



CONTENTS

	Page
<i>Agenda item 58:</i>	
<i>Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued)</i>	
<i>Articles II to VII (continued)</i>	99

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.1211, L.1216 to L.1223, L.1225, L.1226 and Corr.1, A/C.3/L.1228, L.1231 and Corr.1, A/C.3/L.1236, L.1237)

ARTICLES II TO VII (continued)

1. Mr. KHANACHET (Kuwait) said that the delegations of Argentina, Ethiopia, Ghana, Guinea, Kuwait, Lebanon, Mauritania, Nigeria and Uganda had met informally and had reached agreement on the text of article II, paragraph 2: they proposed that the text of the seventh sixteen-Power amendment (A/C.3/L.1226 and Corr.1) should be used, with certain changes in the first sentence which would henceforth read as follows: "States Parties shall, when the circumstances warrant this, take special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing to them the full and equal enjoyment of human rights and fundamental freedoms."
2. Mr. BELTRAMINO (Argentina) said he believed he could accept that compromise text on behalf of the sixteen Powers.
3. Mr. LAMPTEY (Ghana) recalled that some delegations had regarded the words "in the absence thereof" proposed in the third Polish amendment (A/C.3/L.1210) for article II, sub-paragraph 1 (c), as too peremptory. For that reason he had proposed the replacement of the words "if necessary" by the words "as required by circumstances".
4. Mr. RESICH (Poland) said he could not accept that wording but was willing for the Ghanaian amendment to be put to the vote before the Polish proposal.
5. Mr. SABEV (Bulgaria) said that he could accept the new text read out by the representative of Kuwait;

however, since several delegations had appeared to favour the first Bulgarian amendment (A/C.3/L.1218), which seemed a desirable amplification of the original text, he would like to see that amendment incorporated in the proposed new wording.

6. The first sentence of article II, paragraph 2, would then read as follows: "States Parties shall, when the circumstances warrant this, take, in the social, economic and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing to them the full and equal enjoyment of human rights and fundamental freedoms."

7. Mr. K. C. PANT (India) replying to the delegations that had asked him whether there was not a contradiction between the text of article II, paragraph 2, which had just been proposed and the Indian amendment to article I, paragraph 4 (former paragraph 2), adopted at the previous meeting, explained that article I defined racial discrimination. Paragraph 4 made an exception for cases where some States had taken steps to redress the injustices done in the past to a certain section of the people, by providing for special measures to secure their advancement, and thus bring about a levelling of the social order. Article II was of a mandatory nature. It called upon States which did not demonstrate the same goodwill to assist the less-favoured elements of their population in raising themselves to the level of the more developed groups. Article II gave States a certain amount of latitude, since it stated that the measures in question were to be taken "when the circumstances warrant this".

8. His delegation fully shared the view of the African and Latin American delegations that the text of the Convention should reflect the Committee's determination to ensure the elimination of all forms of racial discrimination. In that spirit, his delegation endorsed the text read out by the Kuwaiti representative.

9. Mr. MOMMERSTEEG (Netherlands) said it was important not to lose sight of the fact that a convention was an international instrument containing strict norms which were designed to become part of the legislation of States. For that reason, a convention should have a more precise wording than a declaration and should contain no explanatory or repetitious phrases. Moreover, in order that the convention might be signed or ratified by the greatest possible number of States imbued with the same goodwill and the same intention of eliminating all forms of racial discrimination, it was necessary to draw up a simple text which did not lend itself to controversy, to cut out all digressions, and to avoid going too

far in strengthening the text or improving its style, for agreement on principles must not be compromised by over-preoccupation with form.

10. His delegation could accept the text adopted by the Commission on Human Rights. However, it would support the amendments submitted by Brazil, Colombia and Senegal (A/C.3/L.1217), since those amendments provided for positive measures likely to facilitate integration. The proposed sub-paragraph 1 (d) was of interest because it suggested means of promoting racial understanding. The last part of that paragraph weakened the text, however, and would be better deleted.

11. The new sub-paragraph 1 (b) proposed by Brazil on its second amendment (A/C.3/L.1209) seemed weak, coming after sub-paragraph 1 (a) in which each State undertook "to engage in no act of practice of racial discrimination". His delegation would therefore vote against the Brazilian amendment.

