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CONTENTS

	Page
<i>Agenda item 58:</i>	
<i>Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued)</i>	
<i>Articles I to VII (continued)</i>	95

Chairman: Mr. Francisco CUEVAS CANCINO
(Mexico).

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (*continued*) (A/5803, chap. IX, sect. I; A/5921; E/3873, chap. II and annexes I and III; A/C.3/L.1208 to L.1212, L.1216 to L.1225, L.1226 and Corr.1, A/C.3/L.1228, L.1231 and Corr.1, A/C.3/L.1236 to L.1238)

ARTICLES I TO VII (continued)

1. Miss TABBARA (Lebanon), on behalf of the sponsors, introduced a compromise amendment to article I of the draft International Convention (A/5921 annex), sponsored by the delegations of Ghana, India, Lebanon, Mauritania, Morocco, Nigeria, Poland and Senegal (A/C.3/L.1238). The sponsors had used the words "national origin" in paragraph 1 rather than the words "place of origin" used in the first Indian amendment (A/C.3/L.1216) because the former expression had been used in the Universal Declaration of Human Rights and in some national constitutions and had a special meaning in some economic systems. The amendment made it clear that the Convention would not apply to non-citizens or effect legislation on nationality, citizenship or naturalization, provided that there was no discrimination against any particular nationality.

2. Lady GAITSKELL (United Kingdom), in explanation of her delegation's vote on the draft Convention and amendments thereto, said that the original text of the Convention was strong and clear and some of the amendments merely lengthened the text without strengthening it. For example, the second Brazilian amendment (A/C.3/L.1209) weakened the force of the Convention, whose articles already imposed upon States the obligation to discourage racial discrimination. She therefore appealed to the Brazilian representative to withdraw his delegation's amendment.

3. The third Polish amendment (A/C.3/L.1210) would oblige a State to adopt legislation prohibiting racial discrimination whether or not such legislation was necessary; but racial discrimination might persist even after the adoption of such legislation. The General

Assembly should not attempt to dictate to States, particularly since the nature and size of the problem varied from country to country. Her delegation would therefore oppose that amendment.

4. The phrase "and to discourage anything which tends to strengthen racial division" at the end of the fourth amendment submitted by Brazil, Colombia and Senegal (A/C.3/L.1217) was, in her view, too weak and too general, particularly when contrasted with the positive prohibitions and injunctions placed on Governments in other parts of the Convention; it would weaken rather than contribute to the force of the Convention.

5. Similarly, the new sub-paragraph 1 (d) of article II, proposed on the sixth of the Latin American amendments (A/C.3/L.1226 and Corr.1) only served to weaken the Convention; it almost implied that Governments were not going to observe the positive injunctions laid upon them elsewhere. Finally, she could see no difference of substance between the seventh Latin American amendment and the original text and hoped that the Committee would adopt the latter.

6. The CHAIRMAN said that the Committee would now proceed to vote on the draft articles at present before the Committee.

7. Miss TABBARA (Lebanon) suggested that explanations of vote on each article and on the amendments thereto should be made immediately before or after the voting on the article and amendments in question.

It was so agreed.

Article I

8. Mr. COMBAL (France) said that the text submitted in document A/C.3/L.1238 was entirely acceptable to his delegation and to that of the United States of America which therefore withdrew their own amendments (A/C.3/L.1212).

9. Mr. BELTRAMINO (Argentina) suggested that the meeting should be suspended in order to allow other sponsors to decide whether to withdraw their amendments to article I.

It was so agreed.

The meeting was suspended at 11 a.m. and resumed at 11.15 a.m.

10. The CHAIRMAN announced that the delegations of Poland and India, having co-sponsored the text contained in document A/C.3/L.1238, had withdrawn their own amendments to article I: the second amendment in document A/C.3/L.1210 and the first in document A/C.3/L.1216, respectively. Kuwait had become a sponsor of the new text.

11. Mr. K. C. PANT (India) added that his delegation had withdrawn its amendment on the understanding that the text contained in document A/C.3/L.1238 was intended to replace only paragraph 1 of the article.

12. Mrs. SEKANINOVA (Czechoslovakia) withdrew her delegation's first amendment (A/C.3/L.1220), Mr. LAMPTEY (Ghana) withdrew the six-Power amendment (A/C.3/L.1224) and Mr. BELTRAMINO (Argentina) withdrew the fifth Latin American amendment (A/C.3/L.1226 and Corr.1).

