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Request of the Government of China for revision of the Chinese text of the Convention on the
Prevention and Punishment of the Crime of Genocide

MEMORANDUM BY THE SECRETARY-GENERAL

TABLE OF CONTENTS

	Page
I. Introduction	1
II. Revision by conventional treaty-making action	2
III. Textual alteration by General Assembly action	2
IV. Conclusion	2

ANNEXES

I. Extract from Hackworth, <i>Digest of International Law</i>	3
II. Circular letter of the Secretary-General of the League of Nations, Geneva 15 June 1934, relating to interpretation of certain articles of the 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs	3
III. Revised Chinese text of the Convention on the Prevention and Punishment of the Crime of Genocide, submitted by the Permanent Representative of China to the United Nations	5
IV. A comparative study of the original Chinese text of the Convention on the Prevention and Punishment of the Crime of Genocide adopted by the General Assembly and the revised text transmitted by the Permanent Representative of China to the United Nations	7

I. INTRODUCTION

1. In his memorandum of 18 September 1951 (A/1880)¹ the Secretary-General placed before the General Assembly during its sixth session the factual background relating to the request of the Government of China for revision of the Chinese text of the Convention on the Prevention and Punishment of the Crime of Genocide.

2. The General Assembly, after having referred this item to the Sixth Committee, which discussed it at its 303rd meeting on 29 January 1952, adopted, at its 369th plenary meeting on 1 February 1952, resolution 605 (VI). In that resolution, the General Assembly considered that the elements necessary for the discussion of the question were not yet at its disposal and decided to include the question in the provisional agenda of the Assembly's seventh session.

3. By a letter of 12 August 1952, the Permanent Representative of China to the United Nations trans-

mitted, to the Secretary-General, a revised Chinese text of the Convention on the Prevention and Punishment of the Crime of Genocide as approved by his Government (see annex III).

4. The Language Services Division of the Secretariat has studied this new text and has, in a memorandum, made a comparison between the new text and the text of the Convention as previously adopted by the General Assembly (see annex IV).

5. It appears that the revised Chinese text submitted by the Permanent Representative of China introduces only revisions which are in the main of a linguistic nature and does not in any sense alter the substance or meaning of the Convention as expressed in the other four official texts.

6. In the present memorandum, alternative methods are set forth, for the information of the General Assembly, by which effect could be given to such alterations in the Chinese text of the Convention in the event that the General Assembly should decide to do so.

¹ See *Official Records of the General Assembly, Sixth Session, Annexes*, item 56, p. 1.

II. REVISION BY CONVENTIONAL TREATY-MAKING ACTION

7. A standard means of giving formal legal effect to changes in the text of a convention in force is to adopt a protocol listing the alterations agreed upon. This procedure has been followed by the General Assembly, for example, with respect to certain conventions of which the Secretary-General of the League of Nations had been the depositary. Such a protocol must contain its own final clauses by which States parties to the basic convention may become bound by the protocol (whether by signature, signature followed by ratification, or accession) and by which the protocol itself may enter into force.

8. Once a formal protocol enters into force, States parties to the protocol are bound to the basic convention in its amended form. The legal complication in this procedure, of course, is that technically, until all States parties to the convention have formally accepted the protocol, two sets of parties to the convention co-exist: (1) those bound, *vis-à-vis* all parties; to the old text; and (2) those bound, as between themselves, to the convention as amended but, *vis-à-vis* States not parties to the protocol, to the old text as well. In order to minimize this overlapping of legal relationships, it is advantageous for such a protocol to contain a special clause by which newly adhering States—that is, States not already parties to the original convention—may in a single action adhere to the convention as amended by the act of adhering to the protocol. This avoids two separate signatures, or the deposit of two separate instruments of ratification or accession.

9. In the present case there is no suggestion for revision of the substance of the provisions of the Genocide Convention. A certain number of purely phraseological alterations are proposed in the text of only one of the official languages, with the aim of bringing that text into greater harmony with the other four official texts, as to which no request for revision is made. It may therefore be thought that the degree of formality of action which a protocol would require, both of the General Assembly and of adhering States, may not in this instance be justified. It is particularly to be noted in the present case that, although States would be required to take conventional treaty-making action to accomplish their adherence to a formal protocol, the effect of such an action would not be to alter their substantive international legal obligations. On the contrary, their obligations are already clearly determined by the texts of the Convention in four of the official languages. The effect of a protocol could merely be to formalize their recognition of any new phraseology adopted in the Chinese text. Thus, as between States adhering and States not adhering to the protocol, all would continue to be bound to each other, as to four of the five texts, in the same manner even if a protocol had not been adopted.

III. TEXTUAL ALTERATION BY GENERAL ASSEMBLY ACTION

10. It would appear that the alternative to formal action of a treaty-making character would be for the General Assembly simply to adopt, by resolution, such alterations as it may wish to make in the Chinese text.

In order to make clear that the consent of governments to the amended text had been obtained, the Assembly could, at the same time, instruct the Secretary-General to communicate, to all States parties to the Convention and to all States entitled to become parties, the revisions so adopted, requesting them to notify him of their willingness to accept the alterations.

11. Precedents exist for this less cumbersome approach. For example, in the case of the International Load Line Convention of 5 June 1930, modifications to the French text of an annex were desired for the practical purpose of simplifying its application in countries using the metric system, and because errors of minor importance in the original text required correction. It did not appear to the Government of the United Kingdom, as depositary, that formal amendment of the Convention was necessary. It therefore circulated the desired alterations to the governments concerned and drew up a list of States expressing their willingness to accept such alterations (see annex I).

