

Document:-
A/CN.4/SR.18

Summary record of the 18th meeting

Topic:
Other topics

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METHOD OF WORK AND ESTABLISHMENT
OF A COMMITTEE

49. The CHAIRMAN requested the Commission to decide on the method of work it desired to adopt. The question to be decided was whether or not it would be necessary to re-word articles 6, 7 and 8 of the Charter of the Nürnberg Tribunal in order to emphasize the principles of international law which they enunciated. For his part he refused to admit that the task of the Commission was merely to extract from the Charter the provisions containing principles of international law and simply and solely recopy them.

50. Mr. AMADO said that it would first be necessary to determine the meaning of the word "formulation". Some of the principles enunciated in the Charter and the judgment of the Nürnberg Tribunal had considerably modified existing international law. In formulating them, the Commission would sanction those modifications. Its task was therefore extremely important and could not be a mere reproduction of certain provisions of the Charter and judgment of the Nürnberg Tribunal.

51. Mr. SANDSTROM was of the opinion that the Commission should not confine itself to repeating principles enunciated in the Charter and judgment of the Nürnberg Tribunal: it should proceed to make a systematic analysis of those two documents.

52. Mr. CORDOVA shared the views of the Chairman. The Commission should not only register the principles proclaimed in the Charter and judgment of the Nürnberg Tribunal. It should also, to mention only one example, study the question of aggressive operations, which in the Tribunal's opinion did not constitute wars of aggression (A/CN.4/5, p. 59).

53. Mr. FRANÇOIS wondered whether in formulating the principles of Nürnberg the Commission might not be guided by the French proposal (A/AC.10/34) a summary of which appeared on page 20 of the Secretary-General's memorandum (A/CN.4/5). In that case the Commission might take the proposal as a basis for discussion.

54. The CHAIRMAN remarked that the French proposal was drawn up in terms which were too general to serve as a point of departure for the discussion.

55. Mr. AMADO had no objection to taking the French proposal as a basis, but he thought the Commission should first discuss and agree as to what principles emerged from the Charter and the judgment of the Nürnberg Tribunal.

56. Mr. ALFARO recalled that the Commission had agreed to recognize that the principles to be formulated were enunciated in Articles 6, 7 and 8 of the Charter. He thought the Commission might arrange for the formulation of those principles to be preceded by a general statement in

the sense of paragraphs (a) and (b) of the French proposal. Emphasizing the need for a working document to serve as a basis for discussion, he proposed the establishment of a committee composed of two or three members whose task would be to draw up such a document.

57. The CHAIRMAN pointed out that before preparing the document the Committee should study the Charter and judgment of the Nürnberg Tribunal, taking into account the preparatory work on the Charter and the other judgments given by the Tribunal, as well as the Charter and judgment of the Tokyo Tribunal. The question therefore arose as to whether the Committee should draw up the working document during the present session or in the interval between the Commission's first and second sessions.

58. After a brief discussion in which Mr. SPIROPOULOS, Mr. ALFARO and Mr. CORDOVA took part, the Commission decided to set up a committee composed of Mr. François, Mr. Spiropoulos and Mr. Sandström, whose task it would be to draw up during the present session a working document containing a formulation of the Nürnberg principles.²

The meeting rose at 5.40 p.m.

² The discussion was resumed at the 25th meeting. See A/CN.4/SR.25.

18th MEETING

Wednesday, 11 May 1949, at 3 p.m.

This meeting was held in private and no Summary Record was issued.

19th MEETING

Thursday, 12 May 1949, at 3 p.m.

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