13. The CHAIRMAN said that he would first put to the vote, as a replacement for article I, paragraph 1, of the original text (A/5921, annex), the amendment contained in document A/C.3/L.1238. After article I, paragraph 1, had been disposed of, the Committee would vote on the oral amendments to article I, paragraph 2, proposed at the preceding meeting by the representatives of the Ivory Coast and India, and on the first amendment submitted by Mauritania, Nigeria and Uganda (A/C.3/L.1225).

14. Mr. BELTRAMINO (Argentina) suggested that, in the interest of uniformity in the text of the draft International Convention, an amendment to article I, paragraph 2, similar to the seventh Latin American amendment (A/C.3/L.1226 and Corr.1) to article II, paragraph 2, should be put to the vote.

15. Mr. K. C. PANT (India) recalled that his delegation had expressed its willingness to consider any proposal concerning article I, paragraph 2, which was consistent with the provisions of the Indian Constitution; however, his delegation would require time to study the suggestion just made by the representative of Argentina.

16. The CHAIRMAN said that, in his view, there was a basic difference between article I, paragraph 2, and article II, paragraph 2, in that the former set forth an exception to the definition of racial discrimination contained in article I, paragraph 1, while the latter imposed a specific obligation on States parties. If the sponsors of the seventh Latin American amendment wanted him to put that text to the vote as an amendment to article I, paragraph 2, he would do so, but he saw no incompatibility between that text, as it would read if the Indian amendment was adopted, and that of article II, paragraph 2, proposed by the Latin American countries.

17. Mr. BELTRAMINO (Argentina) said that, in order not to delay the Committee's work, his delegation would not press its suggestion; however, he felt that it might be desirable to have the text of the draft Convention, as eventually adopted, reviewed by a drafting committee for the purpose of eliminating any inconsistencies.

The amendment contained in document A/C.3/L.1238 was adopted unanimously.

18. The CHAIRMAN said that he would next put to the vote the Ivory Coast oral amendment proposing the deletion of article I, paragraph 2, of the original text.

19. Mrs. WARZAZI (Morocco) pointed out that, according to the wording of document A/C.3/L.1238,

the new text adopted by the Committee replaced the whole of article I.

20. The CHAIRMAN drew attention to the comment made by the representative of India in connexion with the withdrawal of his amendment, to which no objection had been raised, and said that he himself had been most careful to explain the order of voting on article I. He therefore considered that paragraph 1 had been replaced by the text contained in document A/C.3/L.1238, and that the Committee must now vote on paragraph 2 and the amendments thereto.

21. Mr. SANON (Upper Volta) and Mr. KEITA (Mali) said that, in view of the wording of document A/C.3/L.1238, the vote on article I should be considered completed and the Committee should proceed to vote on article II.

22. The CHAIRMAN pointed out that delegations which opposed the inclusion in article I of any provision other than those set out in document A/C.3/L.1238 could support the Ivory Coast proposal for the deletion of paragraph 2.

The Ivory Coast oral amendment to article I, paragraph 2, of the original text was rejected by 52 votes to 14, with 20 abstentions.

The Indian oral amendment to article I, paragraph 2, of the original text was adopted by 34 votes to 20, with 36 abstentions.

Article I, paragraph 2, of the original text as a whole, as amended, was adopted by 67 votes to 10, with 15 abstentions.

Article I, as a whole, as amended, was adopted by 89 votes to none, with 8 abstentions.

23. Miss AGUTA (Nigeria) said that she had voted in favour of the article as a whole but against paragraph 2 (new paragraph 4). That paragraph as amended was much weaker than the original text, because it would leave it to the authorities which might be responsible for racial oppression to decide whether or not special measures were necessary.

24. Lady GAITSKELL (United Kingdom) said that she had voted in favour of the article as a whole because it probably represented the best attainable compromise on the different wordings proposed. The word "nationality" was obviously interpreted in different ways in different countries; her delegation understood the word "nationality" as used at the end of the new text (A/C.3/L.1238) which now replaced the original paragraph 1, to mean persons of a particular national origin.

25. Mrs. WARZAZI (Morocco) said that she considered paragraph 2 (new paragraph 4) to be superfluous since a virtually identical provision appeared in the more suitable context of article II. Desiring to avoid needless repetition of the same clause, she would vote against article II, paragraph 2.

26. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) said that his delegation would have preferred the original text of article I (A/5921, annex) with the square brackets removed, but had accepted the amended version in a spirit of compromise. It was most anxious that the articles of the Convention

should be adopted unanimously in order to secure the widest possible acceptance by States.

