

GENERAL
ASSEMBLY

SIXTH SESSION

Official Records



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CONTENTS

| | Page |
|--|------|
| Election of the Vice-Chairman..... | 3 |
| Election of the Rapporteur..... | 3 |
| Order of discussion of agenda items..... | 3 |

Chairman : Mr. Manfred LACHS (Poland).

Election of the Vice-Chairman

1. Mr. ALI (Pakistan) nominated Mr. Pérez Perozo (Venezuela) for the post of Vice-Chairman.
2. Mr. VAN GLABBEKE (Belgium), Mr. AMADO (Brazil), Mr. ESCUDERO (Ecuador), Mr. ROBINSON (Israel), Mr. CORDOVA (Mexico), Mr. BARAZI (Saudi Arabia), Mr. MOROZOV (Union of Soviet Socialist Republics), Mr. LERENA ACEVEDO (Uruguay) and Mr. BARTOS (Yugoslavia) supported the nomination.

Mr. Pérez Perozo (Venezuela) was unanimously elected Vice-Chairman.

Election of the Rapporteur

3. Mr. SPIROPOULOS (Greece) nominated Mr. Abdoh (Iran) for the post of Rapporteur.
4. Mr. TABIBI (Afghanistan), Mr. VAN GLABBEKE (Belgium), Mr. AMADO (Brazil), Mr. CHAUMONT (France), Mr. CHAUDHURI (India), Mr. RÖLING (Netherlands), Mr. TARAZI (Syria), Mr. KOVALENKO (Ukrainian Soviet Socialist Republic), Mr. FITZMAURICE (United Kingdom), Mr. MAKTOS (United States of America) and Mr. BARTOS (Yugoslavia) supported the nomination.

Mr. Abdoh (Iran) was unanimously elected Rapporteur.

Order of discussion of agenda items

5. Mr. MAKTOS (United States of America) said that he hoped that the deletion of item 48 of the provisional agenda (A/1870) entitled "Status of claims for injuries incurred in the service of the United Nations: report by the Secretary-General" (A/1851) would not be taken as a precedent. The Sixth Committee had proposed, and the General Assembly had adopted a resolution (365 (IV)) requesting the Secretary-General to submit an annual report on the matter to the General Assembly. The Secretary-General had taken the view (A/BUR/126, paragraph 4), that the item could be

dropped, as all the governments had been informed about the status of outstanding international claims; but it might be asked whether that constituted proper fulfilment of resolution 365 (IV). Circulation of information to governments was not, juridically speaking, the same thing as a report to the General Assembly. It was true that the General Assembly itself had decided (342nd plenary meeting) that the item should not appear on the agenda of the sixth session. As it had not been discussed, however, there was some question whether in fact the item could properly be said to have been before the Assembly at all. It was true, too, that the General Committee had concurred in the Secretary-General's view that the item need not appear on the agenda of the session unless a Member should request a debate thereon; but it was obvious that the delegations would not wish to discuss such technical matters in the plenary sessions. The Sixth Committee should in future be more jealous of its prerogatives and not permit legal matters to be thus overlooked. Otherwise, the Committee might seem to have introduced the original resolution to the General Assembly to no purpose.

6. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) observed that the Secretary-General had originally placed the item on the provisional agenda, but had later, as a matter of exception, recommended that it should not be included in the agenda of the sixth session because there had been no important developments on the subject within the past year and because all members of the General Assembly had been fully informed thereon by a report of the Secretary-General (A/1851). His reasons were fully stated in paragraph 4 of document A/BUR/126. No member of the General Assembly had in fact asked for a debate on the matter, so that it had been deemed best to hold the item over for a subsequent session.

7. Turning to the Committee's agenda (A/C.6/338), he suggested that items 2 (a) and 3 should be considered at the same time. At its previous session the General Assembly had decided (resolution 478 (V)) that both the International Court of Justice and the International Law Commission should be consulted regarding reservations. For technical reasons the Secretary-General

had had to place the advisory opinion of the Court¹ and the report of the Commission² in separate items in the provisional agenda, but they were closely connected and could best be taken together.

