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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 on measures of implementation (continued)</i>	
<i>Articles VIII and VIII (bis) (continued) . . .</i>	357

*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.1237, L.1239, L.1241, L.1249, L.1262, L.1272, L.1291 to 1293)

**ARTICLES ON MEASURES OF IMPLEMENTATION (continued)**

*Articles VIII and VIII (bis) (continued)*

1. MR. LAMPTEY (Ghana), introducing the revised version of article VIII (A/C.3/L.1293), said that many delegations had co-operated in its preparation. The new text, which took into account the views of the majority of members, was intended mainly to clarify certain points in the single text (A/C.3/L.1291) of articles relating to measures of implementation to be added to the substantive articles of the draft International Convention on the Elimination of All Forms of Racial Discrimination (A/C.3/L.1239, L.1241, L.1249, L.1262).

2. In response to the wishes of several delegations, the proposed committee had been given a name: "Committee on the Elimination of Racial Discrimination". The election procedure had been more fully outlined, but, since it was linked with the question of the entry into force of the Convention, it would be necessary to revert to the matter in more detail in the final clauses. The question of casual vacancies, raised by the Greek representative, had been dealt with in paragraph 5 (b), which required the State concerned to appoint another expert subject to the approval of the committee.

3. Paragraph 6 of the new text was the same as paragraph 3 of the single text (A/C.3/L.1291), as the idea contained in that paragraph seemed to have been generally accepted, namely, that the expenses of the experts should be borne by the States which appointed them. The main reason for that provision

being the difficult financial position of the United Nations. The Italian representative's suggestion that the costs should be shared between the States Parties was interesting but difficult to implement and the co-sponsors had therefore decided to retain the original formula, which was simpler.

4. The sponsors of the revised draft article had divided the original article VIII into two. Their intention was that article VIII (bis) should later be combined with article IX.

5. Miss TABBARA (Lebanon) said that her delegation was satisfied, on the whole, with the new article which had the advantage of being clearer than the original version. She particularly welcomed the fact that the period to elapse before the first election had been specified as had the procedure for filling casual vacancies.

6. Her delegation considered it wiser to make the States Parties responsible for the expenses of the experts and did not think that procedure would prejudice the impartiality of the experts provided the latter satisfied the requirements set forth in paragraph 1 of the article.

7. Her delegation was also glad to note that the end of the original article VIII had been changed and that it was now proposed that the committee's views should be reported to the General Assembly together with comments, if any, from the States Parties concerned.

8. Her allegation would therefore support the new article VIII.

9. Miss FAROUK (Tunisia) said that she had attended the meetings of the working group which had met to draw up the revised text of article VIII. She wished to congratulate the other delegations which had participated, and particularly the representative of Italy, for the understanding they had shown. She could support the new article VIII which clarified certain aspects of the original text.

10. Her delegation was glad to note that paragraph 1 of the amendment it had submitted (A/C.3/L.1273), which empowered the committee to deal with complaints between States, had been embodied in article X of the single text. While it regretted that paragraphs 2 and 3 of its amendment had not been adopted, her delegation would accept the view of the majority of the delegations in the working group on the understanding that if, in the course of the discussion in the Committee, paragraphs 2 and 3 of the Tunisian amendment, or any other similar proposal, commanded a majority, her delegation would be able to give its full support to the draft which, in its present form, did not satisfy it fully.