27. Miss KING (Jamaica) said that she had abstained in the vote on the Indian amendment, as she considered it less precise than the wording suggested by the representative of Nigeria. Despite her misgivings concerning the term "national origin" she had voted in favour of the compromise text (A/C.3/L.1238) replacing the original paragraph 1.

28. Mr. MACDONALD (Canada) said that he had voted in favour of article I because the text adopted made it clear that individuals could have a nationality on the basis of race as well as of citizenship. He welcomed the new clause (new paragraph 3) which had been proposed in document A/C.3/L.1238.

29. Mr. LAMPTEY (Ghana) said that he had abstained in the vote on the article as a whole, because he considered the first amendment submitted by Mauritania, Nigeria and Uganda (A/C.3/L.1225) preferable to the Indian amendment to the original paragraph 2. However, his abstention would not prejudice his attitude towards the Convention as a whole.

30. Mr. MUMBU (Democratic Republic of the Congo) said that although his delegation had originally opposed a reference to "national origin", it had nevertheless voted in favour of the compromise text; it had some reservations, however, concerning the last clause of that text (new paragraph 3). It had abstained in the vote on the article as a whole because the voting procedure had been somewhat confused and because of the adoption of the Indian amendment.

Article II

31. Mr. SAPOZHNIKOV (Ukrainian Soviet Socialist Republic) said that his delegation would vote in favour of the third Polish amendment (A/C.3/L.1210) because the original text implied, by the words "if necessary", that it would be left to States—including those that practised racial discrimination—to decide whether or not to take legislative measures against discrimination. The Polish amendment would greatly strengthen the text.

32. Miss TABBARA (Lebanon) said that she would vote in favour of the third amendment submitted by Brazil, Colombia and Senegal (A/C.3/L.1217), which expressed an idea that she hoped to see incorporated in both the preamble and the articles of the Convention. The second Brazilian amendment (A/C.3/L.1209) and the text proposed for a new sub-paragraph (d) by the Latin American countries in their sixth amendment (A/C.3/L.1226 and Corr.1) were basically the same. She considered them unnecessary, since they took a negative and weak approach to a matter which was dealt with positively and strongly in other provisions of the draft Convention. She would vote in favour of the sixth Latin American amendment concerning sub-paragraph (b), which was clear and precise, and she would support

an earlier suggestion that the amendment concerning sub-paragraph (c) should be limited to the deletion of the word "national". She would support the fourth amendment submitted by Brazil, Colombia and Senegal, the first Bulgarian amendment (A/C.3/L.1218), and the Indian delegation's oral amendment to article I, paragraph 2, of the original text, if it was reintroduced in connexion with article II, paragraph 2. She asked the Polish representative whether his delegation's third amendment (A/C.3/L.1210) would mean that in a country such as hers, where racial discrimination was not practised and where no distinction among citizens was allowed under the Constitution, special legislation against racial discrimination would have to be enacted.

33. Mr. RESICH (Poland) said that the object of his delegation's third amendment was to ensure that racial discrimination was prohibited by law in any State where it might exist. If such legislation already existed, there was no need for adoption of any new legislation.

34. Mr. BELTRAMINO (Argentina) said that on the sixth of the Latin American amendments (A/C.3/L.1226 and Corr.1) it had been proposed to delete the word "national" and add the words "of any kind" in article II, sub-paragraph 1 (c), in order to ensure that any organization, whether foreign or national, would be prosecuted for fomenting racial discrimination. However, since the words "of any kind" raised problems for some delegation, the sponsors would limit the amendment to the deletion of the word "national".

35. In reply to a question by Mr. KOCHMAN (Mauritania), the CHAIRMAN said that the rules of procedure imposed no limitations on the submission of oral sub-amendments. Under rule 131 of the rules of procedures, he was required to put to the vote first the amendment furthest removed in substance from the original proposal. In the case of article II, paragraph 2, that would be the Ethiopian and Indian oral amendment.

36. Mr. LEA PLAZA (Chile) said that his delegation would vote in favour of the third of the amendments submitted by Brazil, Colombia and Senegal (A/C.3/L.1217) because it was consistent with one of the fundamental principles of Chilean law. His delegation would vote against the third Polish amendment because it departed from the intent of the original provision. There might in fact be no need for new legislation because legislation already existed. His delegation would vote in favour of the sixth and seventh Latin American amendments, of which it was co-sponsor.

37. Mr. K. C. PANT (India), supported by Mr. ABDEL-HAMID (United Arab Republic), moved the adjournment of the meeting.

The motion was adopted

The meeting rose at 12.45 p.m.