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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.1292, L.1305 and Add.1, A/C.3/L.1307/Rev.3, L.1314, L.1317, L.1319)

ARTICLES ON MEASURES OF IMPLEMENTATION (concluded)

ARTICLE XIII (bis) (concluded)

1. Miss WILLIS (United States of America) said that her delegation had followed with the greatest interest the discussion to which the consideration of article XIII (bis) had given rise but had nothing further to add at that point, except that it did not intend to propose any amendment to the article.

2. Miss TABBARA (Lebanon) introducing the amendments proposed by her delegation and the delegation of Saudi Arabia (A/C.3/L.1319) to the third revised text of article XIII (bis) (A/C.3/L.1307/Rev.3), thanked the sponsors of that text for having introduced some changes which made it acceptable to her delegation. The amendments were designed simply to express in more juridical terms ideas already contained in paragraphs 2 (b) and 3 of the third revised text of article XIII (bis), and thus enable all delegations which shared the views of the African group to endorse that article.

3. Mr. COCHAUX (Belgium) said that the Convention under discussion was not of direct concern to his delegation which, however, was anxious, as all delegations should be, to carry the United Nations forward on the road mapped out by the Charter.

4. The debate on the Convention on the Elimination of All Forms of Racial Discrimination had proved to be of such interest, and had opened such vistas of possible action in defence of human rights, that he had participated in it with great expectations. Unfortunately, some delegations, possessed by the evil spirit of partisan politics or even in some cases, of propaganda, had seen fit to introduce article XIII (bis), which clearly had taken up too much of the Committee's time. In that connexion, he asked the Chairman to consider the possibility of limiting the time allowed to each speaker, in order that the Committee might soon proceed to a vote. The articles thus far adopted almost unanimously, although from a juridical standpoint rather carelessly drafted, had been based on the desire to evolve a Convention to which all might accede and which would be a source of inspiration and instruction. The text of article XIII (bis), on the other hand, seemed to be dictated by a deliberate political militancy that did not appear conducive to the drafting of a satisfactory convention. Some delegations had tried to place the Committee in a spurious dilemma by raising the question whether or not it was dealing with a United Nations convention. The Convention, which was being drafted by the Third Committee and would be submitted to the General Assembly for its approval, would obviously be, first and foremost, the Convention of the States Parties, and it would have failed to achieve its objective unless many States from all parts of the world acceded to it; consequently, everything possible must be done to facilitate the signing of the Convention. He was surprised that the delegation which had asked members of the Committee to display political prudence and not to act as agitators had co-sponsored amendments (A/C.3/L.1319) even more open to criticism in some respects than the basic text which must admittedly have been very controversial to have provoked so many amendments.

5. A study of the text of article XIII (bis) showed that it could serve only the purposes of propaganda directed by some States against others, at the very time when the Committee was seeking to ensure the greatest possible number of accessions to the Convention.

6. In that connexion, he would like to urge those who were mesmerized by a single danger to bear in mind the eventual need, not only to concentrate on the attainment of independence by Territories administered by "foreign" States, but, more important still, to give some thought to ensuring the protection of the victims, wherever they might be, of a form of colonialism different from that which was generally attacked in the United Nations.

7. The articles thus far adopted, almost unanimously, by the Committee fully enabled the inhabitants of Territories administered by a "foreign" State to

send petitions, provided, of course, that the States had acceded to the Convention. The third revised text of article XIII (bis), with the amendments (A/C.3/L.1319), was more open to criticism that the previous version; it was the result of discussions which had no doubt been difficult, and it was a combination of various earlier texts and of new ideas, including the Netherlands text (A/C.3/L.1317); consequently, from a juridical standpoint, it contained obscurities which were in no way clarified by the political considerations that had been put forward.

8. Under the terms of article XIII (bis), the proposed committee would be linked to United Nations bodies. In the event that the Convention, precisely on account of article XIII (bis), were to be ratified only by the States of one continent or of one group of countries, one could well imagine the tensions which would result. While the United Nations could usefully serve as an arena for battles of words, it was dangerous for a convention between States to contain provisions that would make possible certain abuses. He regretted to have to state, therefore, that the text of article XIII (bis) was not admissible in the Convention; if that text was amended, his delegation might consider changing its position—which showed that it was not among those who were opposed to justice and to the elimination of the causes of discrimination. In the view of his delegation, it was the duty of all States to accept certain compromises in order better to advance the course of history, which was of concern to all of them, whether they were its witnesses, its promoters, its victims or its beneficiaries. The Committee must display the same moderation in the case of article XIII (bis) as in respect of the earlier articles. If that article was put to the vote in its present form, his delegation would have to vote against it; it might, of course, vote differently if the text was amended in a manner of which it approved.

9. Mr. KOCHMAN (Mauritania) observed that the Convention related to the elimination of "all" forms of racial discrimination. The sponsors of the third revised text of article XIII (bis) (A/C.3/L.1307/Rev.3) did not feel that they were themselves guilty of discrimination in introducing their text which, on the contrary, they considered to be in keeping with the spirit of the Convention.

10. He agreed with the representative of Belgium that the Convention, having been drafted by the Third Committee, was a United Nations convention. However, he wished to draw attention to the fact that in several United Nations resolutions, and particularly in one adopted recently on disarmament, the General Assembly addressed itself to all States.