12. As to the sixth of the sixteen-Power amendments (A/C.3/L.1226 and Corr.1), he acknowledged that the replacement of the words "and other public" by the words "national and local" would bring the terms of sub-paragraph 1 (b) into harmony with those of sub-paragraph 1 (a). Nevertheless, the expression "other public policies" sufficed to cover all the policies to which sub-paragraph 1 (a) applied; for that reason his delegation would abstain from voting on that amendment.

13. For the same reasons as the Irish representative and given (1305th meeting), he would vote against the third Polish amendment. Moreover he considered that the new sub-paragraph 1 (d) proposed by the sixteen Powers in their sixth amendment weakened the text and was redundant.

14. The Bulgarian delegation was quite right to mention the social and economic fields in its amendment, but he was sorry it had omitted to mention the educational and cultural fields in which the deficiencies were greatest. His delegation would therefore stand by the original text.

15. Mr. MACDONALD (Canada) endorsed the opening remarks of the representative of the Netherlands. He wished to know whether it was the Polish delegation's intention that States should be required, under the terms of the amendment to sub-paragraph 1 (c), to adopt legislation to prohibit racial discrimination.

16. His delegation welcomed and would support the Ghanaian oral amendment, which took account of a number of objections.

17. Mr. BENITES (Ecuador) shared the Netherlands representative's view with regard to the scope of conventions and the need to adopt a precise wording. He would favour retaining the original text, which had been worked out with the utmost care by the Commission on Human Rights and by the Economic and Social Council. Nevertheless, he would support those amendments which improved the text.

18. The new sub-paragraph 1 (b) proposed by Brazil on its second amendment (A/C.3/L.1209) duplicated the contents of sub-paragraph 1 (c); furthermore it was desirable to maintain the logical sequence

of the text, which began by enumerating in sub-paragraphs 1 (a) and 1 (b) the measures that States should take, and which then enunciated in sub-paragraph 1 (c) the obligation to prohibit all racial discrimination. His delegation would vote in favour of the Ghanaian oral amendment to sub-paragraph 1 (c), which was more precise than the third Polish amendment. It enthusiastically welcomed the fourth amendment submitted by Brazil, Colombia and Senegal, which contained a positive idea, in contrast with the negative character of all the previous provisions. That amendment concerned measures calculated to promote integration, and its spirit was in keeping with the traditions of Latin America, where all multiracial societies were integrated. The last part of the proposed text, however, merely repeated in a less vigorous form what was said at the beginning, and would be better deleted. He would also vote in favour of the first Bulgarian amendment.

19. Mr. SPERDUTI (Italy) said that he too wished the Convention to be drawn up in such a form that States would be able to fulfil the obligations it imposed. He considered that certain amendments, although containing ideas to which his delegation subscribed, were out of place in article II. Thus it would be better, in order to preserve the harmony of the text, to insert the passage proposed by Brazil, Colombia and Senegal in their fourth amendment, not in article II which laid down prohibitions, but in article VII which defined certain positive aspects of the struggle against racial discrimination.

20. As to the second Brazilian amendment which called for the insertion of a new sub-paragraph (b), the Italian delegation considered that, if States undertook to prohibit certain activities, it was pointless to invite them, at the same time, not to encourage those activities; Italy would therefore vote against that amendment.

21. As to the sixth amendment of the sixteen Powers, he considered that the original text of sub-paragraph 1 (b) was wider in scope than the proposal to replace the words "and other public" by the words "national and local". On the other hand, he would give his full support to the proposal to replace the words "group or national organization" in sub-paragraph 1 (c) by the words "groups or organizations of any kind"; perhaps it would be sufficient, however, simply to delete the word "national".

22. After hearing the Indian representative's statement concerning article II, paragraph 2, the Italian delegation too was ready to accept the text which had been read out at the beginning of the meeting.

23. The third Polish amendment did not improve the original text. It was sufficient to lay down some general rules, and there was no need to make the adoption of special legislation compulsory. On the other hand, his delegation considered the Ghanaian oral amendment appropriate.

24. Miss TABBARA (Lebanon) expressed her agreement with the Netherlands representative's remarks and asked the Bulgarian representative to insert the word "cultural" in his amendment, which would then read: "In the social, economic, cultural and other fields".

