also been unable to support article 5, which was at variance with Article 2, paragraph 7 of the Charter of the United Nations, which prohibited intervention in the domestic affairs of States. It had abstained in the vote on article 9, not because of the substance but because of the wording. Its objections to those provisions, however, had not prevented the Portuguese delegation from voting in favour of the Declaration as a whole.

7. Mr. GOODHART (United Kingdom) reiterated his delegation's objection to article 9, paragraph 3 of the draft Declaration and expressed the hope that it could be improved at a later stage. His delegation regretted that it had had to abstain on the draft Declaration as a whole.

8. Mrs. KUME (Japan) said that her delegation had been faced with a dilemma: article 9 was not compatible with the Japanese Constitution, yet at the same time Japan was anxious to see racial discrimination eradicated. Since her delegation approved of the spirit and general principles of the draft Declaration and was aware that it was not binding on States, it had voted for the draft Declaration as a whole.

9. Mr. STEWART (Canada) remarked that he had abstained in the vote on the draft Declaration as a whole, after deciding that the final wording was not as well suited to its purposes as would be desirable in a document of such importance. He agreed with the Irish representative that the Committee should not accept different language versions that would permit differing interpretations. He hoped that, upon further consideration, the language of article 9, paragraph 3 could be brought closer to that employed by the Commission on Human Rights.

10. Mrs. DICK (United States of America) observed that her delegation had abstained on the draft Declaration as a whole for the reasons it had stated earlier in connexion with article 9. The acceptance of the second point of the Byelorussian sub-amendments (A/C.3/L.1128) had upset the carefully prepared compromise and raised a most serious problem for her delegation. The United States legal and constitutional system maintained a distinction between the mere expression of opinions and the expression of views likely to incite to crime or violence. The wisdom of that distinction had been borne out by history. The United States whole-heartedly supported the aims and principles of the draft Declaration, and she was confident that a way could still be found to permit the draft Declaration to receive the overwhelming acceptance it deserved from the General Assembly.

11. Mr. COMBAL (France) said that the Committee had from the start been unanimous on the fundamental objective sought, and he was convinced that its unanimity could have been reflected in the text of the draft Declaration. Had that been achieved, the document would have had a moral force putting it above controversy and making of it a lasting monument. He regretted the introduction of clauses raising needless problems. It was unnecessary to detract from the freedoms of opinion and association and to interfere with the domestic prerogatives and constitutional arrangements of States. It was likewise unnecessary to include provisions which belonged in a convention and not in a declaration, which should be an affirma-

tion of convictions and common desires. His delegation, which deeply opposed racial discrimination and had striven to obtain the best possible text of the draft Declaration, regretted that it had had to abstain on the document as a whole.

12. Mr. MOHAMED (Somalia) remarked that his country had always called for radical measures to combat racial discrimination, especially as practised in South Africa. He was sorry that countries to which his own had always looked as examples of democracy had not voted for the draft Declaration. Freedom of speech and association, if permitted to degenerate until it provoked social disturbances and impaired the rights of others, should be regarded as licence and punished as such. The dignity of man came before all other considerations.

13. Mr. MENENDEZ (Guatemala) stated that no problem of racial discrimination existed in his country, where the European settlers had from the start mixed with the native population. Fully conscious of the problem afflicting many other nations, however, his delegation had supported the draft Declaration and amendments strengthening and clarifying it. The declaration represented a historic step in the endeavour to rid the world of racial discrimination and ensure dignity for all.

14. Mrs. VILLGRATTNER (Austria) said that it was very difficult for the Austrian delegation to decide on the vote, because on one side Austria wished to further the principle of the draft Declaration by a positive vote, but on the other side the text, as it had been adopted by the Third Committee, had certain shortcomings. In view of the great merits of the draft Declaration and in order to promote the cause of elimination of discrimination throughout the world, the Austrian delegation had decided to vote for the draft Declaration as a whole. But as to article 9, paragraph 3, it must be stated with all due emphasis that Austria did fully recognize the principle of free speech and the freedom of association and could not accept the restriction of these rights by a United Nations resolution. Therefore the Austrian delegation did not feel happy about the words introduced into the text of article 9, paragraph 3, by the Byelorussian sub-amendment which had caused many other delegations preoccupation as to its compatibility with the fundamental rights of freedom of speech and freedom of association. That had also been the reason why the Austrian delegation had voted against the Byelorussian sub-amendment. The Austrian delegation would still very much welcome it, if a modification of the text of article 9, paragraph 3, could be agreed upon before the issue came to plenary session, in order to allow all those delegations, who saw a danger to freedom of speech in its present wording, to vote in favour of the draft Declaration at that stage.