11. The Belgian representative's statement that the text of article XIII (bis) was not admissible was, in his view, undiplomatic. He believed that the stage had been reached where the only solution was to proceed to vote on the third revised text of that article, and on the Lebanese-Saudi Arabian amendments (A/C.3/L.1319).

12. Miss AGUTA (Nigeria) observed that, in its last statement during the discussion of article XIII (bis) as it had appeared in document A/C.3/L.1307/Rev.1, her delegation had been reluctant to state its views because it had not wished to be drawn into a debate which had become too political instead of remaining, as it should, on the strictly moral plane appropriate to the Convention.

13. Her delegation was a co-sponsor of the third revised text of article XIII (bis) (A/C.3/L.1307/Rev.3), which it believed provided the best method of guaranteeing the right of petition to inhabitants of colonial countries without creating difficulties for the administering Powers. Paragraph 1 of that text enunciated the right of inhabitants of colonial countries to address petitions in writing to bodies of the United Nations and the specialized agencies whose competence to hear such petitions was already recognized by the Members of the United Nations.

14. Paragraph 2 simply extended to inhabitants of colonial countries the safeguard of fundamental rights which other articles of the Convention provided for inhabitants of independent countries the world over, but through a special body competent to give an opinion on questions of human rights. Her delegation believed such a body to be necessary because the existing bodies were competent only to give legal or political opinions on the petitions they received, but not opinions on questions of human rights, much less on observance of the Convention. In short, the novelty of paragraph 2 was that it gave the eighteen-member committee competence to express opinions and make recommendations to the existing bodies, specifically on the aspects of the petitions which related to the Convention. That provision should, therefore, allay the concern of those who had found it difficult to agree that the persons concerned should make petitions direct to the eighteen-member committee; in fact, the existing procedure, which was already allowed and recognized, was thus retained. It should also be noted that, as the eighteen-member committee would consist of experts of high moral standing and acknowledged impartiality, there could be no better persons to whom to entrust interpretation of the Convention.

15. Her delegation could not support the view of those who thought that article XIII (bis) should be optional; it failed to see what good that would do. Moreover, the colonial peoples were only temporarily under the rule of other Powers and they should therefore be guaranteed the same privileges as were other peoples. One could not object to the article without disputing the justice of giving the right of petition to colonial peoples. So long as the competence of existing United Nations bodies to receive petitions from colonial peoples was recognized, there could be no difficulty in accepting the article under discussion, especially since the recognition of the right in question was a matter of simple justice.

16. On the other hand, she appreciated the constitutional difficulties which the issue raised for the colonial Powers; for that reason, she would be prepared to accommodate those delegations as far as possible so long as the principle of justice on which the article was based was not infringed. Since the Committee's principal aim was to see the Convention

ratified by as many States as possible, and particularly by those States in which the practice of racial discrimination was most prevalent, an attempt must be made, even at the cost of some sacrifices, to find some way of helping those States to overcome the legal difficulties that might confront them.

17. Her delegation considered the amendments submitted by the delegations of Lebanon and Saudi Arabia (A/C.3/L.1319) more acceptable than the original paragraphs, because they were clearer and simpler to understand. Her delegation would therefore support them.

18. Mr. VERRET (Haiti) recalled that his delegation had expressed some reservations concerning paragraph 1 of the first version of article XIII (bis) (A/C.3/L.1307) because that paragraph seemed tacitly to accept the continuance of the colonial system. It was therefore glad to see that the first revised version of that article (A/C.3/L.1307/Rev.1) explicitly referred to the Territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples was applicable. However, it had not dispelled all his delegation's misgivings because it had stated in paragraph 3 that the proposed committee would co-operate with bodies of the United Nations which dealt with matters directly related to the principles and objectives of the Convention. In his delegation's view, the committee should be able to work independently of other existing bodies under the authority given it under the Convention. The committee set up under the Convention should not be dependent upon any other body for the simple reason that the Convention would be binding only on the States which ratified it. Despite the importance which his delegation attached to that principle, it was nevertheless prepared to vote in favour of the text as a whole, since the latter sought to safeguard the interests of the colonial peoples, in other words, in most cases, the African peoples with which the Haitian people had so much in common. It was naturally gratified, therefore, that a new version of article XIII (bis) (A/C.3/L.1307/Rev.3) had been drawn up by the sponsors. The Haitian delegation, for its part, had no objection of principle to make concerning that text because it regarded racial discrimination as a crime against humanity which must be eliminated at all costs. It would therefore vote in favour of the draft article.

19. Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that his delegation and the delegations of Sudan and the United Arab Republic had submitted their draft article XIII (bis) (A/C.3/L.1307) to the Committee with the clear and simple object of ensuring that no legal quibbling or manœuvre by the colonial Powers or by those who supported them could succeed in preventing the inhabitants of colonial Territories, wherever they might be, from informing the world of any measures of racial discrimination that might be taken against them by the colonial Powers administering them. That was a point on which all African States agreed, whatever their differences might be on other points; moreover, it was in order to reconcile the views of the African group that the sponsors had agreed to modify their text, and the latest version (A/C.3/L.1307/Rev.3) now expressed the views of the entire African continent.