12. Another example appears in the case of the 1931 Convention for limiting the Manufacture and regulating the Distribution of Narcotic Drugs. It was found that a drafting defect had caused article 10 to express imperfectly the intent of the authors of the Convention. Likewise, the English text of article 11 did not precisely conform to the decision of the Conference or to the French text. On the other hand, there was found to be a discrepancy between the French text and the English text of article 17, the latter being considered the correct one. In 1934, the Council of the League of Nations, on the proposal of the Advisory Committee on Traffic in Opium and Other Dangerous Drugs, instructed the Secretary-General of the League to give notice of these defects, and of the corrections recommended by the Advisory Committee, to the States parties to the Convention. In a circular letter, the Secretary-General therefore requested the governments concerned to inform him of their acceptance of these points "in order that the Convention may be applied in accordance with the proposals of the Advisory Committee". A time-limit was set for a reply, after which tacit consent was to be implied (see annex II).

IV. CONCLUSION

13. In the light of the foregoing considerations, especially those mentioned in paragraph 9, and of the precedents related in paragraphs 11 and 12, it is submitted that should the General Assembly decide to take action in this matter, it may wish to follow a similar procedure. The General Assembly is the body which originally adopted the Genocide Convention, and article XVI thereof gives it the authority to decide upon any steps to be taken in respect of a request for revision of the Convention. The Assembly might therefore wish to adopt by resolution any desired amendments to the Chinese text, at the same time instructing the Secretary-General to seek from the States parties to the Convention, by means of a circular letter, an expression of their willingness to agree to the amended text. As such a letter would also be circulated to all States entitled to become parties to the Convention, a subsequent ratification or accession without objection to the amendments in the Chinese text could be treated as a tacit acceptance.

Annex I

EXTRACT FROM HACKWORTH
*Digest of International Law*²

After the United States had ratified the International Load Line Convention of June 5, 1930 (4 Treaties, etc. [Trenwith, 1938] 5287), the British Government transmitted a proposal by the Netherlands Government concerning modifications in the rules in annex I as the most practical way of simplifying their application in countries using the metric system. The British Government indicated its agreement to the proposed modifications, which it thought did not necessitate any amendment of the convention. The Undersecretary of State replied that

"as the proposed modifications in no way alter the English text of the convention or affect the equivalence of the French text with the English text, this Government is in agreement with His Majesty's Government in the United Kingdom that the modifications represent the most practical way of simplifying the application of the rules in those countries in which metric measures are in use, and that the proposal does not necessitate any amendment of the convention."

When the Department of State later inquired what other countries had accepted the corrections proposed by the Netherlands Government and what steps the British Government was taking with respect to the corrections, the British Embassy listed the states which had expressed their willingness to accept the corrections and stated that

"since the errors found in the original text of the Convention and Rules were all of minor importance, and as the modifications in the French text recently proposed by the Netherlands Government represent merely the most practical way of simplifying the application of the Rules in annex 1 to the Convention in those countries in which metric measures are in use, the competent authorities do not propose to arrange for the circulation of certified corrected copies of the Convention and Rules."

⁴ Treaties, etc. (Trenwith, 1938) 5341; the British Ambassador (Lindsay) to the Secretary of State (Stimson), No. 48, Feb. 8, 1932, MS Department of State, file 585.61B1.193; the Undersecretary of State (Castle) to Sir Ronald Lindsay, June 1, 1932, *ibid.* /212; Sir Ronald Lindsay to Mr. Stimson, No. 215, June 28, 1932, *ibid.* /215; the Department of State to the British Embassy, Aug. 9, 1932, *ibid.* /229; the British Embassy to the Department of State, Oct. 5, 1932, *ibid.* /241.

Annex II

CIRCULAR LETTER OF THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS, GENEVA, 15 JUNE 1934, RELATING TO INTERPRETATION OF CERTAIN ARTICLES OF THE 1931 CONVENTION FOR LIMITING THE MANUFACTURE AND REGULATING THE DISTRIBUTION OF NARCOTIC DRUGS³

² Hackworth, *Digest of International Law*, vol. V, section 478, "Correction of Errors", p. 100.

³ League of Nations, Circular Letter, 1934, No. CL87.1934. XI.

I have the honour to inform you that, on the proposal of the Advisory Committee on Traffic in Opium and Other Dangerous Drugs, the Council of the League of Nations instructed me, on January 20th, 1934, to call the attention of all Governments parties to the 1931 Convention for limiting the manufacture and regulating the distribution of narcotic drugs to a defect in the drafting of paragraph 2 of Article 10 and to certain points regarding the interpretation of Article 11 and Article 17.

The Advisory Committee pointed out, with regard to *Article 10*, that it was the intention of the 1931 Conference that any export of diacetylmorphine or its salts or any preparations containing them should be consigned to the Government of the importing country; and this is implied in the provision contained in paragraph 3 of Article 10 that any quantity so imported shall be distributed by the Government of the importing country. By some oversight in the drafting of paragraph 2, the words "is consigned to the Government Department indicated in the certificates" ("soit adressée à l'administration officielle indiquée dans le certificat"), which were inserted to give effect to this intention, are made to refer, not to the consignment exported, but to the request for the export made by the Government of the importing country.

In these circumstances, Article 10 should be interpreted, in accordance with the Advisory Committee's recommendation which was approved by the Council, as though the words "the quantity so exported" were inserted before the words "is consigned". This interpretation does, in fact, represent the intention of those who framed the Convention.

With regard to *Article 11*, the question was raised whether it was as clear from the English text ("any product *obtained from*") as from the French text ("tout produit *dérivé de*") that this article applies, not only to any product manufactured from any of the phenanthrene alkaloids of opium or the ecgonine alkaloids of the coca leaf, but also to any substance having a chemical structure identical with that of any such product which is produced by a synthetic process. In the Advisory Committee's opinion, it was undoubtedly the intention of the Conference that the article should apply to such synthetic substances, as appears from the records of the Conference and from the French text.

