

of Guyana had rightly said that the last part of the first paragraph of article II was significant in its specification of what *apartheid* actually was. It was not an English word and, although every one knew what it meant, it had no definition in terms of law or, indeed, in the draft Convention itself, apart from the elaboration of its meaning contained in article II. When drafting and adopting such an international convention, it must be remembered that it would become part of the body of international law and might last beyond the time when *apartheid* was being practised in South Africa.

40. However much his delegation opposed *apartheid* and felt that such a convention was needed, it thought that more time should be spent on drafting the convention in order to produce one which would be viable and would command the respect of a considerable number of States Members of the United Nations. An important convention could not be effective if it were ratified by only a few countries.

41. Mrs. KOROMA (Sierra Leone) expressed her delegation's full support for the draft Convention, which might be a step towards ridding the international community of the cancer of *apartheid*, from which it had suffered too long.

42. Her delegation endorsed the comments of the representative of Guyana on the statement by the United States representative. It also wished to be associated with the words of the representative of Senegal. The United Nations had adopted many resolutions and ex-

pressed many good intentions but had done little to rid the world community of the scourge of *apartheid*. She therefore urged every member of the Committee to think about the draft Convention as a means of finding a solution to the problem. *Apartheid* was being consolidated in an alarming way and its proponents had even succeeded in splitting the consensus which had once existed against it.

43. Mr. SCOTLAND (Guyana) pointed out that the fact that *apartheid* was not an English term was no barrier to its inclusion in a convention. The general principles referred to in Article 38 of the Statute of the International Court of Justice would include many terms which had no specific definition in English. The representative of Cyprus had agreed that the meaning of the term was specified in article II, and he himself considered that an adequate definition.

44. Mr. F. I. BECHIR (Mauritania), speaking on a point of order, asked the Chairman if it would be possible to adjourn the meeting in order to enable the African Group to take over the facilities, since they would have no opportunity to meet in the afternoon.

45. The CHAIRMAN said that in the absence of any objection, he would take it that the Committee wished to accede to that request.

It was so decided.

The meeting rose at 12.20 p.m.

2004th meeting

Tuesday, 23 October 1973, at 10.45 a.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.2004

AGENDA ITEM 53

Elimination of all forms of racial discrimination (continued) (A/9003 and Corr.1, chaps. XXIII, sect. A.1 and A.2 and XXX, sect. B; A/9018, A/9094 and Corr.1 and Add.1 and 2, A/9095 and Add.1, A/9139, A/9177, A/C.3/L.2016);

(b) Draft Convention on the Suppression and Punishment of the Crime of *Apartheid* (continued) (A/9003 and Corr.1, chap. XXIII, sect. A.2, A/9095 and Add.1, A/C.3/L.2016)

1. Mr. IRARRAZAVAI (Chile) recalled that at the preceding meeting some delegations had expressed reservations with regard to the possibility of improving the situation resulting from the practice of *apartheid* through the adoption of the revised draft Convention. His own delegation considered that the adoption of the draft Convention (A/9095, annex and A/9095/Add.1), which already had the support of the Special Committee on *Apartheid*, the Commission on Human Rights and the Economic and Social Council, would constitute a major step forward in the realm of international criminal law.

2. His delegation supported the procedure of considering the draft Convention article by article, as a demon-

stration of its desire to arrive at a definition of the crime of *apartheid* and to establish international legislation for its punishment.

Article II

3. Mr. PETHERBRIDGE (Australia) said that the words "establishing and maintaining" in the introductory paragraph should be replaced by "establishing or maintaining", since one or the other of those acts would be sufficient in the context of the article.

4. More generally, his delegation felt that the definition of the crime of *apartheid* provided in the article should be clarified at various points. It could not be denied that the definition given was a very broad one. Many States might be concerned about possible applications of the Convention which had not been intended by the sponsors. While, for example, the draft Convention contained references to recognizable elements of policies of *apartheid*, such as domination, segregation, separation and so forth, it also contained broad references to human rights in general, which could be interpreted to apply to many situations. In other words, the concept of *apartheid* was being widened to such an extent that it could be applicable to areas other than South Africa. The variety of ways in which the defini-

tion might be applied should be a matter of concern for any country whose population included a racial minority group.

5. The representative of Ghana had stated at the previous meeting that the phrase beginning "committed for the purpose of" in article II was intended to govern the interpretation of the Convention. However, he wished to point out that, since no international criminal jurisdiction currently existed, the draft Convention would require as many States as ratified it to introduce legislation to put its provisions into effect. In other words, a very large number of courts in various States would be responsible for interpreting the definition, and there would be great variety in the penalties laid down for the crime of *apartheid*. There was also the possibility of retaliatory action by one State against rigid interpretation of the definition in another State.