20. In view of the delicate nature of the compromise which that text represented, its sponsors, while appreciating the spirit and the motives that had prompted the amendments submitted by Lebanon and Saudi Arabia (A/C.3/L.1319), could only regret that those amendments had come before the Committee. In view of the purely political nature of their text, which dealt with colonialism, the legal arguments advanced by the two Powers did not appear acceptable.

21. Paragraph 2 (b) proposed by the delegations of Lebanon and Saudi Arabia did not guarantee, as the sponsors of article XIII (bis) desired, that the inhabitants of the colonial Territories, would be able to inform the proposed committee of what was happening in those Territories. That paragraph stated that the committee would receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures related to the principles and objectives of the Convention applied by the administering Powers within their Territories. That presupposed that the administering Powers would make such reports; but if they did not, the committee would be powerless.

22. His delegation was therefore unable to accept those amendments and wished, in turn, to submit two sub-amendments which, if they were accepted by the two sponsors, would enable him to vote in favour of their text; if they were not accepted, he would have to vote against it.

23. His delegation proposed that the word "directly" should be inserted between the words "measures" and "related" in paragraph 2 (b). It also proposed the addition to paragraph 2 of a new sub-paragraph (c) reading as follows:

> "The Committee shall be empowered to receive comments, complaints, statements or other communications directly from the inhabitants of these Territories with respect to the legislative, judicial, administrative or other measures applied by the administering Powers in such Territories."

24. His delegation would in any event request that the new sub-paragraph should be put to the vote.

25. Mr. BAROODY (Saudi Arabia) said that while his feelings concerning colonialism were as strong as those of his colleague the representative of the United Republic of Tanzania and while he wished as fervently as the latter to hasten the process of decolonization and enable the colonial peoples to denounce the abuses of the colonialists, particularly in the area of racial discrimination, he nevertheless feared that the third revised text of article XIII (bis) would because of its intransigence, prevent the colonial Powers from acceding to the Convention and thus do a disservice to the cause of the very people whom the Committee was trying to help.

26. There was no question of the Committee foregoing anything essential in the Convention; he merely suggested that it should avoid frightening away the administering Powers by taking too uncompromising an attitude. In the last analysis, inducing them to

support the Convention would give some hope of achieving concrete results in the still dependent Territories.

27. He therefore urged the representative of the United Republic of Tanzania to adopt a less intransigent position. On behalf of the Lebanese representative and on his own behalf, he invited the Tanzanian representative to join in sponsoring the amendments in document A/C.3/L.1319.

28. Mr. COCHAUX (Belgium), exercising his right of reply, drew the Mauritanian representative's attention to the fact that, while the instrument under consideration concerned "all" forms of discrimination, it was also a convention. To have a convention, there must be a group of entities which agreed to accept certain obligations.

29. With regard to the words "was not admissible" at which the representative of the United Republic of Tanzania had taken offence, he pointed out that, in using those words, he had merely wished to indicate that it had appeared difficult for Belgium to accept the original text of article XIII (bis).

30. Mr. KOCHMAN (Mauritania) said he fully agreed with the Belgian representative that the Committee was dealing with a convention and that there must therefore be a group of entities which agreed to accept certain obligations.

31. The sponsors had introduced article XIII (bis) because they considered it essential to reaffirm the principle of the right of petition, a right which was unanimously recognized by all Members of the Organization, including Belgium, as was proved by the existence of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. Their initiative was therefore entirely justified.

32. Miss TABBARA (Lebanon) assured the representative of the United Republic of Tanzania that her delegation fully shared his views on colonialism and on the need for ensuring equality among all peoples. She was convinced, moreover, that that was the view of all delegations belonging to the Afro-Asian group.

33. However, the Tanzanian proposal might give rise to difficulties. It would assign to a committee set up outside the United Nations functions already entrusted to the Special Committee. Owing to the efforts made by many delegations, especially the Afro-Asian group, machinery had been set up within the United Nations for the consideration of petitions coming directly from the Non-Self-Governing Territories, and a system of reporting by the administering Powers had also been instituted. In her view, the efforts already begun should be pursued within the United Nations; to give a committee outside the Organization the powers mentioned in the Tanzanian text could only weaken the United Nations. The best solution, in her view, would be to give the committee established under the Convention the status of a body of experts and to give it the possibility of expressing its views and making recommendations to the different United Nations organs concerned.

34. Mr. LAMPTEY (Ghana), replying to the Belgian representative's observations concerning the relationships which, under article XIII (bis), paragraph 2 (a), would develop between the committee to be established under the Convention and certain other bodies of the United Nations, observed that there was nothing new in such relationships since they already existed between the United Nations and many of the specialized agencies, each of which had its own constitution.

35. The committee of experts to be established under the Convention would acquire a thorough knowledge of racial discrimination and would develop certain techniques. It was therefore natural that it should establish relations with other United Nations bodies which dealt with racial discrimination. In particular, it was logical that the committee should consider the petitions received by the Special Committee which, although they were essentially political in nature, were nevertheless concerned, in certain respects, with the question of racial discrimination. If such a co-operative relationship was established between the committee of experts and the competent bodies of the United Nations, the committee would be in a position to serve those bodies and hence the inhabitants of the dependent Territories.

36. In his view, the inclusion of such a provision in article XIII (bis) should not prevent any administering Power from acceding to the Convention, especially since a number of States which had at first refused to recognize the Special Committee had nevertheless in the end recognized its existence and had even co-operated with it.