With regard to *Article 17*, there is a divergence between the English and French texts of paragraph (b) of this article. The English text uses the phrase "quantities . . . disposed of during the quarter" . . . and the French text "quantités utilisées au cours du trimestre". In the Advisory Committee's opinion, the Minutes of the Conference show that the English text more correctly represents the intention of the Conference. A question was also raised in the Committee as to the meaning of the phrase "disposed of". In the opinion of the Advisory Committee, the Minutes of the Conference show that the phrase was intended to be used in a general sense as equivalent to "sold, exported or otherwise disposed of"—that is to say, "vendues, exportées ou ayant fait l'objet d'une autre affectation". The word "utilisées" should also be understood, therefore, in the above sense: "vendues,

exportées ou ayant fait l'objet d'une autre affectation".

In these circumstances, I should be grateful if, in accordance with the recommendation of the Advisory Committee
by the Council, you would be
—if possible, before Decem-
r you accept these interpreta-
Convention may be applied in

accordance with the proposals of the Advisory Committee. Should no communication be received before the date mentioned, your Government will be regarded as having accepted the interpretations in question.

For the Secretary-General:

*Director of the Opium Traffic
and Social Questions Section.*

REVISED CHINESE TEXT OF THE CONVENTION ON THE
PREVENTION AND PUNISHMENT OF THE CRIME OF
GENOCIDE

*Submitted by the Permanent Representative
of China to the United Nations*

防止及懲治殘害人羣罪公約

締約國

鑒於聯合國大會在一九四六年十二月十一日第九十六(一)號決議案內，曾宣言殘害人羣為國際法上之一種罪行，有悖聯合國之精神與宗旨，且為文明世界所不容；

確知歷代殘害人羣之行爲，迭使人類遭受重大損失；

深信欲免人類再罹此種浩劫，國際合作實所必需；

用特議定條款如下：

第一條

締約國確認殘害人羣之行爲不論發生於平時或戰時，均係國際法上之一種罪行，擔允防止並懲治之。

第二條

本公約所稱殘害人羣，係指以某一國族、民族、種族或宗教之團體為對象，意圖消滅其全部或一部而犯之任一下列行爲：

- (甲) 殺害該團體之份子；
- (乙) 使該團體之份子遭受身體上或精神上之嚴重傷害；
- (丙) 故意以某種生活狀況加於該團體，意圖使其全部或一部在形體上歸於消滅；
- (丁) 強制施行辦法，企圖阻礙該團體內之生育；
- (戊) 將該團體之兒童強迫轉移至另一團體。

第三條

下列行爲均在懲治之列：

- (甲) 殘害人羣；
- (乙) 暗中結合圖謀殘害人羣；
- (丙) 直接並公然教唆他人殘害人羣；
- (丁) 着手殘害人羣不遂；
- (戊) 共同實施殘害人羣。

第四條

犯有殘害人羣行爲或第三條所列舉之任何其他行爲者，無論其為依憲法負責之統治者，或公務人員或私人均應予以懲治。

第五條

締約國擔允各依據其本國憲法制定必需之法律，以實施本公約之各項規定，尤其明定刑罰，俾對殘害人羣或第三條所列舉之任何其他行爲者，均得予以有效處分。

第六條

被控犯有殘害人羣或第三條所列舉之任何其他行爲者，應由行爲發生地所屬國之管轄法院，或由因締約國之接受而於該國有管轄權之國際刑事法庭審判之。

第七條

殘害人羣行爲及第三條所列舉之其他行爲在引渡上不得視為政治性之罪行。

締約國承諾遇有此種案件時，各依其法律及有效條約准予引渡。

第八條

任何締約國得提請聯合國主管機關依照聯合國憲章採取各該機關所認為適當之行動，以防止並取締殘害人羣行爲或第三條所列舉之任何其他行爲。

第九條

締約國間關於本公約之解釋，適用或履行問題之爭端，包括關於某一國家對殘害人羣行爲或第三條所列舉之任何其他行爲之責任問題之爭端在內，如經任一爭端當事國請求，應提交國際法院。

第十條

本公約應以一九四八年十二月九日為訂立日期。中、英、法、俄、西文各本同一作準。

第十一條

聯合國任何會員國及經大會邀請簽訂之任何非會員國得於一九四九年十二月三十一日以前簽署本公約。

本公約須經批准，批准書應交由聯合國秘書長存放。

聯合國任何會員國及接獲前述邀請之任何非會員國得於一九五〇年一月一日以後加入本公約。

加入書應交由聯合國秘書長存放。

第十二條

任何締約國得隨時通知聯合國秘書長，將本公約之適用範圍推及由該締約國負責處理其對外關係之所有或任何領土。

第十三條

秘書長應於收存批准書或加入書滿二十件之日，製成紀錄分送聯合國各會員國及第十一條所指之各非會員國。

本公約自第二十件批准書或加入書交存之日起九十日後發生效力。

本公約生效後所作之批准或加入，應於批准書或加入書交存之日起九十日後發生效力。

第十四條

本公約自開始生效之日起，十年內繼續有效。

此後，本公約以每五年為一期，對於未在該期屆滿至少六個月以前聲明退約之各締約國繼續有效。

退約應以書面通知聯合國秘書長。

第十五條

倘因退約關係，致本公約之締約國數目不足十六國時，本公約應於最後退約國之退約生效日起失效。

第十六條

任何締約國得隨時以書通知秘書長請求修改本公約。

對於是項請求所應採取之步驟，由大會決定之。

第十七條

聯合國秘書長應將下列事項通知聯合國所有會員國及第十一條所指之非會員國：

(甲)依照第十一條規定所收到之簽署、批准及加入；

(乙)依照第十二條規定所收到之通知；

(丙)依照第十三條規定本公約開始生效之日期；

(丁)依照第十四條規定所收到之退約通知；

(戊)依照第十五條規定本公約之廢止；

(己)依照第十六條規定所收到之通知。

第十八條

本公約之正本應留存聯合國檔案。

本公約之正式副本應分送聯合國各會員國及第十一條所指之非會員國各一份。

第十九條

本公約應由聯合國秘書長於公約開始生效之日予以登記。

Annex IV

A COMPARATIVE STUDY⁴ OF THE ORIGINAL CHINESE TEXT OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE ADOPTED BY THE GENERAL ASSEMBLY AND THE REVISED TEXT TRANSMITTED BY THE PERMANENT REPRESENTATIVE OF CHINA TO THE UNITED NATIONS