8. Mr. FITZMAURICE (United Kingdom) felt that, though items 2 (a) and 3 were closely connected, they ought not to be considered at the same time because they dealt with different matters—the former with reservations to multilateral conventions in general, and the latter with reservations to the Convention on the Prevention and Punishment of the Crime of Genocide in particular—which had been referred to different bodies. He suggested, therefore, that item 2 (b) and item 2 (c) should be placed first, followed by item 2 (a) and item 3.

9. Item 9 appeared last in the agenda because his delegation had suggested it too late for inclusion in the provisional agenda, and it had appeared in the supplement thereto (A/1900). It should be given an earlier place, since it required long debate, and it was important that decisions concerning it should be taken early enough for them to assist the work of the present session. As his delegation's proposals on the subject were not yet prepared, he did not suggest that it should become item 1, but perhaps item 2 or 3.

10. Mr. MAKTOS (United States of America) suggested that item 3 should be taken before item 2 (a), instead of *vice versa*, as the United Kingdom representative proposed, because the advisory opinion of the International Court of Justice would enlighten the Committee on reservations in general.

11. Mr. AMADO (Brazil) opposed the attachment of item 2 (a) to item 3 on the ground that the report of the International Law Commission was a single entity, and the General Assembly resolution distinguished between the functions of the Commission and the Court.

12. Mr. ROBINSON (Israel) supported the suggestions of the United Kingdom representative. Items related to one another ought to be grouped together; for example, items 8 and 5, both of which dealt with the Headquarters Agreement.

13. He suggested therefore that the items in the agenda should be arranged in the following new order: 1, 7, 9, 2 (b) together with 2 (c) under the general title "Report of the International Law Commission, including...", 2 (a) together with 3, and then 4, 6, 5 and 8. In the new order item 2 (a) would become the general title of the appropriate new item, followed by two sub-paragraphs, the first relating to the report of the International Law Commission and the second to the advisory opinion of the International Court of Justice.

14. Mr. CORTINA (Cuba) felt that if existing items 2 (a) and 3 were dealt with separately, decisions taken upon them by the Committee might conflict.

15. Mr. MOROZOV (Union of Soviet Socialist Republics) pointed out that, although the General Assembly had asked for a report and an opinion from two separate bodies, reservations constituted a single question. Since the report of the Commission made references to the advisory opinion, and on the other hand reservations to the Genocide Convention could not be considered without a review of reservations in general, it would in practice be impossible to treat the two questions separately, whatever their position in the agenda.

16. He therefore supported the Israel representative's suggestion regarding items 2 and 3. The order of the items should, however, be reserved, so that 2 (a) and 3 would precede 2 (b) and (c).

17. He felt that item 7 might be left in its present position, and that consideration of the position of item 9 might be deferred until the United Kingdom delegation had given the necessary particulars.

18. Mr. LERENA ACEVEDO (Uruguay) thought that item 9 might become item 4. He felt that item 2 (a) should come before item 3, as the Israel representative proposed, so as to place the general before the particular.

19. Mr. HERRERA BAEZ (Dominican Republic) supported the Uruguayan representative's suggestions, and that part of the suggestion of the Israel representative concerning items 5 and 8.

20. Mr. PLAISANT (France) was in favour of item 9 appearing early in the agenda, and of the Israel representative's suggestion concerning items 2 (a) and 3.

21. Mr. TARAZI (Syria) agreed that items 2 (a) and 3 should be taken together. In his opinion item 9 could not be advanced in the order of discussion until further particulars were given. He also felt that the importance of item 5 entitled it to appear before item 4.