15. Mr. SOLODOVNIKOV (Union of Soviet Socialist Republics) expressed his satisfaction at the adoption of the draft Declaration. The Committee had made an important contribution to the struggle of people everywhere against the propagation and cultivation of racial ideas. Racism and fascism, as his delegation had pointed out previously, were the aftermath of colonialism, and their prohibition would therefore also strike a blow at colonialism, apartheid and genocide. The draft Declaration would play a historic part in promoting the independence and fraternity of nations. It was a great collective effort of all Members and was based on many previous decisions by the United Nations.

16. He regretted that a document reflecting public opinion in most of the world did not commend itself to all Members, and in his view the position adopted by those who had not voted for the text conflicted with their obligations under the Charter. He could not accept the argument that the text had been badly drafted. In a vote of such historic importance, principles mattered more than details of style. In view of the fact that, in the preparation of the text, many concessions had been made to those delegations which had abstained in the final vote, it was perhaps not too much to hope that unanimous support would yet be forthcoming in plenary session.

17. The struggle against racial discrimination was not over. The United Nations should engage in a major propaganda effort: it should issue pamphlets and organize lectures to combat discrimination and should do its utmost to ensure the observance of the principles set forth in the draft Declaration. Perhaps the Secretary-General could report at the nineteenth session of the General Assembly on what had been done to that effect.

18. The French representative appeared to regard article 9, paragraph 3, as suitable for inclusion in the draft convention which the Committee was to prepare later. That suggestion merited support, and the USSR delegation would press the point when the Committee came to consider the convention.

19. Miss PEARCE (New Zealand) stated that her country fully supported the aims of the draft Declaration, which would be of great value in that it expressed the will of all Members to combat racial discrimination. The Polynesian and European peoples of New Zealand had come close in their own relationships to demonstrating that the standards the draft Declaration proclaimed were realistic and practical. However, the text adopted by the Committee was unfortunately less than perfect. Her delegation had reservations with regard to several articles and it largely shared the views of other delegations which had abstained. It was doubtful whether a proper balance had been struck between the different needs of Member States. Certain passages of the draft Declaration addressed themselves specifically to countries where a great deal remained to be done to eliminate discrimination, but were unsuited to those where the battle for discrimination had never needed to be fought or had been fought and won. Racial discrimination could be combated either by legislative measures to ensure that inequalities were removed or by legislation which declared that discrimination was against the law of the land. New Zealand had not had need to turn to the latter method. Her delegation would support any effort to amend the text of articles 4 and 9, which were deficient from the point of view of the situation which existed in New Zealand.

20. Mr. PISANI MASSAMORMILE (Italy) regretted that his delegation had found it necessary to abstain in the vote on the draft Declaration as a whole. The Italian Government and people abhorred all forms of racial discrimination as a crime against humanity, but, as the debates at the 1244th meeting had shown, there was no authentic text for many disputed passages. Different renderings in the various languages often concerned not only drafting, but substance, and he could not accept the suggestion that each delegation should vote on the text of its working language, particularly since some members of his own delegation used English, others French and yet others Spanish.

Italy had agreed on the desirability of strengthening the text prepared by the Commission on Human Rights, but the many good ideas that had been expressed in the debate should not be too hastily inserted into the draft Declaration, but instead proposed to a group of experts for the drafting of the convention about the elimination of all forms of discrimination, which the Italian delegation very eagerly anticipated.

21. Mr. GELDERS (Belgium) recalled that his delegation had already explained why it would have to abstain on the draft Declaration as a whole. Some amendments had radically changed the original text, which had been acceptable. More particularly, article 9, paragraph 3, in the form in which it had been adopted, conflicted with the Belgian Constitution.

22. Mr. ALONSO OLEA (Spain) said he had voted against the Byelorussian sub-amendment to article 9, paragraph 3. The word "incitar", however, which was used in the Spanish translation of that sub-amendment, did not carry any connotations making the passage incompatible with freedom of expression and hence with the Spanish Constitution. Moreover, paragraphs 1 and 2 of article 9 in no way conflicted with that freedom. Lastly, he had found it necessary to express his country's abhorrence of racial discrimination by supporting the draft Declaration as a whole.