6. Mr. CHIRILĂ (Romania) noted that his delegation had, at the twenty-ninth session of the Commission on Human Rights, sponsored a draft resolution, later adopted by the Commission as resolution 16 (XXIX),¹ expressing support for the draft Convention. The major political and juridical reasons for Romania's support for the adoption of an international convention to punish the crime of *apartheid* had been set out by the President of the State Council of Romania in a message sent to the International Conference of Experts for the Support of Victims of Colonialism and *Apartheid* in Southern Africa (see A/9061, appendix IIb). His country provided full political, diplomatic, moral and material support for the liberation movement and favoured the implementation of effective United Nations measures to combat colonialism, racism and *apartheid*. The adoption of the draft Convention was essential as a part of the struggle against *apartheid* at all levels and by all means, including the use of international law. He recalled that paragraph 13 (j) of the programme for the Decade for Action to Combat Racism and Racial Discrimination² referred to the need for the adoption of new international instruments to eliminate racial discrimination in all its forms and the crime of *apartheid*.

7. In the light of the references to *apartheid* in the United Nations instruments and resolutions mentioned in the preamble to the draft Convention, it could be said that *apartheid* was already regarded in international law as constituting a crime against humanity. The purpose of the draft Convention was to reflect that development in international law and embody it in a legal instrument. In that context, article II determined in a comprehensive and precise way the acts which constituted the crime of *apartheid* and laid down the principle that *apartheid* was an internationally punishable crime. The development of international criminal law appeared essential in order to prevent and punish international crimes and contribute to a climate of peace, justice and understanding among the peoples of the world.

8. Mr. VON KYAW (Federal Republic of Germany) said that his delegation regarded as highly significant the comprehensive list of basic human rights contained in article II (c). His delegation considered those rights to be universally applicable.

9. Mrs. MAIR (Jamaica) said that, in order that the draft Convention should be of maximum effectiveness,

it should be worded as precisely as possible. Consequently, she felt that article II (c) should contain a reference to the right to participate in the government of one's own country directly or through freely elected representatives. Although that right was implied in other parts of the draft Convention, it was advisable to include a specific reference to it and thus preclude the possibility of arbitrary interpretation. She wished to propose the addition of the following words at the end of article II (c): "and the right to take part in the government of the country expressed in the right to vote in free elections".

10. Mr. NENEMAN (Poland) observed that if there was to be an enumeration of rights, such as that attempted in article II (c), it should be exhaustive; otherwise, there should be only a general reference to them. Since it was impractical to include in the draft Convention a list of all the rights which should be guaranteed, he suggested that that subparagraph should be replaced by a more general phrase. That would also be a better approach from the legal point of view.

Article III

11. Mr. PETHERBRIDGE (Australia) said that his delegation had difficulty in seeing the distinction between "the acts mentioned in article II", as referred to in article III (a), and "the crime of *apartheid*" as referred to in article III (b). Perhaps a representative of the Office of Legal Affairs could clarify the situation.

12. In connexion with the individuals and institutions mentioned in the article, he wondered whether the appointment by South Africa of a diplomatic representative to another State would, under the Convention, place the receiving State under an obligation to prosecute that person.

13. Mr. BAL (Mauritania) stressed the importance of article III (b), whose aim was to confront the international community with its responsibilities. He recalled paragraph 5 of General Assembly resolution 2646 (XXV), which had provided the basis for subparagraph (b) of the article under consideration.

14. It was also vital for the Convention to contain a provision urging the information media to inform the public, especially within the framework of the Decade for Action to Combat Racism and Racial Discrimination, both individually and in co-operation with the United Nations, of the evils of *apartheid*. If the draft Convention did not so far contain any provision to that effect, his delegation would submit an appropriate amendment.

15. Mr. SCOTLAND (Guyana), referring to the point which had been raised by the representative of Australia, said that, if any State received as a diplomatic representative a former member of a Government which had practised genocide, it would have no hesitation in dealing with the matter under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III), annex). Since, in the present case, the draft Convention described *apartheid* as a crime against humanity, the application of the Convention would demand similar action. However, he agreed that the opinion of a representative of the Office of Legal Affairs on the matter would be very useful.

¹ See *Official Records of the Economic and Social Council, Fifty-fourth Session, Supplement No. 6, chap. XX*.