11. Mr. AL-RAWI (Iraq) said that his delegation supported the principles enunciated in the new article VIII but nevertheless had several comments to make.
12. His delegation would like paragraph 1 to specify the fields in which the eighteen members of the committee were to be expert. In its opinion, the best solution would be to use a formula such as the one adopted in article 2 of the Statute of the International Court of Justice, or some similar provision.
13. For several reasons his delegation did not favour the financing method envisaged in paragraph 6. Firstly, it did not correspond to the normal United Nations practice. Secondly, the status of an expert paid by his Government would be more that of an official of that Government than that of a member of an international organization. Lastly, the expert might not show the necessary impartiality in the performance of his duties. For those reasons, his delegation considered that the committee itself should be responsible for the expenses of the experts.
14. With regard to paragraph 4, he felt that the phrase "the persons elected... present and voting" at the end of that paragraph would be more appropriately located at the end of paragraph 3.
15. He drew attention to the fact that the proposed procedure for the filling of casual vacancies was not consistent with the practice of United Nations bodies. It would be preferable to follow the latter procedure which was also used by the International Court of Justice, so that each expert would be elected by the committee itself and not by the State Party concerned.
16. Miss AGUTA (Nigeria) said that her delegation too was not entirely satisfied with the use of the word "expert" in paragraph 1 of the new article VIII. In its opinion, the text should specify "legal experts with some knowledge of human rights".
17. On the question of the elections to be held when vacancies arose, she suggested that the word "casual" in paragraph 5 (b) should be deleted and that a list of the circumstances —to be defined later— in which members would cease to function should be added at the end of the paragraph.
18. Mr. LAMPTEY (Ghana) thought it preferable not to specify the field in which the experts should be qualified, since that might vary from one State Party to another.
19. He recognized the validity of the Iraqi representative's remarks concerning the location of the last part of paragraph 4. That change should not present any difficulty.
20. The difficulties in connexion with financing were not immediately apparent and his delegation drew attention to the fact that the solution proposed by the sponsors had been adopted only after careful consideration.
21. On the question of casual vacancies, he wished to point out to those delegations which preferred the committee itself to elect the new members that it might prove difficult to convene a body composed of plenipotentiaries whenever a casual vacancy occurred.
22. Mrs. BEN-ITO (Israel) said that it was preferable to leave nothing unclear in a text such as the one under consideration. She proposed that the word "experts", which seemed to call for clarification, should be replaced by the word "members" and that it should be left to the States Parties electing the members and to the committee which approved the nominations to decide in what field the members should be specialists.
23. Mr. SY (Senegal) drew attention to the fact that, in the French text, in paragraph 1, the relative pronoun "qui" appeared to relate to the word preceding it "ressortissants" [nationals], and not to the experts on the committee, as was intended. He therefore proposed that the paragraph should begin as follows: "Les Etats parties élisent un Comité pour l'élimination de la discrimination raciale (ci-après dénommé 'le Comité) composé de 18 experts connus pour leur haute moralité ou leur impartialité et qui siègent à titre individuel...". [The States Parties shall elect a Committee on the Elimination of Racial Discrimination (hereinafter referred to as 'the Committee') consisting of eighteen experts of high moral standing and acknowledged impartiality who shall serve in their personal capacity...].
24. The word "experts" to which the representative of Israel had expressed some objection, conveyed, in his view, an idea of technical competence, and its use was therefore justified.
25. Mr. KOCHMAN (Mauritania) drew attention to the fact that the document before the Committee was a compromise text which had been prepared, with the helpful co-operation of the delegations of New Zealand, Italy, the Netherlands, the United States of America, Lebanon, Argentina, Nigeria and Jamaica, on the basis of a text which was itself the result of a compromise.
26. He asked all representatives who desired to amend the document to associate themselves with the delegations he had mentioned with a view to expediting the Committee's work.
27. Mr. TAYLOR (United Kingdom) said that in his delegation's view the United Nations should be responsible for the financing if the impartiality of the experts was to be ensured. There was an inconsistency in the last sentence of article VIII (bis), paragraph 2, since, in United Nations practice, general recommendations could not apply to a particular State. He therefore proposed that the last phrase of the paragraph should simply read: "from States Parties". That change would also have the advantage of harmonizing the last sentence of paragraph 2 of the article with the last sentence of paragraph 1.
28. Mr. OSPINA (Colombia) said that he had been glad to read in the Press that the Uruguayan representative at the current session of the Organization of American States had expressed a desire to see the OAS adopt a declaration inspired by the same motives as the Convention before the committee, which would guarantee the right of everyone to freedom of thought and expression. His delegation could not fail to associate itself with the Uruguayan representative's statement since, during the discussion of the substantive articles, it had urged that

the Convention should recognize the right of peaceful assembly and should guarantee the individual against all forms of discrimination based on social origin, birth or any other social consideration.

