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Chairman: Mr. V. OUTRATA (Czechoslovakia).

Report of the International Law Commission on the work of its second session (A/1316) (*continued*)

[Item 52]*

1. The CHAIRMAN stated that discussion was now open on part II of the International Law Commission's report (A/1316).

2. Mr. PATHAK (India) felt that paragraphs 30 and 54 of the Commission's report required some explanation. The Commission apparently thought that the International Court of Justice was not required to treat judicial decisions as evidence of customary international law because in Article 38 of the Statute of the Court, judicial decisions and international custom were referred to in different paragraphs. He questioned that view. International custom should not be confused with customary international law; for example, the practice which the American States followed in the matter of reservations to multilateral conventions and which they accepted as an international custom, could only be transformed into international customary law if all or most of the States in the international community were prepared to accept it as such. Hence, the words "international custom" in Article 38 of the Court's Statute should not be understood as meaning customary international law. Further, international and national courts based their decisions on — *inter alia* — treaties, rules of customary international law and the general principles of law recognized by civilized nations. Accordingly judicial decisions should be regarded as evidence of customary international law.

3. Paragraphs 1 b and 1 d of Article 38 of the Court's Statute did not necessarily conflict with each other; both international custom and judicial decisions could serve as evidence of customary international law and could be used as such by the Court when determining what was customary international law.

4. Hence he did not agree with the Commission's view as set forth in paragraph 30, and repeated in paragraph 54, of its report. His view was supported by the position taken by George Schwarzenberger in his book — *International Law*.¹

5. The question of the interpretation of Article 38 of the Court's Statute was very important, and he hoped to receive some further particulars regarding the Commission's view on that point.

6. Mr. VALLAT (United Kingdom) said the Commission's recommendations in paragraphs 90 to 94 should be considered from the point of view of cost and feasibility. He agreed with the recommendations in paragraph 90 for the widest possible distribution of publications relating to international law — on which point the Secretariat might make some useful suggestions — provided additional expense was not incurred. He referred, in that connexion, to the Secretary-General's report on Registration and Publication of Treaties and International Agreements which stated that publication expenses had to be kept to a minimum (A/1408, part II).

7. The suggestion made in paragraph 92 for occasional publication of digests of the Court's *Reports of Judgments, Advisory Opinions and Orders* was sound; such digests, if well prepared, might sell in sufficient quantities to repay their cost of publication.

8. Referring to paragraph 91, he said it was rather difficult to assess the exact value of the different publications suggested. He thought, however, that priority might be given to (f) — occasional index volumes of the *United Nations Treaty Series*. The remaining suggestions might be considered in the following order of priority: (a) a juridical yearbook; (g) a *répertoire* of the practice of the Organization of the United Nations and (h) additional series of the *Reports of International Arbitral Awards*; (d) a list of publications issued by the governments of all States containing texts of treaties and (e) a consolidated index of the *League of Nations Treaty Series*; and lastly, (b) a legislative series containing the texts of current national legislation on matters of international interest and (c) a collection of the constitutions of all States. The compilation suggested under (b), though extremely useful, was a gigantic task and had therefore been placed by his delegation at the bottom of the list together with (c) — which had been undertaken before, without much success.

* Indicates the item number on the General Assembly agenda.

¹ London, 1949, Vol. I, p. 8.

9. He did not know if it was feasible to issue the publications in question, or how much it would cost; those were points on which the Secretary-General might be asked to report in the course of the current session. In addition, the Secretary-General might be authorized to prepare a yearly index of the *United Nations Treaty Series*, and another at intervals of five years or longer, which was certainly possible and also necessary.

10. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) said that the question, what was customary international law, which the Indian representative had raised, was a very important and controversial one. It had been considered by the International Law Commission, Professor Hudson having submitted a paper (A/CN.4/16/Add.1) giving a definition. After some discussion, the Commission had come to the conclusion that a definition was not necessary for the purpose of the report on ways and means for making the evidence of such law more readily available. He thought that the representatives on the Committee who were members of the International Law Commission might supply the information for which the Indian representative had asked regarding paragraph 30 of the report.

11. With reference to the recommendations made in paragraph 91 of the Commission's report, he wished to explain which of the proposed compilations had already been authorized by the General Assembly and on which work was already in progress. With respect to sub-paragraph (a), he noted that the Division for the Development and Codification of International Law in the Legal Department had considered the preparation of a juridical yearbook, and a certain sum had been set aside for that purpose in the Secretary-General's preliminary budget estimates for 1951. The Advisory Committee on Administrative and Budgetary Questions, upon reviewing that item, however, had felt that in the initial stages the yearbook might appropriately be published in mimeographed form. The Secretary-General had concurred in that suggestion, and proposed that the printing of the yearbook be deferred until its usefulness had been fully established (A/1312, paragraph 141). If the Committee decided, in the light of the subsequent recommendations by the International Law Commission, to ask that the publication should be brought out in printed form, the necessary appropriations would have to be approved by the Fifth Committee.