37. The CHAIRMAN invited the delegations wishing to explain their votes to do so.

38. Lady GAITSKELL (United Kingdom) said that the consideration of the draft Convention had raised numerous problems, some of them affecting freedom of expression. The question had also arisen whether or not to grant individuals the right of petition. In article XIII that right had been recognized on a purely optional basis. Yet the delegations of nineteen countries had abstained in the vote on that provision. Clearly, considerations of national sovereignty were of such great importance for those countries that they did not think they would ever be able to grant their nationals the right to submit petitions to the United Nations on racial matters. But whatever they might say, racial discrimination was surely not unknown in their territories.

39. When the Committee had gone on to consider article XIII (bis), the same delegations had abruptly changed their position and, being supported on the question by many others, wished to apply a compulsory right of petition to the inhabitants of dependent Territories. Not one single Power, in the whole history of the United Nations, had ever conceded that right in any Territory for which it was responsible, whether the Territory was occupied, in dispute between sovereign States or classified as colonial. Moreover, never had any country asked the Republic of South Africa, an open proponent of racialism, to accept such a provision in respect of its sovereign territory. It was the United Kingdom that was asked to do so, no doubt as part of the privilege granted to it of participating with other Members of the United Nations in the struggle

against racialism. It had been pointed out in the discussion that the provision in question added nothing to the practice already followed in the United Nations. It might be asked in those circumstances why the people of Montserrat or the Solomon Islands should be forced to accept a procedure which no Member of the United Nations would accept for its own territory. The reason, she held, was simply to secure another document that might be used for propaganda purposes and to embarrass those few countries which, like the United Kingdom, had committed the unforgivable sin of refusing to accept what no one else would accept.

40. Paragraphs 2, 3 and 4 of article XIII (bis), which would impose obligations on States indirectly and without their consent, were contrary to the law of treaties. If those provisions were adopted, it would be very difficult for the United Kingdom to ratify the Convention, and many people of goodwill in her country would be disappointed.

41. By the end of the century, the United Kingdom would have a population of millions of people of African and Asian descent. Taking into account the character of the country, its size and the recentness of the immigration, there was no parallel between her country and any other in that regard. The United Kingdom had another claim to distinction: it had liquidated the largest colonial empire that had ever existed. It had no doubt made mistakes, but the Committee would be committing a mistake as great as any in seeking to apply to certain Territories unfair and unacceptable provisions which might have the effect of impairing efforts to build a progressive and multiracial society.

42. She asked that a roll-call vote should be taken on paragraph 2 (a) of article XIII (bis) (A/C.3/L.1307/Rev.3).

43. Mr. MOMMERSTEEG (Netherlands) recalled his delegation's position that a convention could be binding only on the States which were Parties to it. That consideration had led his delegation to submit an amendment to article XIII (bis). In the meantime the sponsors of that article had agreed to delete the words "shall be applied in full to the inhabitants of those Territories, and" from paragraph 1. As a consequence the new version of the paragraph came sufficiently close to the amendment submitted by his delegation (A/C.3/L.1317) for it not to insist on the amendment's being put to the vote.

44. Paragraph 2 (a), which provided for a form of co-operation between the committee to be established under the Convention and the competent bodies of the United Nations, was bound to contribute to the development of a more coherent system of implementation of international instruments, particularly in the field of human rights. His delegation understood that the proposed committee, being composed of experts, would have a predominantly advisory role; it was prepared to vote in favour of paragraph 2 (a).

45. Paragraphs 2 (b) and 3 implied that not only States which were Parties but also States which were not parties to the Convention, in so far as they were administering Powers, were bound to give effect to the provisions of the Convention. As his delegation considered those paragraphs to be unacceptable on legal grounds, it would be unable to vote for them.

46. The amendments to paragraphs 2 (b) and 3 submitted by the delegations of Lebanon and Saudi Arabia (A/C.3/L.1319) provided for a more logical and consistent procedure and to a large extent met the legal objections of his delegation, which would therefore be able to vote for them.

47. Mr. ZULOAGA (Venezuela) said that although article XIII (bis) still caused his delegation some misgivings, its latest revision (A/C.3/L.1307/Rev.3), together with the amendments submitted by Lebanon and Saudi Arabia, appeared on the whole to be acceptable. The article was mainly intended to create a second means of recourse which would supplement the Special Committee and facilitate its work. While it was true, as the Ghanaian representative had acknowledged, that certain problems of internal organization would arise in the matter of transmitting information and reports, the Special Committee, in submitting its reports to the General Assembly, should be able to have copies of them forwarded to the new committee.

48. He would vote in favour of the amendments submitted by Lebanon and Saudi Arabia and of article XIII (bis) in its amended form.

49. Mr. SY (Senegal) expressed regret that, as the discussion proceeded, political considerations tended to prevail over humanitarian concerns. He urged delegations not to lose sight of the main purpose of the Convention, which was to ensure the protection of all individuals who were nationals of or dependent upon signatory States, and not specifically to combat colonialism. In his view, article XIII (bis) had the sole object of safeguarding certain rights which were particularly threatened among dependent peoples. It was therefore appropriate to include it in the Convention so as to give protection to all those whose dignity and fundamental rights were impaired and to help them to become full-fledged citizens. It was for that reason, and not for any political reasons, that his delegation would vote in favour of that article.