² General Assembly resolution 3057 (XXVIII), annex.

Article IV

16. Mr. WIGGINS (United States of America) observed that, under English common law, as it had evolved in his country and perhaps in others, the legal authorities were entitled to enforce criminal law only within the territory of their own State. Exceptions to that principle of territoriality were known, but only in connexion with piracy or air piracy. His country would have considerable difficulty in accepting the provisions of article IV, since they would conflict with its existing extradition procedures.

17. Mr. PETHERBRIDGE (Australia) said that his country was able to legislate extraterritorially, but did so only in rare cases. The terms of article IV, taken together with those of article V, seemed to suggest that, in the case of a person registered on the blacklist envisaged under the draft Convention who was known to have committed certain crimes, any State would be required to try him *in absentia* and convict him. However, he would appreciate the observations of a representative of the Office of Legal Affairs on the matter.

18. Mr. SCOTLAND (Guyana) said that, under international law, a kind of "open season" had been established for such categories of criminal as pirates and war criminals. The question in the present case was whether the purpose of article IV was to place perpetrators of the crime of *apartheid* on the same level. His delegation's understanding of article IV (b) was that States should adopt measures to prosecute and punish perpetrators of the crime of *apartheid* whether or not those persons resided in the territory of the State in which the act was committed or were stateless persons. There was an analogy between such categories of international criminals and pirates or war criminals, who were prosecuted by any State which wished to do so.

19. Mr. BADAWI (Egypt) said that, in order to make the provisions of the draft Convention as clear as possible, his delegation wished to suggest an alternative wording for article IV (a), so that that paragraph would read: "To adopt any legislative or other measures necessary to prevent any encouragement of the crime of *apartheid* and similar segregationist doctrines or their manifestations and to punish persons responsible for that crime".³

20. Mrs. WARZAZI (Morocco) said that she would appreciate it if the representative of the Office of Legal Affairs could explain to what extent the provisions of article V conflicted with those of article IV.

Article VIII

21. Mr. PETHERBRIDGE (Australia) noted that under the terms of article VIII (A/9095/Add.1) the Chairman of the Commission on Human Rights would appoint a group consisting of three members of the Commission who were also representatives of States parties to the Convention to consider reports submitted by States parties in accordance with article VI and that if among the members of the Commission there were no representatives of States parties to the Convention or fewer than three such representatives, the Secretary-General would, after consulting all States parties to the Convention, designate a representative of the State party or representatives of the States parties which

were not members of the Commission to take part in the work of the group until such time as representatives of the States parties to the Convention were elected to the Commission. He wondered whether the States parties had the authority to entrust those functions to the Chairman of the Commission and the Secretary-General.

22. Mr. SCHREIBER (Director, Division of Human Rights) said with reference to the question raised by the representative of Australia that the text gave certain responsibilities to the Chairman of the Commission on Human Rights, to the Secretary-General, after consultation with all States parties and to the States parties themselves. Regarding the responsibilities devolving upon the Chairman of the Commission on Human Rights and the Secretary-General, he suggested that it might be possible, in accordance with certain precedents, for the General Assembly, in a resolution relating to the adoption of the Convention, to authorize the Chairman of the Commission and the Secretary-General to perform the functions assigned to them under the article in question.

23. With reference to the question raised by the representative of Morocco, he noted that since the text had not been drafted by the Secretariat, its original sponsors might be in a better position to reply. He pointed out, however, that article IV was concerned with the adoption of suitable enabling legislation and other measures, while article V dealt with the judicial authorities having jurisdiction over persons accused of having committed the acts enumerated in article II of the draft Convention.

24. On the subject of article III (b), the questions raised by the representative of Australia were of a complex character, as already noted by the Working Group of the Commission on Human Rights. He found it difficult to comment on what might have been the solutions to the problems raised, in particular with regard to the coexistence of the proposed Convention with other existing international instruments and customary rules of international law. The comments made in the Committee by various representatives would, of course, have an interpretative value in the light of the texts proposed for adoption.

25. Mrs. WARZAZI (Morocco) said she was not wholly satisfied with the answer given to her question. She therefore inquired again whether under article V a national of South Africa could be tried although his country was not a party to the Convention, whether South Africa could try one of its nationals for the commission of a crime covered by the Convention, and whether an international criminal court could try a South African national for committing such a crime.