Title of the Convention

1. The basic difference between the two texts is to be found in the Chinese expressions used for the word "genocide". In the original text the expression employed is 危害種族 *wei-hai chung-tsu*,⁵ and in the new text, 殘害人羣 *ts'an-hai jen-ch'ün*. It is to be noted that the word 害 *hai*, meaning "to harm" or "to injure", occurs in both combinations. The term 危害 *wei-hai* in the original text denotes "to cause harm to" or "to destroy", and 殘害 *ts'an-hai* in the new text is a stronger expression, implying ruthlessness or cruelty. The term 種族 *chung-tsu* in the original text means human, or more specifically, racial, groups. 人羣 *jen-ch'ün* in the new text is not exactly a technical term. As an idiomatic expression, it signifies "the masses", or "the human society". It can also be used to indicate "human groups", which is actually the literal meaning of the two characters forming the compound. Thus the literal translation of the expression *wei-hai chung-tsu* used in the original text is "to cause harm to or to destroy human, or racial, groups", and that of *ts'an-hai jen-ch'ün* in the new text, "to cause harm to or to destroy human groups in a ruthless manner". This difference is found throughout the two texts.

Preamble

First recital

2. English text: The Contracting Parties

Original Chinese text:

各締約國

ko ti-yüeh kuo

"The (various) Contracting Parties"

The new Chinese text omits the word 各 *ko* for "various". *Ko* was added in the original text to emphasize

⁴ Prepared by the Languages Division of the United Nations Secretariat.

⁵ The Wade-Giles system is used for the romanization of Chinese characters.

the plural. This word is omitted in the new text of the Preamble and also of articles I, V, VII and IX of the Convention.

Second recital

3. English text: resolution 96 (I)

Original Chinese text:

決議案九十六(一)

chüeh-i-an chiu-shih-liu (i)

"Resolution 96 (I)"

New Chinese text:

第九十六(一)號決議案

ti chiu-shih-liu (i) hao chüeh-i-an

"No. 96 (I) resolution"

The order of the original Chinese translation is followed consistently in United Nations Chinese documents and is simpler. The new translation, however, may be regarded as more conventional in Chinese.

4. English text: declaration

Original Chinese text:

聲明

shêng-ming

New Chinese text:

宣言

hsüan-yen

Both expressions mean "to declare", or as nouns, "declaration". *Hsüan-yen* in the new text conveys the idea of a formal or solemn statement or pronouncement.

5. English text: under international law

Original Chinese text:

國際法下

kuo-chi-fa hsia

"under international law"

New Chinese text:

國際法上

kuo-chi-fa shang

"in international law"

This difference in translation is also found in the two versions for article I of the Convention.

Third recital

6. English text: at all periods of history

Original Chinese text:

有史以來

yu shih i-lai

"since there is history"

New Chinese text :

歷代

li-tai

“at successive periods (in history)”

7. **English text :** genocide

Original Chinese text :

危害種族罪行

wei-hai chung-tsu tsui-hsing

“the crime of genocide”

New Chinese text :

殘害人羣之行爲

ts'an-hai jen-ch'ün chih hsing-wei

“the act of genocide”

Additional words are used in Chinese to change essentially verbal expressions into nominal ones.

8. **English text :** has inflicted great losses on humanity

Original Chinese text :

曾使人類文化遭受重大損失

ts'eng shih jen-lei wen-hua tsao-shou chung-ta sun-shih

“has already caused humanity (human civilization) to suffer great losses”

New Chinese text :

迭使人類遭受重大損失

t'ieh shih jen-lei tsao-shou chung-ta sun-shih

“has repeatedly caused humanity to suffer great losses”

The new text omits the words 文化 wen-hua and retains 人類 jen-lei, which alone is sufficient to express the idea of mankind or humanity.

Fourth recital

9. **English text :** to liberate mankind from such an odious scourge. The literal meaning of the two Chinese versions for this phrase is “to save mankind from suffering again from this great calamity”. The new text uses the word 罹 li, instead of 遭 tsao, for “suffering from” and adds the combination of 此種 tz'ü-chung to express “such”, which is implied in the original translation. The term 浩劫 hao-chieh, which is used in both texts, is taken from the Chinese text of the United Nations Charter. The term is sufficiently strong as to imply the sense of the adjective “odious”.

Fifth recital

10. **English text :** hereby

Original Chinese text :

茲謹

tzü-chin

New Chinese text :

用特

yung-t'è

Both are set phrases commonly used as the equivalents of “hereby”, “accordingly”, or other words having similar connotations.

Article I

11. **English text :** committed

Original Chinese text :

出於

ch'u-yü

“arisen”

New Chinese text :

發生於

fa-sheng-yü

“occurred”

12. **English text :** is a crime under international law. The new text employs the word 係 hsi, instead of 屬 shu for “is”.

13. **English text :** undertake

Original Chinese text :

自當設法

tzu-tang shê-fa

New Chinese text :

擔允

tan-yün

The expression in the new text is more precise and now commonly used in treaty language.

Article II

14. **English text :** In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. . . .

Original Chinese text :

本公約內，稱危害種族者，謂意圖全部或局部消滅某一國族、人種、種族或宗教團體之下列行爲。 . . .