50. He considered that the amendments submitted by Lebanon and Saudi Arabia, although not basically altering article XIII (bis) in its latest revision, materially improved it. He would therefore vote for them.

51. Miss WILLIS (United States of America) said that she would vote for paragraph 1 of the third revised text of article XIII (bis) and against paragraphs 2 (b) and 3, and abstain on paragraphs 2 (a) and 4. She would also abstain on the amendments submitted by Lebanon and Saudi Arabia, which, although they improved the basic text, still presented some difficulties.

52. In her delegation's view, article XIII (bis) had two main flaws. Firstly, the crux of the compromise reached by the Committee in adopting article XIII was the recognition that the petitions procedure should be optional; under article XIII (bis), however, that procedure would be mandatory for States administering Non-Self-Governing Territories or Trust Territories. Secondly, the article was incompatible with the law of

treaties, since it attempted to impose obligations on States which were not parties to the Convention.

53. Miss AGUTA (Nigeria) recalled her delegation's position that paragraphs 1 and 2 of article XIII (bis) provided the major safeguard of the rights of the inhabitants of colonial countries and prescribed a sound procedure for enhancing that right without raising a problem of international law. Her delegation would vote against the sub-amendments before the Committee because to accept them would raise just such a problem. The sub-amendments would, in addition, lead to overlapping between the activities of the proposed committee and those of other United Nations bodies which had the task of receiving petitions from colonial countries. Her delegation did not want to accentuate the political controversy over that issue because it was determined not to confuse two separate issues—the propriety of the matter under consideration and the political immorality of colonialism. There was a separate battlefield for the fight against colonialism, and Nigeria was active on it.

54. Mr. HOVEYDA (Iran) said that it was unfortunate that article XIII (bis) should impose obligations on States not parties to the Convention, for that was juridically inadmissible. Nevertheless, out of a desire to facilitate the work of the Committee and to hasten the adoption of a Convention of such great importance for the inhabitants of Non-Self-Governing Territories, his delegation was prepared to accept the article, provided that the joint Lebanese and Saudi Arabian amendments were adopted. It would therefore abstain in the vote on paragraph 2 (a), which it could not support unless those amendments were accepted.

55. Mr. OLCAY (Turkey) said that he shared the Iranian representative's views.

56. Miss TABBARA (Lebanon) said that she accepted, on behalf of her delegation and the Saudi Arabian delegation, the Tanzanian representative's amendment calling for the insertion of the word "directly" between the words "measures" and "related" in the proposed paragraph 2 (b).

57. Miss BERRAH (Ivory Coast) announced that her delegation had become a co-sponsor of the third revised text of article XIII (bis) (A/C.3/L.1307/Rev.3).

58. Mr. WALDRON-RAMSEY (United Republic of Tanzania) suggested that in view of the remarks of the Iranian representative the Committee should vote first on the joint Lebanese and Saudi Arabian amendments and then revert to the text of article XIII (bis).

59. The CHAIRMAN said that, in the light of those remarks, he would first put to the vote the first amendment submitted by Lebanon and Saudi Arabia (A/C.3/L.1319), with the oral amendment of the Tanzanian representative, which the sponsors had accepted.

60. If paragraph 2 (b) as proposed in that amendment was adopted, he would, in the following order, put to the vote the new paragraph 2 (c) proposed orally by the Tanzanian representative, paragraph 3 proposed by Lebanon and Saudi Arabia on their second amendment and then the remaining provisions of the third revised text of article XIII (bis), (A/C.3/L.1307/Rev.3), which would be voted on paragraph by paragraph.

The first amendment submitted by Lebanon and Saudi Arabia (A/C.3/L.1319), to paragraph 2 (b) as orally revised, was adopted by 58 votes to 2, with 29 abstentions.

At the request of the representative of the United States of America, the vote on the oral amendment of the United Republic of Tanzania to add a new paragraph 2 (c) was taken by roll-call.

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

In favour: Togo, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yemen, Yugoslavia, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Chad, Congo (Democratic Republic of), Cuba, Czechoslovakia, Dahomey, Guinea, Hungary, Iraq, Mauritania, Mongolia, Poland, Sudan.

Against: Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Argentina, Australia, Austria, Belgium, Canada, Chile, China, Colombia, Costa Rica, Denmark, Ecuador, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Lebanon, Liberia, Luxembourg, Madagascar, Netherlands, New Zealand, Nigeria, Norway, Panama, Peru, Philippines, Portugal, Senegal, Sierra Leone, Spain, Sweden.

Abstaining: Thailand, Trinidad and Tobago, Uganda, Upper Volta, Venezuela, Afghanistan, Bolivia, Brazil, Ceylon, Haiti, India, Iran, Ivory Coast, Jordan, Kenya, Kuwait, Libya, Malawi, Mexico, Morocco, Pakistan, Rwanda, Saudi-Arabia.

The oral amendment of the United Republic Tanzania to add a new paragraph 2 (c) was rejected by 43 votes to 25, with 23 abstentions.

The second amendment submitted by Lebanon and Saudi Arabia (A/C.3/L.1319) to paragraph 3 was adopted by 58 votes to 2, with 29 abstentions.

Paragraph 1 (A/C.3/L.1307/Rev.3) was adopted by 86 votes to 1, with 2 abstentions.