22. Mr. MOUSSA (Egypt) supported the Assistant Secretary-General's proposals regarding items 2 (a) and 3. He proposed that item 3 should be taken together with item 2 (a), which dealt with the question of principle, particularly since the Committee need only take note of item 3. Otherwise no changes seemed to be required in the order of the items. Item 9 in particular ought to remain in its present place, since it required much preliminary study, and might impinge on the work of other committees. He thought that in the case of a technical committee like the Sixth Committee, priority was not a matter of major importance and there was really no urgent reason why item 9 should be given an earlier place, particularly in view of the fact that the United Kingdom representative stated that his proposals were not yet prepared.

23. Mr. CHAUDHURI (India) supported the Israel representative's proposals.

24. Mr. ITURRALDE (Bolivia) was in favour of all items remaining in their existing position, with the exception of item 9, which should be placed earlier. Items 2 and 3, which concerned two separate bodies, in particular should remain as they were, in order to avoid confusion.

25. Mr. HSU (China) was in favour of item 7 remaining in or near its existing position because his delegation had not yet received the necessary documents. He did not think it was connected with item 9.

26. Mr. ROBINSON (Israel) withdrew his suggestion concerning item 7.

27. Mr. MAKTOS (United States of America) said that the Committee should analyse item 3, the advisory opinion, which dealt with general principles as well as the particular question of reservations to the Genocide Convention, not merely take note of it; it showed what the existing state of the law on the question was, while the report of the International Law Commission went

¹ Reservations to the Convention on Genocide, Advisory Opinion: I. C. J. Reports 1951, page 15 ff.

² Official Records of the General Assembly, Sixth Session, Supplement No. 9.

beyond the existing law. Item 3 should therefore appear before item 2, as he had suggested.

28. The CHAIRMAN proposed that the Committee should proceed to take the items in document A/C.6/338 one by one, bearing in mind the various proposals that had been made, and determine their position in the order of discussion.

It was so agreed.

The Committee decided that item 1 should remain item 1.

29. The CHAIRMAN said it appeared that the Committee should next consider, as item 2, the Israel proposal to consider the existing items 2 (a) and 3 as one item.

30. Mr. FITZMAURICE (United Kingdom) said that, while he had only suggested at first that item 9 should be moved up in the order of the agenda and perhaps to second or third place, he now felt it necessary to express a preference as between second and third place. As items 2 (a) and 3, which it was suggested should be taken together, might take considerable time, he proposed that item 9 should be taken after item 1.

31. Mr. MOROZOV (Union of Soviet Socialist Republics) observed that the United Kingdom representative had not replied to the points he and other representatives had made against advancing item 9 in the order of the agenda. He did not object to a discussion of that item, but considered that, in view of the Committee's heavy programme of work, delegations should have adequate documentation. He therefore moved that a decision on the question should be postponed until the United Kingdom delegation had submitted specific proposals and more detailed information.

32. Mr. FITZMAURICE (United Kingdom) said that it had not been the practice in General Assembly committees for delegations making proposals to table full documentation at an opening meeting. The custom was for such delegations to provide the necessary information when the Committee came to deal with the particular item. Moreover, his delegation had submitted an explanatory memorandum (A/1929) in accordance with rule 20 of the rules of procedure.

33. If the Committee decided that the consideration of the Assembly's methods and procedures for dealing with legal and drafting questions should be taken after item 1, his delegation would table in good time all the necessary proposals and information. In the circumstances, he maintained his formal proposal that item 9 should be taken after item 1.

34. Mr. ABDOH (Iran) and Mr. VAN GLABBEKE (Belgium) said that, since the discussion on the item combining existing items 2 (a) and 3, if taken after item 1, would probably give the United Kingdom delegation the necessary time to provide the information for a proper discussion of item 9, they could agree to the advancement of the latter to third place on the agenda.

35. Mr. MOROZOV (Union of Soviet Socialist Republics) appreciated the reference to rule 20 of the rules of procedure, but contended that, if the United Kingdom representative insisted on priority treatment for item 9, he should provide the Committee with much fuller details of what it involved. He thus maintained his proposal that consideration of the place in the agenda of item 9 should be deferred; the United Kingdom delegation would be free to raise the matter at a later stage when it had furnished the necessary information.