12. Sub-paragraph (b), as the United Kingdom representative had pointed out, represented a very ambitious programme. On a smaller scale, compilations of national legislation were already being prepared in the Legal Department. If the Sixth Committee desired the more extensive publication proposed, it would have to refer the matter to the Fifth Committee for the necessary funds for printing expenses and possibly also for expansion of staff.

13. As regards sub-paragraph (c), there were already private publications of collections of the constitutions of all States, and it was therefore for the Sixth Committee to decide whether such a publication under the auspices of the United Nations was still useful and necessary.

14. The list of publications recommended in sub-paragraph (d) referred to pre-United Nations treaties, and was not to be confused with the Secretariat publication of current treaties. There again, the Sixth Committee would have to decide whether such a publication was necessary.

15. Sub-paragraph (e) provided for the useful — but not absolutely necessary — consolidation of the indices of the *League of Nations Treaty Series*. Occasional index volumes of the *United Nations Treaty Series* referred to in sub-paragraph (f) were being brought out by the Secretariat for every fifteen volumes of treaties. Provision for it was already made in the budget, and no additional funds would be necessary. With regard to sub-paragraph (g), notes on questions of international law arising from the Charter were being prepared by the staff of the Legal Department, within the existing budget. A general *répertoire* of United Nations practice, covering the entire field of international law was, however, a tremendous undertaking which would involve much work and expense. Referring to sub-paragraph (h), he noted that the *Reports of International Arbitral Awards* had been brought out, first, by the Registry of the International Court of Justice and were being continued by the Secretariat which hoped to publish the fourth and fifth volumes in the near future.

16. He would not deal with the Commission's recommendations in paragraph 92, which were addressed to the Court, or those in paragraph 93, which applied to Member States.

17. In conclusion, he suggested that the Commission's recommendation in paragraph 90 concerning the publication of the Treaty Series should be studied in conjunction with the Secretary-General's report (A/1408) in which the financial implications of the publication, and the Advisory Committee's recommendations for economy, were discussed.

18. Mr. CHAUMONT (France), with reference to the remarks of the Assistant Secretary-General in charge of the Legal Department, in reply to the Indian representative, agreed that no definition of customary international law was necessary at the present stage. He wished to point out, however, that while no precise definition was given in the Commission's report, paragraph 30 prejudged the matter by stating that article 24 of the Commission's Statute departed from the classification in Article 38 of the Court's Statute. He did not agree with the Commission's view which seemed to be based on a misunderstanding.

19. Article 38 of the Court's Statute enumerated the different sources of international law, listing first the three categories of sources which really created law — conventions, custom and generally recognized principles of law — and then, the subsidiary sources such as judicial decisions and teachings of the most outstanding publicists of the nations. Moreover, Mr. Chaumont noted that in the French text of Article 38 the words *moyen auxiliaire*, being in the singular, referred to "doctrine" only and not to *décisions judiciaires*. There was no inconsistency between that classification and article 24 of the Commission's Statute. International custom was the result of repeated legislative, executive and judicial acts of international application. He ex-

pressed the hope that the General Assembly would not accept paragraph 30 of the report of the International Law Commission.

20. The Commission's view, as expressed in paragraph 76, that the opinions of national legal advisers were necessarily directed to the implementation of national policy, struck him as pessimistic and unjustified. Speaking from his own experience, he said that in democratic countries, legal advisers gave their independent opinion which their governments could then accept or reject. The true reason for the inaccessibility of such opinions was that they were given for the internal use of governments and were therefore seldom published.

21. The Commission's recommendation in paragraph 94 was sound and should receive expression in a special resolution of the General Assembly asking the Secretary-General to prepare a draft international convention concerning the general exchange of official publications relating to international law and international relations for consideration at its next session. If the Committee so desired, he would propose a suitable draft resolution. Such a convention would contribute greatly to the general understanding of international law and to the improvement of international relations. Of course, the governments should be free to decide what publications they wished to include in such exchanges.

22. Mr. ROBERTS (Union of South Africa) thought that the Committee should confine its deliberations to the recommendations contained in section 5 of part II of the report. He agreed with the preceding speakers concerning paragraph 30 of the Commission's report, and with the French representative regarding paragraph 76.

23. General speaking, his delegation was prepared to accept the Commission's recommendations. He welcomed those suggestions which were designed to promote international co-operation without infringing the national sovereignty of States, and which left States free to determine the extent of information they were prepared to supply. It was only proper that the uncoordinated work hitherto done should gradually be taken over by the United Nations.

24. With reference to specific recommendations, the term "international interest" in paragraph 91 (b) was rather vague and might lead to misinterpretation; subject to that remark, he was sympathetic to the remaining recommendations and hoped that they could be carried out in the near future, although, like the United Kingdom representative, he had some misgivings concerning the cost involved. As regards the recommendation to States in paragraph 93, any publications of that kind, however modest they might be, should be welcomed.

25. Mr. Roberts considered premature the preparation of an international convention as proposed in paragraph 94, although he was not opposed to it in principle. He suggested that the question might be deferred until the sixth session of the General Assembly when the results of the other recommendations would be known.

26. In view of the above considerations, he endorsed the Commission's recommendations except that contained in paragraph 94.