25. Mr. SABEV (Bulgaria) accepted that change.

26. The CHAIRMAN invited the Committee to vote on article II.

Article II, paragraph 1

The third amendment of Brazil, Colombia and Senegal (A/C.3/L.1217) to the introductory sentence of article II, paragraph 1, was adopted by 85 votes to none, with 7 abstentions.

The introductory sentence of article II, paragraph 1, was adopted unanimously.

Sub-paragraph (a) was adopted unanimously.

New sub-paragraph (b)—second amendment of Brazil (A/C.3/L.1209)—was adopted by 47 votes to 2, with 39 abstentions.

The sixth sixteen-Power amendment (A/C.3/L.1226 and Corr.1) for the replacement of the words "and other public" by the words "national and local" in a new sub-paragraph (c) (former sub-paragraph (b)) was adopted by 56 votes to 2, with 34 abstentions.

New sub-paragraph (c), as amended, was adopted by 93 votes to none, with 2 abstentions.

The oral amendment by Ghana to replace the third Polish amendment (A/C.3/L.1210) by the words "as required by circumstances" was adopted by 73 votes to 1, with 15 abstentions.

27. The CHAIRMAN accordingly suggested that the third Polish amendment should not be put to the vote.

It was so decided.

The sixth sixteen-Power amendment (A/C.3/L.1226 and Corr.1) as orally revised, for the deletion of the word "national" in a new sub-paragraph (d) (former sub-paragraph (c)) was adopted by 81 votes to 1, with 11 abstentions.

New sub-paragraph (d) as amended, was adopted by 95 votes to none, with 1 abstention.

At the request of the representative of Venezuela, a separate vote was taken on the last part, beginning with the words "and to discourage...", of the fourth amendment of Brazil, Colombia and Senegal (A/C.3/L.1217).

The last part of the fourth amendment of Brazil, Colombia and Senegal (A/C.3/L.1217) was retained by 26 votes to 9, with 54 abstentions.

At the request of the representative of Colombia, a vote was taken by roll-call on the fourth amendment of Brazil, Colombia and Senegal (A/C.3/L.1217) for the addition of a new sub-paragraph (e).

The Ukrainian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic,

Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda.

Against: None.

Abstaining: Costa Rica, Haiti, Jamaica, Japan.

New sub-paragraph (e) was adopted by 97 votes to none, with 4 abstentions.

Article II, paragraph 2

The first amendment of Bulgaria (A/C.3/L.1218), as orally revised, was adopted by 76 votes to 1, with 15 abstentions.

The seventh sixteen-Power amendment (A/C.3/L.1226 and Corr.1), as presented by the representative of Kuwait, and orally revised, was adopted by 93 votes to none, with 1 abstention.

Article II, as a whole, as amended, was adopted unanimously.

28. Mr. SIDI BABA (Morocco) stated that his delegation had voted in favour of all the amendments to article II; he had particularly welcomed the amendments submitted by the Brazilian, Colombian and Senegalese representatives, especially the replacement of the word "frontières" by the word "barrières" in the French text.

29. Mr. REDONDO (Costa Rica) explained that his delegation had abstained from voting on new sub-paragraph (e), because it considered that the word "discourage" had no legal validity and only weakened the text. Notwithstanding that modification of the original text, he had not voted against the sub-paragraph and had merely abstained because he was aware of the vital importance of the instrument under consideration, which aimed at forbidding any activity likely to encourage racial discrimination.

30. Lady GAITSKELL (United Kingdom) said that she had voted against that sub-paragraph because, while understanding the considerations with which it was designed to deal, she considered that it was superfluous and only weakened the Convention. The word "discourage", in particular, was too weak and contrasted with the vigorous nature of the language used in article II, paragraph 1.

31. Mr. VERRET (Haiti) said that he had abstained from voting on new sub-paragraph (d) because the Haitian Government, though not opposed to the provision laid down in that text, could not accept the imposition on States of an obligation to adopt legislation which was not necessary in cases where, as in Haiti, racial discrimination did not exist in their territory.