36. Mr. MAKOTOS (United States of America) believed that the United Kingdom delegation's memorandum had adequately explained what was involved under item 9. He supported the United Kingdom proposal, for he agreed that there might be considerable advantage for the Committee and for the General Assembly if the question were dealt with at an early stage in the Committee's work.

37. The CHAIRMAN stated that under rule 115 of the rules of procedure priority should be accorded to the USSR proposal that the debate on the question of advancing item 9 in the order of the agenda should be adjourned, and he put the proposal to the vote.

The USSR proposal was rejected by 31 votes to 11, with 7 abstentions.

38. The CHAIRMAN put to the vote the United Kingdom proposal that the Committee should take item 9 immediately after item 1.

The United Kingdom proposal was adopted by 21 votes to 16, with 12 abstentions.

39. The CHAIRMAN requested the Committee to revert to the Israel proposal that items 2 (a) and 3 should be grouped together in the following form:

Reservations to multilateral conventions:

(a) Report of the International Law Commission covering the work of its third session, chapter II: reservations to multilateral conventions;

(b) Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide: advisory opinion of the International Court of Justice.

This would become item 3.

40. Mr. PESCATORE (Luxembourg) speaking on a point of order, questioned whether, in the light of rules 22 and 98 of the rules of procedure, the Committee was competent to decide whether such a modification of its agenda should be made.

41. Mr. FITZMAURICE (United Kingdom) submitted that the Committee was being asked to take a decision not to amend the agenda, but to revise the order of its items. In his view, the proposal in the form in which it was stated involved no change of substance, but was merely a procedure whereby two closely associated questions could be considered together. It therefore did not seem that the Committee would be out of order in taking a decision in the matter.

42. The CHAIRMAN put to the vote the question whether the Committee was competent to take a decision in terms of the Israel proposal.

The Committee decided by 41 votes to 4, with 4 abstentions, that it was competent to take such a decision.

43. Mr. MOROZOV (Union of Soviet Socialist Republics) inquired whether, in the event of the Israel proposal being adopted, the discussion on reservations to multilateral conventions would cover the report of the International Law Commission and the advisory opinion of the International Court of Justice simultaneously.

44. Mr. ROBINSON (Israel) believed that nothing would prevent the Chairman from authorizing members to speak on both the report and the opinion. At a certain stage in the discussion, he could rule that the elements common to both had been disposed of, and that the Committee should proceed to discuss each separately.

45. Mr. MOROZOV (Union of Soviet Socialist Republics) accepted that interpretation.

46. The CHAIRMAN put to the vote the Israel proposal for grouping items 2 (a) and 3 as item 3.

The proposal was adopted by 45 votes to none, with 5 abstentions.

47. The CHAIRMAN put to the vote the Israel proposal for a new item 4, which would be entitled :

“ Report of the International Law Commission covering the work of its third session, including :

“ (a) Question of defining aggression;

“ (b) Review of the Statute of the International Law Commission with the object of recommending revisions thereof to the General Assembly. ”

The Israel proposal was adopted by 49 votes to none, with 2 abstentions.

48. Mr. KERNO (Assistant Secretary-General) said that the Secretary-General had particularly asked that items

requiring the presence of the same Secretariat personnel should be taken as nearly as possible together, for administrative and budgetary reasons. Item 6 would come under that head and might perhaps be taken immediately after the item dealing with the International Law Commission.

It was decided by 49 votes to none, with 4 abstentions, that item 6 should become the new item 5.

It was decided that item 4 should become item 6 and item 5 item 7.

49. Mr. ROBINSON (Israel) proposed that item 8 should follow, particularly as the material for the discussion of item 7 might not yet have arrived.

It was decided that item 8 should remain as such and that item 7 should become item 9.

The meeting rose at 6.15 p.m.