MEMORANDUM ON A NEW THREAT TO THE GENOCIDE CONVENTION

A new threat to the Genocide Convention has emerged in the present session of the General Assembly of the United Nations in the form of a Chinese proposal for a revision of the Chinese text of this Convention. In essence this is a hidden device to achieve a revision of the substance of the Convention along the lines suggested by the Soviet delegation on November 20, 1947 (Second Assembly).

The Chinese proposal for revision of the Chinese text of the Convention on the Prevention and Punishment of the Crime of Genocide must be rejected for the following reasons :

1. As it appears from Document A-222l, the Chinese delegation proposes to give the term "Genocide" a different meaning from that which has become officially accepted by the entire world. The word "Genocide" means the intentional destruction of national, racial, religious or ethnic groups, namely, such groups which have a definite position in history, in culture and world society. The term "Genocide" does not mean destruction of human groups, or masses, indiscriminately, as the Chinese delegation suggests or implies. Such destruction would be homicide and not genocide.

2. The Chinese delegation injects into the term "Genocide" a superfluous and dangerously restrictive qualification, namely the words "in a ruthless manner." The cruelty in the commission of a crime is usually taken into consideration as an aggravating circumstance in meting out punishment, and there is no need to introduce it in the term "Genocide".

3. The Steering Committee of the Assembly has decided to place the matter of the revision of the Chinese text directly on the agenda of the Plenary Session of the Assembly instead of sending it first to a committee for the study it requires because the proponents have advanced the idea that this is only a simple matter. The Steering Committee did not have before it Document A-222l which appeared only three days ago, and which shows that this is a very

Approved For Release 2008/03/04 : CIA-RDP80-01065A000600020012-7

complicated issue. According to Article 10 of the Genocide Convention, the Chinese text is equally authentic with the other texts. Section 9 of Document A-2221 implies that the revision is undertaken "with the aim of bringing that text into greater harmony with the other four official texts." Should the Assembly decide favorably on the Chinese request, it would imply that a claim can be made later for a new meaning of the word Genocide in the other four languages of the Convention also.

4. Section 9 of Document A-2221 suggests that no revision of the substance of the provisions of the Convention is intended. This is incorrect. A new term introduced in criminal law is a matter of substance. Moreover, the Chinese proposal would change the name of the Convention. One should not over-look also the fact that the proponents invoke Article 16, which speaks of "revision of the present Convention". (Section 13 of Document A-2221)

5. The Chinese proposal should be compared with the section of the Draft Code of Offenses Against Peace and Security of Mankind, namely, with the section dealing with Crimes Against Humanity of the Nuremberg Charter. A significant similarity appears between the Chinese suggestion as to "human groups" or "the Masses," and "populations" which appears there. Moreover, "Inhuman Acts," which appear in the Draft Code of Offenses to denote Crimes Against Humanity have strikingly the same significance as "ruthlessness" or "cruelty," which the Chinese delegation proposes to inject into the term "Genocide".

6. The opinion of the International Court of Justice on Reservations to the Genocide Convention permits making any reservations which are compatible with the aims and purposes of the Convention without giving the criteria on which such compatibilit y can be based. The Court's opinion suggests also that this matter can be solved either by a new opinion of the International Court of Justice, or by negotiations among governments. In the United Nations a certain number of delegations have expressed their particular preference for the concept in Crimes

Against Humanity, perhaps because these crimes are punishable only in times of war or in connection with aggressive war. Should the Chinese proposal be accepted it can be used as the first official permission to substitute crimes against humanity for genocide.

7. It should be noted that in the Draft Code of Offenses Against Peace and Security of Mankind, the definition of "Genocide" was included, while the term "Genocide" has been imitted. In the above Draft Code only particular elements of the crime of Genocide are being used under the nomenclature of Acts. The Chinese proposal in many instances, uses the word "Acts" instead of the Crime of Genocide.

8. By several resolutions of the Assembly, especially by resolution of Nov. 21, 1947, it was decided, contrary to a Soviet proposal, that genocide is a different matter than codification of the Nuremberg judgement. Forty parliaments have ratified the Genocide Convention and the will of half of the population of the globe, as expressed by these ratifications, should not be obstructed now.

9. It should be recalled that on November 21, 1947 in the Plenary Session of the Assembly (November 20, 1947 in the Legal Committee) the Soviet delegation proposed the replacement of the Genocide Convention by Crimes Against Humanity from the Nuremberg judgement to be incorporated in a Draft Code of Offenses Against the Peace and Security of Mankind. Vishynsky's proposal was well founded in terms of Soviet interests. According to the Nuremberg principles and the concept of Crimes Against Humanity the Soviet Union would not be responsible for crimes which she is committing in times of peace. It would appear very strange if Vishynsky would win his battle with the help of his most embittered enemy, the Chinese delegation under the Assembly Chairmanship of a Canadian statesman. The wisest course of action will be that the Chinese delegation withdraw its proposal, or failing that, that the General Assembly reject directly the Chinese proposal.