Fên kung-yüeh nei, cheng wei-hai chung-tsu ché, wei i-t'u ch'üan-pu huò chü-pu hsiao-mieh mu-i kuo-tsu, jen-chung, chung-tsu huò tsung-chiao t'uan-t'i chih hsia-lieh hsing-wei

“In the present convention, the term genocide means the following acts (committed) with intent to destroy in whole or in part a certain national, ethnical, racial or religious group. . . .”

New Chinese text :

本公約所稱殘害人羣，係指以某一國族、民族、種族或宗教之團體為對象，意圖消滅其全部或一部而犯之任一下列行為...

Pên kung-yüeh so-ch'êng ts'an-hai jen-ch'ün, hsi chih i mu-i kuo-tsu, min-tsu, chung-tsu huo tsung-chiao chih t'uan-ti wei tui-hsiang, i-t'u hsiao-mieh ch'i ch'üan-pu huo i-pu erh fan chih jen-i hsia-lieh hsing-wei

"In the present convention, the term genocide refers to any of the following acts committed against a certain national, ethnical, racial or religious group with intent to destroy it in whole or in part . . ."

For the word "ethnical", the new text employs the combination 民族 min-tsu which is clearer than 人種 jen-chung. The latter is analogous in meaning to 種族 chung-tsu, the expression used in both texts for "racial".

Sub-paragraph (a)

15. The new text adds the character 該 kai, meaning "the said" or "in question", to bring out explicitly the article "the" before "group".

Sub-paragraph (b)

16. **English text:** causing. The new text omits the word 致 chih and uses only the verb 使 shih.

17. **English text:** bodily

Original Chinese text:

生理上

shêng-li shang

New Chinese text:

身體上

shên-t'i shang

The expression used in the new text is the exact equivalent of "bodily". Shêng-li shang, the term used in the original text, is also a technical expression meaning "physiological", although in ordinary language it is often employed to denote "physical".

Sub-paragraph (c)

18. **English text:** deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

Original Chinese text:

故意將某一團體陷於某種生活情況下以使其遭受全部或局部之生理毀滅

ku-i Chiang mu-i t'uan-t'i hsien-yü mu-chung shêng-huo ch'ing-k'uang hsia i-shih ch'i tsao-shou ch'üan-pu huo chü-pu chih shêng-li hwei-mieh

"deliberately causing a group to be involved in certain conditions of life in order that it should suffer total or partial physical destruction".

New Chinese text :

故意以某種生活狀況加於該團體，意圖使其全部或一部在形體上歸於消滅。

ku-i mu-chung shêng-huo chuang-k'uang chia-yü kai t'uan-t'i i-t'u shih ch'i ch'üan-pu huo i-pu tsai hsing-t'i shang kuei-yü hsiao-mieh

"Deliberately subjecting the said group to certain conditions of life with intent to bring about (the result of) its destruction in whole or in part"

For the word "physical", the original text uses the expression 生理上 shêng-li shang, and the new text, 形體上 hsing-t'i shang (see note on sub-paragraph (b)).

Sub-paragraph (d)

19. **English text:** imposing measures intended to prevent births within the group

Original Chinese text:

強制施行防止團體內生育之辦法

ch'iang-chih shih-hsing fang-chih t'uan-t'i nei shêng-yü chih pan-fa

"imposing measures to prevent births within (the) group"

New Chinese text:

強制施行辦法，企圖阻礙該團體內之生育

ch'iang-chih shih-hsing pan-fa, ch'i-t'u chu-ai kai t'uan-t'i nei chih shêng-yü

"imposing measures intended to impede births within the said group".

Sub-paragraph (e)

20. **English text:** forcibly transferring children of the group to another group

Original Chinese text:

勒令某一團體之兒童轉至另一團體

lei-ling mu-i t'uan-t'i chih erh-t'ung chuan-chih ling-i t'uan-t'i

"compelling children of one group to transfer to another group"

New Chinese text:

將該團體之兒童強迫轉移至另一團體

chiang kai t'uan-t'i chih erh-t'ung ch'iang-p'o chuan-i chih ling-i t'uan-t'i

"forcibly transferring children of the said group to another group".

Article III

Sub-paragraph (b)

21. **English text:** conspiracy to commit genocide

Original Chinese text :

危害種族之陰謀

wei-hai chung-tsu chih yin-mou

"scheming or conspiring to commit genocide"

New Chinese text :

暗中結合圖謀殘害人羣

an-chung chieh-ho t'u-mou ts'an-hai jen-ch'ün

"combining privily and plotting genocide".

Sub-section (c)

22. English text : incitement to commit genocide

Original Chinese text :

煽動危害種族罪之行爲

shan-tung wei-hai chung-tsu tsui chih hsing-wei

"act of inciting genocide"

New Chinese text :

教唆他人殘害人羣

chiao-so t'a-jen ts'an-hai jen-ch'ün

"inducing or instigating others to commit genocide"

The conjunction "and" between "direct" and "public" is merely implied in the original text, but expressed by the word 並 ping in the new text.

Sub-section (d)

23. English text : attempt to commit genocide

Original Chinese text :

危害種族之意圖

wei-hai chung-tsu chih i-t'u

"intent to commit genocide"

New Chinese text :

着手殘害人羣不遂

cho-shou ts'an-hai jen-ch'ün pu-sui

"attempt to commit genocide"

意圖 i-t'u in the original text stresses intent. The phraseology used in the new text is taken from the Chinese Criminal Code.⁶ The Chinese expression literally means "to initiate an act towards the commission of genocide which remains unconsummated".

Sub-paragraph (e)

24. English text : complicity in genocide

Original Chinese text :

危害種族罪之共犯

wei-hai chung-tsu tsui chih kung-fan

"partnership (joint offenders) in the crime of genocide"

⁶ The Chinese Criminal Code and Special Criminal and Administrative Laws, translated and annotated by the Legal Department of the Shanghai Municipal Council, The Commercial Press, Shanghai, 1935, p. 8, article 25 (I).