26. Mr. SCHREIBER (Director, Division of Human Rights), in reply to the representative of Morocco, said that he preferred not to interpret the provisions of the draft Convention to the Committee. He referred, however, to statements made by members of the Committee with regard to the qualification of *apartheid* as a crime against humanity under international law, which would make it possible for it to be punished by all States parties independently of the nationality of the person concerned. States which were not parties would not be bound by the provisions of the Convention.

27. Mr. AL-QADHI (Iraq) thought that the questions raised by the representative of Morocco were impor-

³ Text subsequently circulated as document A/C.3/L.2017

tant and that they could be answered in the affirmative. Under the draft Convention certain acts were to be regarded as crimes. The purpose of article II was to define those acts. Once the crime was defined, there was a need to consider the content of the law, and that was covered by article IV. Next came the problem of determining the authorities which would be responsible for jurisdiction, and that was the subject of article V.

Article IV therefore established a criminal jurisdiction which would apply universally, and article V defined the authorities competent to discharge that universal criminal jurisdiction. The question was therefore whether or not nationals of South Africa could be tried under the Convention although their country was not a party to it. No problem should arise, however, because article IV laid down the principle of universality, and article V provided for two possibilities for trying persons committing such crimes, either through recourse to a State party or to an international criminal tribunal. Such a situation was not novel in international law.

28. Mrs. KOROMA (Sierra Leone) said that all Africans, humanitarians and men of conscience would welcome any effective steps taken in order to combat the dangerous and inhuman practice of *apartheid*. She was convinced that the motivation behind the Convention was genuine and reflected the desire to secure an effective deterrent to the practice of *apartheid*. She had certain misgivings, however, about the effectiveness of article V. She was particularly concerned about the situation prevailing in South Africa, which was the bastion of *apartheid*. Her question, therefore, was the following: "who would punish whom in South Africa?" In that connexion, she wished to express her dissatisfaction with the reply given to the question raised by the representative of Morocco. The question was an important one, and the Committee should give it further thought.

29. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that the Chairman of the Commission on Human Rights, in appointing the group referred to in article VIII, paragraph 1, would be fulfilling only an organizational function. He felt that the role of the Commission on Human Rights might be defined in a separate paragraph in a resolution accompanying the Convention, and that the Secretary-General should be the depositary of the Convention. With reference to the mechanism of implementation of the Convention, he wished to propose the following amendment: Article VIII of the Convention on genocide read, "Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III." In view of the importance of the Convention under consideration, and of the seriousness of the crime of *apartheid*, as defined in articles I and II, his delegation proposed that a provision analogous to article VIII of the Convention on genocide should be incorporated into the Convention under consideration. He did not think that such a provision would give rise to difficulties, and his delegation would submit a formal amendment⁴ along those lines at the Committee's next meeting.

30. Mr. PAPADEMAS (Cyprus) said that to avoid any confusion, it should be remembered that the Committee was currently considering the crime of *apartheid* from the legal and political points of view. Articles IV to VIII provided for the punishment of the crime of *apartheid* as defined in article II. There was the problem of the legal steps to be taken in order to bring to trial a person who committed that crime in a country of which he was not a national. Such steps might involve changes in the legal system and constitution of the country concerned. Article V raised questions of international law. It was not merely a problem of ensuring that nationals of States parties to the Convention should be tried, but also of defining what was meant by the words "international penal tribunal" as used in article V and of determining whether plans should be made for setting up a new international criminal court. As to article VI, the implication was that the Security Council would take certain decisions which Member States and the States parties would be called upon to execute. Thus, the judicial process envisaged by the Convention would operate at various levels, and the Convention might confront everyone concerned with a number of problems for which no early solution could be found. Accordingly, the Committee would be well advised not to proceed too hastily, and to avoid adding yet another convention to those which had been ratified but never enforced, or increasing the body of existing international law with an instrument which it might subsequently be found necessary to abrogate.

31. Mr. GRAEFRAH (German Democratic Republic) said that the draft Convention represented an attempt to organize co-operation among States for the suppression and punishment of the crime of *apartheid*. His delegation did not feel that its provisions raised many legal difficulties or novel problems. Under the terms of the Convention all States must punish the crime of *apartheid*, and they would have the necessary jurisdiction to do so. As to the question of who would punish such a crime when it was committed in South Africa, the answer was the State which detained the perpetrator, in accordance with article V. Moreover, article IV made it possible for a group of States to do jointly what each of them could do individually. Just as the Nuremberg Tribunal had been established to try crimes against humanity, a group of States might agree to set up a special court to try persons committing the crime of *apartheid* in South Africa or elsewhere.