29. In paragraph 1 of article VIII, he would like the words "There shall be established a Committee" to be replaced, at least in the Spanish text, by some stronger phrase. It was unnecessary to specify in that paragraph that the experts were to be "elected by States Parties to this Convention from among their nationals", since the election procedures was described in paragraph 2. He wished to know what exactly was meant by the phrase "who shall serve in their personal capacity". In his view, when a person was acting on behalf of a State and had a specific mandate, he was not serving in a personal capacity.

30. With regard to the procedure for nominating the committee's eighteen experts, he thought that it would be preferable, for reasons of equity, to devise a rotation system. It should be understood, moreover, that the members could, if necessary, be re-elected.

31. He would also like to have some explanation of the meaning of the expressions "geographical distribution" and "different forms of civilization". On the latter point, he thought it would be difficult to establish satisfactory criteria for distinguishing between the world's different civilizations.

32. Mr. TANG (China) said that he supported unreservedly the new text (A/C.3/L.1293). In article VIII, paragraph 5 (b), however, he considered that after the words "among its nationals" the following phrase should be added: "to serve the unexpired term". The Chinese delegation had no objection to the word "expert". It thought, however, that it would be advisable to give it a precise meaning by adding, for example, the word "jurist", in which case it would then be useless to state that the experts should be versed in matters concerning human rights.

33. Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that he agreed entirely with the observations made by the United Kingdom, Colombia and Israel delegations. He considered that the new text of article VIII was somewhat confused and that it was inadmissible that a document of such importance should be drafted in such vague terms. Moreover, when it was proposed to set up a committee of the type contemplated, it was not United Nations custom to entrust the General Assembly with the election of its members. Rather, it should be the Secretary-General's task to nominate the experts, who could then be deemed to be serving "in their personal capacity". If they were elected by States Parties, they would serve on the committee in the capacity of nationals of the said States Parties and their impartiality would be somewhat doubtful.

34. He agreed with the remarks of the Israel representative and considered that it would be more appropriate to speak of "members" of the committee than of "experts". It should, moreover, be made quite clear that the committee would be called "Committee on the Elimination of Racial Discrimination".

35. As regards equitable geographical distribution, that was a notion which had some meaning when applied to the entire membership of the United Nations but, in the present case, in view of the fact that twenty accessions or ratifications would be sufficient for the entry into force of the Convention and that it was quite possible that all the States Parties would belong to the same continent, it was somewhat difficult to envisage how the committee could be established in accordance with equitable geographical distribution and the representation of the different forms of civilization. Further, States signatories should be able to choose their candidates from among the nationals of other countries. He regretted that the election procedure had not been precisely defined and therefore suggested inserting in the first sentence of article VIII, paragraph 2, the words "by secret ballot" after the word "elected".

36. He agreed with the observations of the United Kingdom representative on paragraph 6, as he himself had proposed, the United Nations should be responsible for the expenses of the experts. He was unable to accept paragraph 6 as worded, for the system suggested did not give a sufficient guarantee of the experts' impartiality.

37. Under article VIII (bis), paragraph 2, the committee could make "suggestions and general recommendations". If the new organ was to be limited to that, it would not serve any great purpose and the Commission on Human Rights could have fulfilled the role just as effectively. In fact, the committee should have to examine specific questions and make precise recommendations about them.

38. Like the Yugoslav representative, he thought that the authors of the new text had not indicated sufficiently clearly whether they intended to entrust the task of supervising the application of the Convention to the States signatories alone or to the General Assembly. If the committee was composed of members nominated by the States Parties, why should it report to the General Assembly rather than to the States Parties? And why should the General Assembly have the right to examine the issues submitted to the committee and to place the blame on any particular State? If the General Assembly was to be given the right to supervise the committee's work, what was the good of guaranteeing the impartiality of the experts, when the General Assembly itself risked being influenced by considerations of a political nature?

39. Mr. COCHAUX (Belgium), referring to the Mauritanian representative's proposal, warned the Committee of the danger of transforming the working group into a replica of the Third Committee and thereby compromising the effectiveness of its work.