New Chinese text :

共同實施殘害人羣

kung-t'ung shih-shih ts'an-hai jen-ch'ün

"acting jointly in the commission of genocide".

Article IV

25. English text : committing

Original Chinese text :

犯

fan

"committing"

New Chinese text :

犯有

fan-yu

"having committed".

26. English text : constitutionally responsible rulers

Original Chinese text :

統治者

t'ung-chih-ché

"rulers" (based on the French text "des gouvernants")

New Chinese text :

依憲法負責之統治者

i hsien-fa fu-tsé chih t'ung-chih-ché

"constitutionally responsible rulers".

27. English text : shall be punished

Original Chinese text :

一體罰之

i-t'i fa chih

New Chinese text :

均應予以懲治

ch'un ying yü-i ch'êng-chih

The two expressions have substantially the same meaning.

Article V

28. English text : undertake

Original Chinese text :

承諾

ch'êng-no

New Chinese text :

擔允

tan-yün

The two expressions are identical in meaning.

29. English text : provisions of the present Convention

Original Chinese text :

本公約規定

pên kung-yüeh kuei-ting

New Chinese text :

本公約之規定

pên kung-yüeh chih kuei-ting

The addition of the connecting particle 之 chih is purely a matter of style.

30. English text : . . . and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

Original Chinese text :

...並特別着重對於犯危害種族罪或第三條所列舉之任何其他行為者規定有效之懲罰辦法

. . . ping t'ê-pieh cho-chung tui-yü fan wei-hai chung-tsu tsui huo ti-san-t'iao so lieh-chü chih jen-ho ch'i-t'a hsing-wei ch'ê kuei-ting yu-hsiao chih ch'êng-fa pan-fa . . .

" . . . and especially to provide effective punitive measures for persons committing genocide . . . "

New Chinese text :

...尤其明定刑罰，俾對⁷殘害人羣或第三條所列舉之任何其他行為者，均得予以有效處分

. . . yu-ch'i ming-ting hsing-fa, pei tui⁷ ts'an-hai jen-chün huo ti-san-t'iao so lieh-chü chih jen-ho ch'i-t'a hsing-wei ch'ê, chün-tê yü-i yu-hsiao ch'u-fên

" . . . in particular, to provide penalties for the effective punishment of persons (having committed)⁷ genocide . . . "

Article VI

31. English text : charged with

Original Chinese text :

受控犯

shou-k'ung fan

"accused of committing"

New Chinese text :

被控犯有

pei-k'ung fan-yu

"accused of having committed".

32. English text : . . . shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tri-

⁷ The text apparently left out the two characters 犯有 fan-yü which appear in the preceding and the following articles and without which the meaning of the sentence is grammatically incomplete.

bunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Original Chinese text :

應交由行為發生之領土內國家管轄法院或國際刑事法庭審判之；國際刑事法庭對於承諾其管轄之締約國有管轄權。

ying chiao-yu hsing-wei fa-shêng chih ling-t'u nei kuo-chia kuan-hsia fa-yüan huo kuo-chi hsing-shih fa-t'ing shên-p'an chih; kuo-chi hsing-shih fa-t'ing tui-yü ch'êng-no ch'i kuan-hsia chih ti-yüeh-kuo yu kuan-hsia ch'üan.

"shall be tried by a competent tribunal in the territory of the State in which the act was committed or by an international penal tribunal; such international penal tribunal shall have jurisdiction in respect of (the) Contracting Parties which shall have agreed to its jurisdiction."

New Chinese text :

應由行為發生地所屬國之管轄法院，或由因締約國之接受而於該國有管轄權之國際刑事法庭審判之。

ying yu hsing-wei fa-shêng-ti so-shu-kuo chih kuan-hsia fa-yüan, huo yu ying ti-yüeh-kuo chih chieh-shou erh yü kai-kuo yu kuan-hsia ch'üan chih kuo-chi hsing-shih fa-t'ing shên-p'an chih.

"shall be tried by a competent tribunal of the State in the territory of which the act was committed or by (such) international penal tribunal which shall have jurisdiction in respect of the Contracting Parties having accepted (its jurisdiction)."

Article VII

33. English text : for the purpose of extradition

Original Chinese text :

在適用引渡辦法時

tsai shih-yung yin-tu pan-fa shih

"in the application of extradition measures"

New Chinese text :

在引渡上

tsai yin-tu shang

"in matters of extradition".

34. English text : political crimes

Original Chinese text :

政治性之犯罪

chêng-chih-hsing chih fan-tsui

New Chinese text :

政治性之罪行

chêng-chih-hsing chih tsui-hsing

Fan-tsui signifies "to commit a crime" or "the commission of a crime". Tsui-hsing is therefore a more suitable expression for "crime(s)".

35. **English text:** pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Original Chinese text:

承諾遇有此種案件時，其引渡之給予，各依其本國法律及當時有效之條約辦理。

ch'êng-no yü-yu tz'ü-chung an-chien shih, ch'i yin-tu chih kei-yu, ko i-ch'i pên-kuo fa-lü chi tang-shih yu-hsiao chih t'iao-yüeh pan-li.

"pledge that in such cases the granting of extradition shall be effected in accordance with their respective national laws and treaties then in force."

New Chinese text:

承諾遇有此種案件時，各依其法律及有效條約准予引渡。

ch'êng-no yü-yu tz'ü-chung an-chien shih, ko-i-ch'i fa-lü chi yu-hsiao t'iao-yüeh chun-yü yin-tu.

"pledge in such cases to grant extradition in accordance with their respective laws and treaties in force."

Article VIII

36. **English text:** 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 . . .