At the request of the United Kingdom representative, the vote on paragraph 2 (a) (A/C.3/L.1307/Rev.3) was taken by roll-call.

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

In favour: Madagascar, Malawi, Mauritania, Mexico, Mongolia, Morocco, Netherlands, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Sweden, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics United Arab Republic, United Republic of Tanzania, Venezuela, Yemen, Yugoslavia, Afghanistan, Algeria, Argentina, Austria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Ceylon, Chad, Chile, China, Congo (Democratic Republic of), Cuba, Czechoslovakia, Dahomey, Denmark, Ecuador, Ethiopia,

Finland, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwai, Lebanon, Liberia, Libya, Luxembourg.

Against: Portugal, United Kingdom of Great Britain and Northern Ireland, Australia.

Abstaining: New Zealand, Thailand, United States of America, Upper Volta, Belgium, Bolivia, Brazil, Canada, Colombia, Costa Rica, France, Iceland.

Paragraph 2 (a), was adopted by 76 votes to 3, with 12 abstentions.

61. Miss AGUTA (Nigeria) pointed out that paragraph 4 of the third revised text of article XIII (bis) (A/C.3/L.1307/Rev.3) referred to the Territories mentioned in paragraph 1, whereas the Territories were in fact mentioned in paragraph 2 (a).

62. The CHAIRMAN said that the necessary correction would be made in paragraph 4.

Paragraph 4 was adopted by 81 votes to 1, with 7 abstentions.

At the request of the representative of the United Republic of Tanzania the vote on article XIII (bis), as a whole, as amended, was taken by roll-call.

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

In favour: New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Spain, Sudan, Sweden, Thailand, Togo, Trinidad and Tobaco, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yemen, Yugoslavia, Afghanistan, Algeria, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cuba, Czechoslovakia, Dahomey, Denmark, Ecuador, Ethiopia, Finland, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Mauritania, Mexico, Mongolia, Morocco, Netherlands.

Against: Portugal, United Kingdom of Great Britain and Northern Ireland.

Abstaining: United States of America, Upper Volta, Australia, Belgium, Canada, France.

Article XIII (bis) as a whole, as amended, was adopted by 83 votes to 2, with 6 abstentions.

63. Mr. COMBAL (France) said that he had abstained in the voting on article XIII (bis)—except on the text proposed by the Tanzanian delegation, which he had helped to reject—because he felt that to recall procedures applied within United Nations bodies in a chapter devoted to measures of implementation of the Convention would be liable to cause some confusion. The superimposition of institutional procedures on contractual machinery which would not come into play until the Convention had been ratified by a sufficient number of countries, altered the nature of the Convention, which might render ratification more difficult.

64. In an effort to secure a compromise and to maintain the effectiveness of the new instrument, while at the same time limiting the scope of the commitment required, his delegation had taken up an idea previously expressed elsewhere and had proposed that those clauses which were not generally acceptable or which would not go into effect until later should be removed from the Convention proper and be made a separate protocol. The Committee, having rejected that idea, had created a Convention that was weakened by the inclusion of procedures, some of which were not yet acceptable by most States and others would lose their practical interest in the future.

65. The Convention, moreover, was but one element of a more comprehensive instrument for guaranteeing human rights, which the United Nations had been planning to develop for fifteen years. The General Assembly would therefore again have to consider the problems of implementation of principles relating to human rights, particularly when it examined the draft covenants and when it decided to create the post of United Nations High Commissioner for Human Rights. It would then have to come back on certain of the articles on the measures of implementation of the Convention, on which at times hasty decisions had been taken without sufficient consideration.

66. Mr. CAPOTORTI (Italy) said that the Committee, in its extensive discussion of article XIII (bis) had dealt mainly with substantive problems. At times, however, it had concerned itself with the question of what the relationship between the Convention and the United Nations should be. The elimination of racial discrimination was one of the fundamental objectives the Organization had set itself. His delegation wished to reaffirm, however, its attachment to one of the essential principles of international law, namely: that treaties were binding only upon the parties to them. It had already stated that it was absurd, from a legal standpoint, to impose obligations on States which would not have ratified or acceded to the Convention. The amendments submitted by Lebanon and Saudi Arabia imposed no obligation on third States and envisaged the proposed committee as a body which would merely advise other United Nations organs. For that reason his delegation had been able to support those amendments.

67. Mr. OUEDRAOGO (Upper Volta) said that during the course of the debate several delegations had urged that care should be taken not to give States any pretext for not ratifying the Convention. If the Convention contained any controversial provisions, some Governments would presumably not participate in it and that was something which his delegation had desired to avoid. Its abstention should be interpreted as a conciliatory effort on its part and as an appeal addressed to all those who had the interest of the Convention at heart.

68. By acceding in full sovereignty to the Convention, States would be contributing to the work of the United Nations in the field of human rights and thus following the course of wisdom.

69. Mr. BOŽOVIĆ (Yugoslavia) said that his delegation had abstained in the vote on the amendments proposed by Lebanon and Saudi Arabia because, in its view, the United Nations bodies responsible for the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples did not concern themselves with racial discrimination. One had only to read their reports to realize that.

70. Furthermore, there were a number of contradictions between paragraph 2 (b) and the remainder of the article. Those contradictions appeared to be accepted by most delegations which presumably considered that the important thing was to draw up a text acceptable to the largest possible number of Governments.