40. He observed, moreover, that when drafting a text as important as the one under discussion, it was perfectly legitimate to make every effort to attain a certain degree of perfection. Yet, in spite of the efforts made to harmonize different points of view, the compromise text was not free from a certain amount of confusion. Three different themes had been defended: some wished to establish a committee dependent on the States Parties; others wished to establish a completely independent committee placed not over but on the fringe of States; and others,

among whom was the Belgian delegation, adopted an intermediate position.

41. The wording of revised article VIII seemed somewhat too categorical: thus, in paragraph 1 one might consider the establishment of the committee to be an accomplished fact. Before that could be true, the acceptance of a minimum number of States was required. Likewise, in paragraph 3, the first election was expected to be held six months after the date of the entry into force of the Convention. In his opinion, it would have been better to leave to the States Parties the responsibility for deciding on the date of the elections. He agreed with the remarks made by the French representative in that connexion.

42. He would have preferred the committee to be composed of a smaller number of experts; but he could accept eighteen. He considered it useless to cavil about the meaning of the word expert and suggested in paragraph 1 the words "independent persons known for their high moral standing and impartiality and their knowledge of the subject of human rights and racial discrimination".

43. Concerning paragraph 2, which stated that "each State Party may nominate one person from among its own nationals", he considered it indispensable for each State to put forward at least two candidates so as to allow a certain freedom of choice. He recalled, moreover, that under the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms, States could choose their experts from among persons outside their own nationals. That would be all the more justified as the number of eminent jurists was perhaps not sufficiently large in some countries to provide a wide enough choice. For the filling of casual vacancies the text provided that a State Party should appoint another expert from among its nationals. That provision did not harmonize with the method of nomination provided for in paragraph 1.

44. He pointed out that article VIII (bis), paragraph 2, contained the most serious contradiction. For if the report was submitted to the General Assembly it would to a certain extent become its property and he therefore agreed in that respect with the remarks made by the Tanzanian representative.

45. The Belgian delegation approved of the United Kingdom suggestion that the last phrase of paragraph 2 should read "from States Parties". In conclusion, he remarked that if the Convention was considered by some States to be a source of political education, and if twenty or thirty States agreed to ratification whilst the others contented themselves with being spectators or even set themselves up as judges, it was to be feared that signatory States might find themselves in a very difficult situation.

46. The CHAIRMAN said he thought the text before the Committee had already been the subject of prolonged negotiations and that the Committee's work should now take a more positive direction. The time had come for delegations to state their positions definitively. If they considered the text unsatisfactory they could submit amendments, but they should avoid reopening the general debate.

47. U VUM KO HAU (Burma) congratulated the sponsors and said that he also thought that the discussion should not be too prolonged.

48. Mr. MUMBU (Democratic Republic of the Congo) thanked the sponsors of the new text (A/C.3/L.1293) for having taken account of the remarks and suggestions put forward by several delegations, including his own. He noted, however, that the text might still be improved; as several speakers had already remarked, it was nowhere stated by whom the proposed committee should be established. Concerning paragraph 6, moreover, he thought, like the United Kingdom and Tanzanian delegations, that the United Nations should be responsible for the expenses of the experts and not the States Parties.

49. His delegation requested that, when the time for voting was reached, the text should be voted on paragraph by paragraph and that the vote should be by roll call. His delegation would abstain from the vote on the different paragraphs but would vote in favour of article VIII as a whole. It would have preferred paragraph 1 of the draft text submitted by the Philippine delegation to have been kept, but on the other hand approved entirely of the new text of article VII (bis).

50. Mr. RODRIGUEZ FABREGAT (Uruguay) said that he was pleased that all the members of the Committee recognized the importance of the measures of implementation which alone could give full meaning to a convention. Concerning the revised version of article VIII (A/C.3/L.1293), he would like to make a few remarks on some points which raised doubts in his mind. From a formal point of view, the term "compuesto" in the Spanish text of paragraph 1 should be replaced by "integrado" or "formado", which were more idiomatic. As for the substance, his delegation approved of the title of the committee, but was not entirely satisfied by the use of the word "experts" which lacked precision. Rather than remain so vague, it would be better to adopt the Israel delegation's proposal and leave it to the committee and States Parties to indicate in what subjects the experts should be specialists. Moreover, it was not sufficient to speak of the moral standing and impartiality of the experts; their field of competence should also be mentioned by stating, for example, that the committee was to consist of eighteen persons (or members) of high moral standing, acknowledged impartiality and competence concerning questions of racial discrimination and respect for human rights.