Original Chinese text:

任何締約國爲防止及懲治危害種族之行爲 . . . 起見，得提請聯合國之主管機關遵照聯合國憲章採取其所認爲適當之行動

Jen-ho ti-yüeh-kuo wei fang-chih chi ch'êng-chih wei-hai chung-tsu chih hsing-wei . . . ch'i-chien, tê t'i-ch'ing Lien-ho-kuo chih chu-kuan chi-kuan tsun-chao Lien-ho-kuo Hsien-chang ts'ai-ch'ü ch'i so-jen-wei shih-tang chih hsing-tung.

"Any Contracting Party, for the purpose of preventing and punishing acts of genocide . . . , 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."

New Chinese text:

任何締約國得提請聯合國主管機關依照聯合國憲章採取各該機關所認爲適當之行動，以防止並取締殘害人羣行爲 . . .

Jen-ho ti-yüeh-kuo tê t'i-ch'ing Lien-ho-kuo chu-kuan chi-kuan i-chao Lien-ho-kuo Hsien-chang ts'ai-ch'ü ko-kai chi-kuan so-jen-wei shih-tang chih hsing-tung, i fang-chih ping ch'ü-ti ts'an-hai jen-ch'ün hsing wei . . .

"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 such organs consider appropriate for the prevention and suppression of acts of genocide"

37. **English text:** application or fulfilment

Original Chinese text:

援用或實施

yüan-yung huo shih-shih

New Chinese text:

應用或履行

ying-yung huo lü-hsing

The expressions used in both texts have substantially the same meaning.

38. **English text:** genocide

Original Chinese text:

危害種族罪

wei-hai chung-tsu tsui

"crime of genocide"

New Chinese text:

殘害人羣行爲

ts'an-hai jen-ch'ün hsing-wei

"act of genocide".

39. **English text:** including

Original Chinese text:

包括

pao-kua

New Chinese text:

包括 . . . 在內

pao-kua . . . tsai-nei

The latter is the fuller form of the former.

40. **English text:** at the request of any of the parties to the dispute

Original Chinese text:

在經爭端當事國請求後

tsai ching chêng-tuan tang-shih-kuo ch'ing-ch'iu hou

"after so requested by (a) party to the dispute"

New Chinese text:

如經任一爭端當事國請求

ju ching jen-i chêng-tuan tang-shih-kuo ch'ing-ch'iu

"if so requested by any of the parties to the dispute".

Article X

41. **English text:** The present Convention . . . shall bear the date of 9 December 1948

Original Chinese text:

本公約應載有下列日期：一九四八年十二月九日 . . .

Pên kung-yüeh ying tsai-yu hsia-lieh jih-ch'i: i-chiu-szü-pa nien shih-erh yüeh chiu-jih;

"The present Convention shall have the following date: 9 December 1948"

New Chinese text :

本公約應以一九四八年十二月九日爲訂立日期...

Pên kung-yüeh ying-i i-chiu-szû-pa nien shih-erh yüeh chiu-jih wei ting-li jih-ch'i...

"9 December 1948 shall be regarded as the date of conclusion of the present Convention...".

42. Both Chinese versions for the second portion of this article literally mean "its Chinese, English, French, Russian and Spanish texts are equally authentic". The new Chinese text omits the words 其 *ch'i* "its" and 及 *chi* "and", which are found in the original Chinese text, purely as a matter of style.

Article XI

43. **English text :** The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations...

Original Chinese text :

本公約在一九四九年十二月三十一日前得由聯合國任何會員國...簽字。

Pên kung-yüeh tsai i-chiu-szû-chiu nien shih-erh-yüeh san-shih-i jih ch'ien tê-yu Lien-ho-kuo jen-ho hui-yüan-kuo... ch'ien-tzû.

"The present Convention may be signed before 31 December 1949 by any Member of the United Nations...".

New Chinese text :

聯合國任何會員國...得於一九四九年十二月三十一日以前簽署本公約。

Lien-ho-kuo jen-ho hui-yüan-kuo... tê-yü i-chiu-szû-chiu nien shih-erh-yüeh san-shih-i jih i-ch'ien ch'ien-shu pên kung-yüeh.

"Any Member of the United Nations... may sign the present Convention before 31 December 1949".

44. **English text :** signature

Original Chinese text :

簽字

ch'ien-tzû

New Chinese text :

簽署

ch'ien-shu

The two expressions are substantially the same.

45. **English text :** shall be ratified

Original Chinese text :

應經過批准

ying ching-kuo p'i-chun

"shall be subject to ratification"

New Chinese text :

須經批准

hsü ching p'i-chun

A simpler expression having exactly the same meaning.

46. **English text :** deposited with

Original Chinese text :

交由...收存

chiao-yu... shou-ts'un

New Chinese text :

交由...存放

chiao-yu... ts'un-fang

The expressions used have substantially the same meaning.

47. **English text :** After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations...

Original Chinese text :

一九五〇年一月一日之後，本公約得由聯合國任何會員國...政府參加簽訂。

I-chiu-wu-ling nien i-yüeh i-jih chih hou, pên kung-yüeh tê-yu Lien-ho-kuo jen-ho hui-yüan-kuo... chêng-fu ts'an-chia ch'ien-ting.

"After 1 January 1950, the present Convention may be acceded to by the government of any Member of the United Nations...".

New Chinese text :

聯合國任何會員國...得於一九五〇年一月一日以後加入本公約

Lien-ho-kuo jen-ho hui-yüan-kuo... tê-yü i-chiu wu-ling nien i-yüeh i-jeh i-hou chia-ju pên kung-yüeh.

"Any Member of the United Nations... may, after 1 January 1950, accede to the present Convention." For "to accede" or "accession", the expression used in the original text is 參加簽訂 *ts'an-chia ch'ien-ting*, and the expression in the new text is 加入 *chia-ju*. The latter is now more commonly in use.

Article XII

48. **English text :** notification

Original Chinese text :

照會

chao-hui

New Chinese text :

通知

t'ung-chih.

49. **English text :** extend

Original Chinese text :

延及

yen-chi

New Chinese text :

推及
t'ui-chi.