FINAL CLAUSES (concluded)

CLAUSE IV (concluded)

71. The CHAIRMAN invited the Committee to take up clause IV of the final clauses submitted by the officers of the Committee (A/C.3/L.1237). He drew attention to the fact that the third of the Polish amendments (A/C.3/L.1272) called for the deletion of the whole clause, which dealt with the territorial application of the Convention.

72. Mr. LAWREY (Australia) recalled that his country administered Non-Self-Governing Territories in respect of which it exercised responsibilities related to the International Trusteeship System and Chapter XI of the Charter. Those Territories had reached the stage at which they had or were in the process of acquiring their own legislative organs. A territorial application clause such as appeared in document A/C.3/L.1237 would make it possible for Australia to apply the Convention without having to wait for the consent of the non-metropolitan Territories. That was why he was in favour of retaining that clause.

73. Mr. KOCHMAN (Mauritania) said that he fully supported the Polish amendment for deleting clause IV of the final clauses.

74. Miss TABBARA (Lebanon) said that she supported the comments made by the Polish representative, who had pointed out that when a metropolitan country signed or ratified a Convention, it was at the same time undertaking an obligation that was binding on the Non-Self-Governing Territories which it represented on the international plane.

75. The CHAIRMAN invited the Committee to vote on the third Polish amendment (A/C.3/L.1272) calling for the deletion of clause IV.

The third Polish amendment (A/C.3/L.1272) calling for the deletion of clause IV was adopted by 66 votes to 3, with 8 abstentions.

CLAUSE VI (concluded)

76. The CHAIRMAN invited the Committee to resume consideration of clause VI of the suggested final clauses (A/C.3/L.1237). A new text for that clause—which dealt with reservations—had been proposed in the fifth Polish amendment (A/C.3L.1272). A sub-amendment (A/C.3/L.1314) submitted by Ghana, Mauritania and the Philippines to that text provided that the reservations would not affect articles I to V and VIII to XIV.

77. Mr. LAMPTEY (Ghana) recalled that article XIII (bis) was supposed to become article XIV. The numbering of the articles that were not to be affected by the reservations would therefore have to be changed.

78. The CHAIRMAN said that there was also an article VIII (bis) and that those textual changes would be taken into account at a later stage.

79. Mr. NETTEL (Austria) said that he would support the draft submitted by the officers of the Third Committee. It was his view that not all delegations were in agreement on the articles to which that clause should not apply and that in any event the text initially proposed gave the States Parties a greater amount of latitude.

80. Miss TABBARA (Lebanon) pointed out to the Committee that according to article VIII (bis) the States Parties undertook to submit to the Secretary-General for consideration by the committee a report on the legislative, judicial, administrative, or other measures that they had adopted in accordance with the provisions of the Convention and that they undertook to do so within one year after the entry into force of the Convention. The final clauses, moreover, provided that the Convention would come into force when twenty-seven States had deposited their instruments of ratification or accession. She would like to know how the committee referred to would be able to function in the event that some of those States made reservations concerning the measures of implementation.

81. Mr. MACDONALD (Canada) said that the Convention which had been drawn up was rather long and that some clauses embodied novel provisions which in some instances were controversial. Many delegations had insisted on the need to obtain the greatest possible number of signatures and of ratifications or accessions. Therefore, in the light of those considerations and of the contradictory proposals that were before the Committee, his delegation suggested that the reservations clause should be deleted.

82. Mrs. MANTZOULINOS (Greece) supported the Canadian representative's suggestion and recalled that there were many precedents. Some international conventions did not in fact have any reservations clause at all. It was customary in the United Nations that those States Parties to one of its Conventions which desired to make reservations should do so through the Secretariat, which then transmitted the text of the reservations to the other States Parties. It was the rule, however, to accept only such reservations as were not incompatible with the object and purposes of the Convention. Her delegation therefore supported the view that it should be left to the States Parties to give notice of any reservations they might have, after which it would be for the other States Parties to accept or reject them.

83. Mr. LAMPTEY (Ghana) said that he could not accept the proposal which had been made by the Canadian representative and had been supported by the representative of Greece, for he believed that if clause VI of the final clauses was deleted, the

way would be open for some State Parties to make reservations that would eventually destroy the Convention. The texts adopted by the Committee were already the result of compromises, and the negotiations had made it possible for maximum consideration to be given to the positions of the various delegations. Any reservations that might be made to articles I to V of the Convention would impair the balance which had been achieved with great difficulty.

84. Mr. BECK (Hungary) said that in his opinion the Committee's purpose was not to draw up a convention that would be acceptable to all countries, including those that did not want to abolish racial discrimination. To eliminate the reservations clause would permit certain signatory States to make reservations that would have the effect of making the obligations of those States meaningless. In those circumstances, the Convention that was adopted would scarcely be of any more value than the Declaration on the same subject which had been adopted by the United Nations two years ago. His delegation could not agree to the making of reservations with regard to the essential articles of the Convention, and in particular articles I, II, III, IV and V which were mentioned in the Polish amendment. As the Convention must above all be effective, the members of the Third Committee must not sacrifice the real worth of the Convention to the myth of a unanimity that would have no meaning. It was difficult to see what purpose would be served by obtaining the signatures of countries which practised racial discrimination and which, after ratifying the Convention, would not accept the obligations that it imposed. His delegation's stand was not in contradiction with the observations made by the Greek representative, who had pointed out that the reservations could not, in any event, relate to the substance of the Convention.