23. Mr. SPYROPOULOS (Cyprus) explained that his delegation had voted in favour of the draft Declaration in order to give its support to a document of great value. It had abstained in the separate vote on article 9, and its reservations on that text were on record. The draft Declaration was not intended as a political, but as a legal document, valid for all time. As such, it should not reflect turbulent emotions of the current era. He hoped that the Committee's deliberations on it would serve as a guide when the convention came to be prepared.

24. Mrs. DEMBINSKA (Poland) thought that the draft Declaration would be an effective weapon in the struggle against discrimination. Some of the ideas incorporated in the original text had initially been voiced in the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in whose work her delegation had taken an active part. It was regrettable that some delegations had not seen fit to support by their vote the struggle against fascism, which was a form of racism.

25. Miss ADDISON (Ghana) regretted that the final vote on the draft Declaration had not been unanimous. It was also unfortunate that the texts on which the Committee had voted lent themselves to different interpretations in the various languages. The prolonged negotiations on the drafting of certain passages had been singularly fruitless, since some delegations had rigidly maintained their positions. Those who had abstained in the vote on the draft Declaration as a whole had claimed that they were protecting freedom of expression and association. Surely it was essential that such freedom should not be used as a weapon against other human freedoms. She hoped that the adoption of the draft Declaration would soon be followed by the preparation of a draft convention.

26. The CHAIRMAN said that he, too, regretted that some delegations had found it necessary to abstain in the final vote owing to constitutional difficulties. He strongly appealed for further efforts to amend the text, in order that it might command unanimous acceptance in plenary session.

DRAFT RESOLUTION CONCERNING PUBLICITY TO BE GIVEN TO THE UNITED NATIONS DECLARATION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

27. The CHAIRMAN invited the Committee to consider the ten-Power draft resolution on the publicity to be given to the declaration (A/C.3/L.1126/Rev.1) and the amendments thereto.

28. Mr. CUEVAS CANCINO (Mexico) emphasized that the amendments submitted by Argentina and Mexico (A/C.3/L.1138) were designed, not to weaken the ten-Power draft resolution, but to make it clear that the latter related solely to the publicity to be given to the declaration, and not to its implementation. Consequently, the draft resolution should not contain anything suggesting that obligations were being imposed on Member States; precedents for that approach could be found in General Assembly resolutions 217 (III) and 1386 (XIV). The words "hacer cuanto esté a su alcance" in the Spanish text of the first preambular paragraph of the draft resolution were stronger than the words "hacer cuanto les sea posible" in article 10 of the draft Declaration, on which the paragraph was based. Operative paragraphs 4 and 5 should simply request the Secretary-General to report to the General Assembly on the publicity that had been given to the Declaration, whereas the existing text might be interpreted to mean that he was to make special arrangements for considering violations of its provisions. His delegation trusted that that was not the intention, for previous action along those lines had not produced satisfactory results; no action had ever been taken, for instance, on complaints received under the terms of Economic and Social Council resolution 728 F (XXVIII). Operative paragraph 5 should be made quite clear, or it should be deleted.

29. He was happy to state that the United Kingdom had signified its intention of becoming a co-sponsor of the Argentine-Mexican amendments.

30. Mr. MORENO SALCEDO (Philippines) agreed with the Mexican representative that the draft resolution should be persuasive and not mandatory. He pointed out that the words "do all in their power" in the English text of the first preambular paragraph were taken from article 10 of the draft Declaration (A/C.3/L.1148). The preamble merely established the premises on which the operative part of the draft resolution was based; thus, the ten-Power text could not be said to constitute a command to Member States, and it conveyed a sense of urgency better than the vague language of the amendment.

31. Mr. CUEVAS CANCINO (Mexico) said that, where the first preambular paragraph was concerned, the sponsors of the amendment would have no objection to the language used in article 10.

22. Mr. SOLODOVNIKOV (Union of Soviet Socialist Republics) observed that the ten-Power draft resolution was entirely acceptable to his delegation. Although the Mexican representative had said that the amendments were not intended to weaken the text, they would in fact have that effect.

33. Mr. CAINE (Liberia) pointed out that the draft resolution had not yet been formally introduced by any of its sponsors. The idea had been to reproduce in operative paragraph 1 the terms of article 10 of the draft Declaration, but the exact wording of the latter had not been known when the draft resolution had been prepared. He believed that, if one of the sponsors was given the opportunity to introduce the draft resolution at the 1246th meeting, any doubts concerning its intention would be easily dispelled.

34. The CHAIRMAN suggested that the sponsors of the draft resolution and of the amendments might confer before the 1246th meeting with a view to producing, if possible, a revised text of the draft resolution incorporating the amendments.

The meeting rose at 5.50 p.m.