32. Mr. TAYLOR (New Zealand) said that he had been unable to vote in favour of the new sub-paragraph (b) proposed by Brazil because other provisions of the Convention prescribed other measures conceived in the same spirit, so that the sub-paragraph in question was redundant and weakened the text. For the same reason, he had voted in favour of deleting the last phrase in the new sub-paragraph (e); on the other hand his delegation had voted in favour of the sub-paragraph as a whole because it contained an idea which positively strengthened the text.
33. Miss AGUTA (Nigeria) said she had abstained in the vote on new sub-paragraph (d) because of the undue length of the wording "as required by circumstances" which had replaced the original wording. Her delegation had considered the original version more satisfactory.
34. Mrs. VILLGRATNER (Austria) said that her delegation's vote had been prompted by a desire to make the draft Convention an instrument which, by virtue of its forceful, precise wording, would be truly binding on the States Parties.
35. Her delegation had abstained in the vote on the sixteen-Power amendment to the new sub-paragraph (c), since legislation having local application was not possible in her country.
36. It had also abstained in the vote on the new sub-paragraph (e), proposed by Brazil, Colombia and Senegal, since the problem of racial barriers did not exist in Austria.
37. Miss KING (Jamaica) said that her delegation, while it endorsed in principle the idea underlying the amendments of Brazil, Colombia and Senegal, had abstained in the vote on the new sub-paragraph (e), which, in its opinion, weakened the article as a whole.
38. Her delegation had felt compelled to vote against the Ghanaian delegation's sub-amendment to the third Polish amendment. The Committee should not lose sight of the fact that the Convention must make provision for the future; vigorous, precise language should be used in order to guard against all eventualities. Her delegation had therefore preferred the amendment in its original form but had voted for article II as a whole.
39. The CHAIRMAN invited the members of the Committee to proceed to article III, to which only one amendment had been proposed—the eighth amendment of the sixteen Powers (A/C.3/L.1226 and Corr.1)—replacing the words "subject to" by "under".
40. Mrs. VILLGRATNER (Austria) said that she would prefer the wording "within their jurisdiction" in the English text.
41. Mr. BELTRAMINO (Argentina) observed that that wording would not be satisfactory when translated into Spanish; it would therefore be preferable to retain the word "bajo".
42. Mr. MACDONALD (Canada) said that he was satisfied with the word "under", although the only advantage it had over the wording "subject to" in the original text was that it was a little more elegant.
43. Mr. COMBAL (France) said that he saw nothing to choose between the words "soumis à" and "placés sous" in the French text. He would prefer the words "relevant de".
44. Mr. SIDI BABA (Morocco) said that he also preferred "relevant de" to "placés sous", which called to mind a trusteeship arrangement.
45. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) said that he had no definite idea about the best way to translate into Russian the wording proposed in the amendment.
46. Mrs. MANTZOULINOS (Greece) said she thought it could be left to the Secretariat to decide on an accurate translation of the Spanish word proposed in the amendment.
47. Miss TABBARA (Lebanon) suggested that the Committee should take a decision directly on article III as a whole, without first voting on the eighth sixteen-Power amendment, which did not seem to give rise to any objections of substance.
48. The CHAIRMAN put to the vote article III of the draft Convention, as amended to include the eighth sixteen-Power amendment (A/C.3/L.1226 and Corr.1).
- Article III, as amended, was adopted unanimously.*
49. The CHAIRMAN invited the Committee to vote on article V of the draft Convention.
50. Mr. RESICH (Poland) expressed regret that the second Indian amendment (A/C.3/L.1216) omitted the reference in the original text of article V to the right of everyone to equality before the law. Moreover, since the enumeration following upon the introductory paragraph of article V was merely intended to illustrate that basic principle and was not meant to be complete, he would prefer to see the word "notably" retained in the introductory paragraph.
51. He therefore proposed that the words "with regard to equality before the law, notably" should be inserted between "the present Convention" and "in the matter of enjoyment of the following rights".
52. Mr. LAMPTEY (Ghana) recalled that he himself had already proposed at the 1306th meeting that the word "notably" should be added after "the present Convention" for the reasons just indicated by the Polish representative. However, it seemed unnecessary to refer to the principle of equality before the law, since it was enunciated in sub-paragraph (a).
53. Mr. RESICH (Poland) observed that equality before the law and equality before the tribunals—to which reference was made in sub-paragraph (a)—were two different things. Equality before the tribunals was one aspect of the basic principle of equality before the law; that was why the principle of equality before the law was set forth in the introductory paragraph of the original text of the draft Convention, whereas the right to equality before the tribunals was listed among the various rights whose implementation guaranteed the application of the basic principle of equality before the law.
54. Mr. K. C. PANT (India) said he was prepared to agree to the insertion of the word "notably" before

the words "in the matter of enjoyment of the following rights".