50. English text: for the conduct of whose foreign relations that Contracting Party is responsible

Original Chinese text :

該締約國代負外交關係責任之
kai ti-yüeh-kuo tai-fu wai-chiao kuan-hsi tsê-jen chih

New Chinese text :

由該締約國負責處理其對外關係之
yu kai ti-yüeh-kuo fu-tsê ch'u-li ch'i tui-wai kuan-hsi chih

Differences in choice of words and word order only.

Article XIII

51. English text: the first twenty instruments

Original Chinese text :

最初之二十份
tsui-ch'u chih erh-shih fên

New Chinese text :

滿二十件
man erh-shih chien.

52. English text: draw up a *procès-verbal*

Original Chinese text :

擬具備忘錄
i-chu pei-wang-lu

New Chinese text :

製成紀錄
chih-ch'êng chi-lu.

53. English text: transmit to

Original Chinese text :

分別送達
fên-pieh sung-ta

New Chinese text :

分送
fên-sung.

54. English text: deposit

Original Chinese text :

存入
ts'un-ju

New Chinese text :

交存
chiao-ts'un

Difference in choice of words only.

55. English text: Any ratification or accession effected subsequent to the latter date . . .

Original Chinese text :

公約生效後所作之任何批准書或參加簽訂書
kung-yüen shêng-hsiao hou so-tso chih jen-ho p'i-chun-shu
huo ts'an-chia ch'ien-ting shu

"Any instrument of ratification or accession effected subsequent to the coming into force of (the) Convention"

New Chinese text :

本公約生效後所作之批准或加入

Pên kung-yüeh shêng-hsiao hou so-tso chih p'i-chun huo chia-ju

"(Any) ratification or accession effected subsequent to the coming into force of the present Convention".

56. English text: the ninetieth day following the deposit of . . .

Original Chinese text :

存入後之第九十日
ts'un-ju hou chih ti chiu-shih jih

New Chinese text :

交存之日起九十日後
chiao-ts'un chih jih ch'i chiu-shih jih hou

Both forms are acceptable, but the latter version is preferable from the point of view of uniformity of expression inasmuch as it is the form used to translate other similar phrases in the Convention.

Article XIV

57. English text: remain in effect

Original Chinese text :

保持有效
pao-chih yu-hsiao

New Chinese text :

繼續有效
chi-hsü yu-hsiao

The two expressions are substantially the same.

58. English text: coming into force

Original Chinese text :

發生效力
fa-shêng hsiao-li

New Chinese text :

開始生效
k'ai-shih shêng-hsiao

Both are suitable translations.

59. English text: It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Original Chinese text :

其後對於未曾聲明解約之各締約國仍繼續有效以五年爲一期: 其解約聲明至少須在公約失效前六個月爲之。

Ch'i-hou tui-yü wei-ts'êng shêng-ming chieh-yüeh chih ko ti-yüeh-kuo jen chi-hsü yu-hsiao, i wu-nien wei i-ch'i: ch'i chieh-yüeh shêng-ming chih-shao hsü tsai kung-yüeh shih-hsiao ch'ien liu-ko yüeh wei-chih.

"Thereafter (it) shall remain in force for successive periods of five years for such Contracting Parties as have not denounced it: such denunciation shall be made at least six months before the expiration of the Convention".

New Chinese text :

此後，本公約以每五年為一期，對於未在該期屆滿至少六個月以前聲明退約之各締約國繼續有效。

Tz'ô-hou, pên kung-yüeh i mei-wu-nien wei i-ch'i, tui-yü wei ts'ai kai-ch'i chieh-man chih-shao liu-ko yüeh i-ch'ien shêng-ming t'ui-yüeh chih ko ti-yüeh-kuo chi-hsü yu-hsiao.

"Thereafter the present Convention shall remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of each such period".

60. English text : denunciation

Original Chinese text :

解約
chieh-yüeh

New Chinese text :

退約
t'ui-yüeh

The latter expression is now more commonly in use.

Article XV

61. English text : the last of these denunciations

Original Chinese text :

最後一項解約通知
tsui-hou i-hsiang chieh-yüeh t'ung-chih

"the last notification of denunciation"

New Chinese text :

最後退約國之退約
tsui-hou t'ui-yüeh-kuo chih t'ui-yüeh

"the denunciation by the Contracting Party last to denounce it".

Article XVI

62. English text : the steps to be taken

Original Chinese text :

應作何種措施
ying-tso ho-chung ts'o-shih

New Chinese text :

所應取之步驟
so-ying ts'ai-ch'ü chih pu-tsou.

Article XVII

63. English text : in accordance with article . . .

Original Chinese text :

依據第 . . . 條
i-chü ti . . . t'iao

New Chinese text :

依照第 . . . 條規定
i-chao ti . . . t'iao kuei-ting

"in accordance with the provisions of article . . .".

64. English text : accessions

Original Chinese text :

參加簽訂
ts'an-chia ch'ien-ting

New Chinese text :

加入
chia-ju

(See note on article XI).

65. English text : denunciations

Original Chinese text :

解約通知
chieh-yüeh t'ung-chih

New Chinese text :

退約通知
t'ui-yüeh t'ung-chih

(See note on article XIV).

66. English text : abrogation

Original Chinese text :

廢棄
fei-ch'i

New Chinese text :

廢止
fei-chih

The two expressions are substantially the same.

Article XVIII

67. English text : transmitted to

Original Chinese text :

分別送達
fên-pieh sung-ta

New Chinese text :

分送
fên-sung

(See note on article XIII).

68. The new text includes the words 各一份 ki to bring out clearly the idea of "one copy".

Article XIX

69. English text : coming into force

Original Chinese text :

生效
shêng-hsiao

New Chinese text :

開始生效
k'ai-shih shêng-hsiao

The two expressions are substantially the same.