51. Concerning the method of nominating candidates, with which the first paragraphs of article VIII were concerned, he did not think that States Parties should be obliged to choose their candidates from among their own nationals; it would be better to keep to the formula adopted by the Commission on Human Rights under which each State Party nominated a candidate from among its own nationals and one foreign candidate known for his work in the field of human rights. Representation of the regions where human values were denied should indeed be assured.

52. It was difficult to conceive, moreover, that a national of a country in which racial discrimination existed and where human rights were flouted could

make a stand with the required energy against a practice current in his own country.

53. Further, his delegation did not see why each State should only put forward one candidate, as the representatives would have to have substitutes to replace them in case of illness or any other contingency. The text should be redrafted to allow for that and should provide for the nomination by each State of two or three candidates.

54. The question of the nomination of candidates was extremely important and the procedure envisaged in the article under discussion risked giving rise to difficulties. For example, in view of the clause about geographical distribution, would the countries which had colonial territories have to submit candidates native to those territories?

55. He hoped that the sponsors would be able to take into account the observations formulated by his delegation and to redraft their text in consequence; otherwise there might be some doubt as to the efficacy of the article under discussion.

56. Mr. BAROODY (Saudi Arabia) said that he could not accept the new text of article VIII, which in his opinion had been deprived of all significance. First of all, what was meant by "experts"? Were they specialists, even theoreticians? If so, would they be psychologically fitted to deal with the issues related to violation of human rights and have enough understanding of the sociological forces in play? What would be their status? Would their nomination be affected by political considerations? Would the eighteen members of the committee be chosen quite objectively? Would there not be bargaining? Their impartiality would certainly be put to a rough test if the committee met at Headquarters, where pressures were very strong. How could they in such an environment pass judgement on violations of human rights in complete tranquillity of mind? The crowning point was the provision in paragraph 6 that when a national of one of the States Parties was elected to the committee, that State would be responsible for its expert's expenses. That was tantamount to saying that the expert would be directly dependent on his Government and, in case of need, would have to silence his conscience in order to obey the political instructions he had been given.

57. The Saudi Arabian delegation could not approve the new text, which could give rise to all kinds of abuses, and it was astonished that the co-sponsors should have left all those considerations aside in order to reach a compromise which in fact was not one. It therefore asked them to meet once again and try to improve their text. If that were not done, the Saudi Arabian delegation would have to reintroduce its proposal on national committees.

58. Mr. ZULOAGA (Venezuela) suggested that article VIII should be headed "Measures of implementation". That was not a purely formal change. If the clauses concerning implementation were clearly separated from the rest of the Convention, then any reservations by States to that part of the Convention would not be extended to the preamble and to articles I-VIII. He also proposed that on the first sentence of article VIII, paragraph 1, the name of the committee should be between quotation marks.

59. In order to allay the doubts of various delegations, and of the Yugoslav delegation in particular, about General Assembly consideration of the report of a committee consisting solely of States that had ratified the Convention, and taking into account reservations about the nationality of the experts, the Venezuelan delegation proposed the deletion from article VIII, paragraph 1, of the words "from among their nationals" and a similar change at the end of the last sentence of paragraph 2. It also suggested that the words "or several" should be inserted after the words "may nominate one" in the same sentence of article VIII, paragraph 2. That would make it possible for States Parties to offer notable persons like the Reverend Michael Scott or Professor Gunnar Myrdal as candidates.

60. The CHAIRMAN said that the first Venezuelan amendment would be taken up as soon as the implementation clauses as a whole had been adopted.

61. Mr. KOCHMAN (Mauritania) explained to the Belgian representative that he had invited all delegations anxious to make a useful contribution to attend the meetings of the working group so as to facilitate the drafting of as satisfactory a text as possible.

The meeting rose at 1.10 p.m.