55. The Polish representative's remarks on the principle of equality before the law could possibly be taken into account in the wording of sub-paragraph (a).

56. Mr. RESICH (Poland) proposed that sub-paragraph (a) should refer simultaneously to the "right to equality before the law and the right to equal treatment before the tribunals and all other organs administering justice".

57. Mr. BELTRAMINO (Argentina) said that he could not endorse the second Indian amendment. He saw no need to refer to article I, since the definition given to the term "racial discrimination" was obviously valid for the entire Convention.

58. Mr. K. C. PANT (India) said that one purpose of his delegation's amendment was to eliminate from the text the wording "the right of everyone", since it did not make the distinction between citizens and non-citizens which any State might legitimately wish to make. Article I made that distinction, which was why his delegation proposed that there should be a reference to it in article V.

59. Mr. SANON (Upper Volta) said that he was perfectly satisfied with article V in its original form and therefore did not support any of the proposed amendments to that article: the second Indian amendment (A/C.3/L.1216), the second Bulgarian amendment (A/C.3/L.1218), the fourth amendment submitted by Mauritania, Nigeria and Uganda (A/C.3/L.1225) and the tenth amendment of the sixteen Powers (A/C.3/L.1226 and Corr.1).

60. Miss TABBARA (Lebanon) suggested that in the light of the second Bulgarian amendment, which proposed that the words "and to be elected" should be inserted between the words "elections" and "through", it might be preferable to replace the words "to participate in elections" in the original text by the words "to elect".

61. Mr. COMBAL (France) observed that the right to participate in elections and the right to elect were not identical and that it was possible to participate in elections without actually electing anyone.

62. Mr. SABEV (Bulgaria) said that, while the Lebanese suggestion was useful, he preferred, in view of the explanation given by the French representative, to retain the original text of his amendment.

63. Mrs. MANTZOULINOS (Greece) observed that the words "to participate in elections" covered both the active right to vote as well as the passive right to be elected. To convey the idea of the second Bulgarian amendment, she proposed to replace the words "rights to participate in elections" by the words "right to vote and right to be elected".

64. Miss TABBARA (Lebanon) suggested the wording "the right to participate in elections and to stand for election".

65. Mr. SABEV (Bulgaria) said that he would agree to any amendment which was substantially the same as that submitted by his delegation. The Lebanese representative's latest proposal seemed acceptable to him, but he was prepared to listen to any further suggestion.

66. After an exchange of views in which Mrs. MANTZOULINOS (Greece), Mrs. BEN-ITO (Israel), Mr. ABDEL-RAHIM (Sudan), Mr. ZOUPANOS (Cyprus) and Mr. VERRET (Haiti) took part, Mr. K. C. PANT (India) proposed that, since the delegations were all prepared to accept the idea put forward in the second Bulgarian amendment and differed only as to the best way of expressing it, a vote on article V should be postponed until the next meeting.

67. The CHAIRMAN said that he endorsed that proposal. He hoped that at the next meeting the Committee would be able to vote on articles V, VI and VII. After that, it could proceed to the preamble and article IV, which had been held over pending a decision on a fundamental question, namely, the exact meaning of the term "racial discrimination". In order to avoid holding up too many points, he thought it would be best to adopt the preamble and to postpone a vote on the first Polish amendment (A/C.3/L.1210) and on the sixth preambular paragraph to which it referred, as well as on the preamble as a whole.

68. The Committee would then proceed to article IV, deferring a vote on the second amendment of Czechoslovakia (A/C.3/L.1220), and hence, on sub-paragraph (a) of article IV and on the article as a whole, until a decision was taken on the amendment submitted by Brazil and the United States of America (A/C.3/L.1211).

It was so decided.

The meeting rose at 5.50 p.m.