85. Mr. HOVEYDA (Iran) said that the Convention must be as short as possible. Furthermore, the reservations clause was complicated and did not contribute anything of value. Although recognizing the validity of the arguments presented by the representative of Ghana, he pointed out that the Convention provided for a general assembly and that it was for the States Parties to reject any reservations that were contrary to the spirit of the Convention. In practice, it was generally seen that a State which adhered to a convention subject to certain reservations often withdrew them after a time and that such a State seldom denounced the Convention afterwards. If the reservations clause was eliminated, a larger number of States would be able to ratify the Convention, and its effectiveness would be enhanced.

86. Mr. MACDONALD (Canada) said that he appreciated the observations which had been offered by the delegations of Austria, Ghana, Hungary and Iran and were representative of two completely coherent viewpoints. It would, indeed, be attractive to draw up a convention whose substantive articles had the binding force of a treaty. It was, however, also necessary to look at the matter from a practical angle; as the proverb had it, "half of a loaf is better than no bread". By deleting the reservations clause, a larger number of States would be able to subscribe to a less ambitious convention.

87. Mr. ZULOAGA (Venezuela) said that as the members of the Committee had in turn been presenting their views on the reservations clause, his fears had been steadily growing. Initially, he had intended supporting the proposal for prohibiting reservations to the substantive articles of the Convention which reproduced in an expanded form the principles governing the United Nations. It was for that reason that he had suggested that the first seven articles should be clearly set apart from the following ones, which would be entitled "measures of implementation". That proposal had been designed to isolate the articles in question, the first five of which contained clauses deriving from the natural law, to which reservations should not apply. The Ghanaian delegation, however, had urged that the articles of implementation should form an integral part of the Convention and had made a revolutionary proposal for deleting the reservations clause. That proposal had been supported by the delegations of Iran, and the two delegations had cited the fact that the deletion of that clause would enable the States Parties to make more far-reaching reservations. However, to give the States Parties the right to interpret the Convention as they wished was equivalent to nullifying it and would be a step backward. In any case, it was difficult to uphold an absolute parallel between the Convention and the Declaration on the same subject because it had been repeatedly stated that the Declaration had no legal but only moral force. He considered that it was most important to set apart the substantive articles of the Convention, which incorporated the principles already set forth in the Charter of the United Nations and to which, therefore, reservations could not in any case apply.

88. Miss WILLIS (United States of America) said that the problem must be examined realistically and with complete honesty. It was imperative not to lose sight of the importance of the objective being sought, namely, to place in the hands of the States Parties an instrument capable of making an effective contribution to the elimination of all forms of racial discrimination. There was certainly no hope that racial discrimination would disappear overnight by a simple stroke of the pen. The legal, political and other problems to which some clauses would give rise in various countries must be borne in mind. If there was a sincere desire to help the human beings who were the victims of racial discrimination, it would be unfair to draw up a draft convention which placed the States Parties under the obligation of either accepting it or rejecting it in toto. Those States which had no objection to ratifying the Convention without making any reservations to it should not deprive the remainder of the option of making such reservations. What must above all be considered was the interests of the persons suffering from racial discrimination; the question was whether they would not enjoy more protection in a State which had ratified the Convention, even if it had not fully committed itself. Her delegation, which sincerely appreciated the work done by the officers of the Committee, would be able to vote in favour of clause VI (A/C.3/L.1237) but would much prefer the solution proposed by the Canadian representative.

There were, indeed, many treaties which did not contain any reservations clause.

89. The CHAIRMAN asked the members of the Committee to bear in mind the very few meetings remaining for the completion of their work before the end of the session, and suggested that the vote on the reservations clause should be taken as soon as possible.

90. Mr. MACDONALD (Canada) made a formal proposal for the deletion of clause VI of the final clauses appearing in document A/C.3/L.1237.

91. Mr. ZULOAGA (Venezuela) said that the deletion of that clause would by no means remove the possibility of making reservations; on the contrary, all the signatories would be free to interpret the articles of the Convention, including the implementation clauses, as they saw fit.

92. The CHAIRMAN invited the Committee to vote on the Canadian amendment.

The Canadian oral amendment calling for the deletion of clause VI was adopted by 25 votes to 19, with 34 abstentions.

93. Mr. RODRIGUEZ FABREGAT (Uruguay) said that he had voted against the Canadian proposal for the same reasons as the Venezuelan representative. He thought that the substantive articles, which reiterated basic principles of the Charter, should not be subject to reservations and that the proposal just adopted left the door wide open to all kinds of reservations. The result was a considerable weakening of the Convention. He regretted that a large number of delegations had taken a neutral stand, thus enabling twenty-five votes in favour to bring about the adoption of a proposal having such important implications for the effectiveness of the Convention.

94. Mr. RESICH (Poland) said that his delegation had abstained in the vote. In the absence of reservations clauses, the provisions of international law would apply to the Convention, and in accordance with international practice, no reservation could be made with respect to the substance of the articles which had been accepted.

95. The CHAIRMAN reminded members that the Committee would be asked to vote on the draft Convention as a whole as soon as the drafting committee had completed its work.

The meeting rose at 7.10 p.m.

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