32. Mr. SCOTLAND (Guyana) observed that the words "or by such international penal tribunal as may have jurisdiction with respect to those States parties which shall have accepted its jurisdiction" in article V were almost identical with the wording of article VI of the Convention on genocide.

33. Mrs. WARZAZI (Morocco) once again asked to what extent article V was consistent with article IV (b), and whether an international tribunal could try a South African official when his country was not a party to the Convention.

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34. Mr. FUENTES IBANEZ (Bolivia) said that article X raised certain problems for his delegation because of the difficulty of reconciling it with current inter-American legal standards, and in particular the inter-American conventions concerning territorial

⁴ Subsequently circulated as document A/C.3.2000/1.

asylum. He would therefore find it difficult to endorse that article of the Convention as it stood.

Article XI

35. Mr. PETHERBRIDGE (Australia) said that the wording of article XI implied that "disputes between States Parties arising out of the interpretation, application or implementation of" the Convention could be brought before the International Court of Justice only at the request of all the States parties concerned. However, he had thought that in such cases the request of any of the States parties would be sufficient, and he therefore wondered whether the representative of the Office of Legal Affairs would be able to clarify that point.

36. Mr. SLOAN (Director, General Legal Division), replying to the question raised by the representative of Morocco, said that article IV made it clear that *apartheid* was to be considered as an international crime, the universality of which would not be affected by whether or not particular States ratified the Convention. Under article V, however, only States which became parties to the Convention would be competent to adopt the legislative and other measures provided for in article IV. Thus, a person who committed the crime of *apartheid* in a State which was not a party to the Convention would still be in violation of the law, and, if he came within the jurisdiction of a tribunal of a State which was a party to the Convention, he could be subject to trial and conviction for that crime.

37. In reply to the question raised by the representative of Australia, he drew attention to the words "at the request of the States Parties to the dispute" in article XI, which, as he understood it, meant that the agreement of all the parties to a dispute was required before it could be brought before the International Court of Justice.

38. Mr. COSTA COUTO (Brazil) asked whether, under the terms of article X, a State that was not a party to the Convention would be obliged to accede to a request for extradition of one of its nationals, bearing in mind that most countries forbade the extradition of their nationals.

39. Mrs. WARZAZI (Morocco) said she had not understood the reply to her question given by the Director of the General Legal Division. She asked whether the provisions of the Convention would be applicable to a State which had not adhered to it.

40. Mr. SHAFQAT (Pakistan) asked the Director of the General Legal Division how the parties to a dispute were to be determined, in the light of the Director's statement that a dispute could be referred to the International Court of Justice only at the request of all parties to the said dispute.

41. Mr. SLOAN (Director, General Legal Division), replying to the question raised by the representative of Brazil, said that the only provision in the Convention relating to extradition was article X, which did not automatically provide the right to extradite a national of any State which was not a party to the Convention. Thus, the question whether such an individual could be extradited would depend on the extradition treaties in force between States.

42. His answer to the question raised by the representative of Morocco was that the provisions of the Con-

vention could apply only to States that became parties to it. However, as he had pointed out earlier, a national of a State that was not a party to the Convention could be punished for acts committed in that State if he came within the jurisdiction of another State that was a party to the Convention.

43. The representative of Pakistan had asked how the parties to a dispute could be determined. Such a determination was within the competence of the International Court of Justice itself. He pointed out that his interpretation of article XI did not affect the International Court's jurisdiction deriving from other instruments such as declarations of acceptance of compulsory jurisdiction by States.

44. Mr. SMIRNOV (Union of Soviet Socialist Republics) pointed out that, although South Africa was not a party to any of the existing international conventions relating to crimes against humanity, it did adhere to the Geneva Conventions and the peace treaties concluded after the Second World War, which provided for the arrest and trial of persons found guilty of war crimes and crimes against peace and humanity. Even if South Africa had not adhered to those conventions, it would not be relieved of its obligations under international law in that regard.

45. The Director of the General Legal Division had rightly said that South Africa could not be made to adhere to the provisions of the Convention if it did not become a party to it. However, the obligation to prevent crimes against international law and to punish such crimes was binding on South Africa, whether or not it adhered to the Convention. Since *apartheid* was recognized as a crime against humanity in international law, the provisions of the Convention could also be made binding on South Africa.

46. With regard to the provisions of article X, he pointed out that the Convention on the Prevention and Punishment of the Crime of Genocide contained similar provisions. Article X created no difficulties for the citizens of States parties to the Convention. As far as citizens of States not parties to the Convention were concerned, the exception provided for in that article was justified in connexion with the crime of *apartheid*.

47. With regard to the provisions of article XI, he supported the view that disputes should be brought before the International Court of Justice only at the request of all the parties concerned. The parties concerned would thus have the possibility of settling the dispute in other ways and would submit it to the International Court only as a last resort.

48. Mr. VERRELL (Haiti) asked whether, in view of the fact that the system of *apartheid* was practised by Governments and not individuals, the representative of a Government that practised *apartheid* could be arrested in the territory of a State party to the Convention and brought to trial for that crime.

49. Mr. SLOAN (Director, General Legal Division) said that the answer to that question appeared to be in the affirmative. However, it would be more appropriate if the sponsors of the draft Convention could state what their intentions had been in that regard.

50. Mr. VON KYAW (Federal Republic of Germany) said there was a discrepancy between article X of the draft Convention and article VII of the Convention on the Prevention and Punishment of the Crime of

Genocide, in which States parties to the latter Convention pledged themselves to grant extradition in accordance with their laws and treaties in force.

51. Mr. PETHERBRIDGE (Australia) said that the answer given by the Director of the General Legal Division to the question raised by the Haitian representative did not take into account the question whether diplomatic immunity could override the provisions of the draft Convention under consideration.

52. With regard to article XI, he asked whether it was common practice under international treaties and conventions for disputes to be brought before the International Court of Justice only at the request of all parties. In article 17 of the draft international convention on the protection of journalists engaged in dangerous missions in areas of armed conflict (A/9073, annex), it was stated that any of the parties to a dispute could refer it to the International Court.

Article XII

53. Mr. SCOTLAND (Guyana) proposed an amendment⁵ whereby the last four words of article XII would be deleted and the article would end with the words "accede to it".

Article XIV

54. Mr. PAPADEMAS (Cyprus) proposed that the word "tenth" should be replaced by the word "thirty-fifth" in paragraph 1 of article XIV.

55. Mr. COSTA COUTO (Brazil) recalled that the deposit of 27 instruments of ratification had been required for the entry into force of the International Convention on the Elimination of All Forms of Racial Discrimination. He asked what the rationale had been for stipulating that number. Any international convention, if it was to be of practical value, must be universal in scope. The provision that the Convention would enter into force after the deposit of the tenth instrument of ratification or accession seemed to contradict the principle of universality.

56. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that the number of instruments of accession required for the entry into force of different international conventions varied widely. The figure provided for in article XIV seemed to be dictated primarily by the number of States represented in the Third Committee, and was designed to ensure that the Convention would enter into force rapidly. He supported that figure in view of the importance of the Convention, though he was sure that many more than 10 States would accede to it.

⁵ Subsequently circulated in document A/C.3/L.2018

57. Mr. SCOTLAND (Guyana) endorsed the remarks made by the Soviet representative.

58. He proposed an amendment⁶ whereby the words "or accession" at the end of paragraph 1 of article XIV would be deleted and the paragraph would end with the word "ratification". The question of accession could not arise until the Convention entered into force.

59. Mr. SLOAN (Director, General Legal Division), replying to the representative of Australia, said he had not wished to imply any judgement on the matter of diplomatic immunity. His interpretation of the draft Convention had been that it provided for the arrest and punishment of a national of a State that was not a party to the Convention who was charged with the crime of *apartheid*. It was difficult to say whether the obligations of States under the Convention would override their obligation to respect diplomatic immunity. It might be useful if the delegations which had been the sponsors of the draft Convention prior to its adoption by the Economic and Social Council could clarify that point.

60. Mr. SCHREIBER (Director, Division of Human Rights), replying to the question raised earlier by the representative of Brazil, said that, as far as he had been able to ascertain, there appeared to have been several reasons why the International Convention on the Elimination of All Forms of Racial Discrimination stipulated that the Convention would enter into force after the deposit of the twenty-seventh instrument of ratification. Several figures had been proposed. Some of the elements of the decision were that the Convention envisaged the establishment of a committee of 18 members and the Economic and Social Council had had 27 members at that time and that figure had also represented approximately one third of the then membership of the United Nations.

Organization of work

61. The CHAIRMAN referring to item 63, entitled "Human rights and scientific and technological developments: report of the Secretary-General", which the Committee had decided to consider early in December, said he had been informed that the Director-General of UNESCO would be in New York on or around 12 November. If there was no objection, he would take it that members agreed to have the Director-General of UNESCO address the Committee and answer questions at that time.

It was so decided.

The meeting rose at 1.10 p.m.