27. Mr. HERRERA BAEZ (Dominican Republic) reserved his delegation's position on the Commission's recommendations in part II of its report, as it considered that the determining criterion of international custom referred to in sub-paragraph b of Article 38 of the Statute of the Court was not evidenced in all the matters alluded to in those recommendations. His delegation would be prepared to support a resolution, at the current or the following session of the General Assembly, relating to the publications listed in paragraphs 91 and 93 of the Commission's report as a constructive contribution to the study of international legal problems, but that did not mean that the Dominican delegation was making any judgment as to whether all those publications should be considered as evidence of customary international law, or, in any case, of existing international law.

28. Mr. ROBINSON (Israel) said that while not absolutely complete because of linguistic and other difficulties, part II of the report of the International Law Commission, read in conjunction with the Secretary-General's memorandum (A/CN.4/6), would constitute the best general introduction to a very perplexing problem. He had some doubts, however, of the advisability of assigning work of that kind to the International Law Commission since it had been able to devote only one meeting and a rather superficial discussion to the subject during its second session. He also wondered whether part II of the report contained the Commission's final recommendations on the subject or whether the Commission would revert to it again. In his opinion, the first interpretation was preferable.

29. Part II of the report seemed to go beyond the provisions of article 24 of the Commission's Statute in some respects, and to fall short of them in others. The Commission had gone beyond article 24 in adopting a broad concept of customary international law and its sources, but had fallen short of that article by making very few specific proposals for the publication—and even fewer for the collection—of sources of customary international law. Indeed, State practice—the most important source—was entirely omitted from the list of publications recommended in paragraph 91 of the report. On the other hand, the International Law Commission could not have been expected to solve in one stroke a problem which had been puzzling the legal profession for decades, if not for centuries.

30. There was no need to discuss paragraphs 28 to 32 of the report in great detail, since they called for no decision on the part of the Committee. He demurred, however, at the statement in paragraph 29 that, "Even multipartite conventions signed but not brought into force are frequently regarded as having value as evidence of customary international law". The issue was not likely to arise often, but that sentence was definitely misleading. He cited the classic example of the Declaration of London of 1909 concerning the Laws of Naval War, which had never come into force. In 1916, the Privy Council in the prize case of *The Hakan*, and, in 1940, the British Government in connexion with the *Asama Maru* incident, had denied the validity of that

Declaration as an international instrument or as authority.

31. Another sentence in the same paragraph of the Commission's report was also somewhat misleading: "A principle or rule of customary international law may be embodied in a bipartite or multipartite agreement so as to have, within the stated limits, conventional force for the States parties to the agreement so long as the agreement is in force; yet it would continue to be binding as a principle or rule of customary international law for other States". Drawn to its logical conclusion, that sentence might proceed: "and for the Contracting States following the expiration of the agreement". Thus it was easy to see the dangerous implications of such sweeping statements.

32. Turning to paragraphs 33 to 41 of the report, he said that the question of the availability of texts of international instruments should be considered from three different angles:

- (a) The availability of current international treaties;
- (b) Measures to make available international treaties concluded between 1918 and 1945; and
- (c) The availability of texts of treaties concluded before 1918.

33. To deal with point (a) he favoured the suggestion in paragraph 94 of the report that an international convention should be prepared concerning the exchange of official publications. Such a convention should include provisions for the establishment of a proper clearing office for official publications and that office should make sure that bibliographies and book lists were published regularly. He suggested that the Secretary-General should be asked to submit a detailed report, together with a draft convention to govern the procedure, to the General Assembly at its sixth session.

34. The availability of the *League of Nations Treaty Series* was partly dealt with in paragraph 84 of the report. But the series was incomplete, the most important omission being the various Peace Treaties of 1919. It would be helpful if those Treaties could be published in a special volume of the *United Nations Treaty Series*. Furthermore, the index of the *League of Nations Treaty Series* was not altogether satisfactory, due mainly to the chronological overlapping of its various volumes. He was glad to note the recommendation in paragraph 91 (c) that the Secretariat should prepare and issue a consolidated index. In his opinion, however, the recommendation in paragraph 91 (f) regarding the index to the *United Nations Treaty Series*, was inadequate and it would be preferable if the Secretariat published a cumulative index at least once a year, each volume automatically superseding all previous volumes.

35. The availability of texts of treaties concluded before 1918 presented a more difficult problem because there had been far less satisfactory arrangements for the systematic publication of treaties at that time. It was useless simply to compile lists of 19th century publications of treaties; some effort must be made to discover what stocks were available, where they could be obtained and how much they cost.

36. The problem was not only to make sure that publications relating to international law were widely distributed; the United Nations should also take steps to see that at least each Member State had a working library on international law. Priority should be given

to States which had gained their independence in relatively recent years, for they lacked their own diplomatic archives and historical experience. They had also started their existence under very great financial and economic difficulties. He suggested that the United Nations might put at the disposal of newly created States sets of the publications of the Permanent International Court of Justice and of the League of Nations to the extent that such publications were available. That would be in line with the Organization's practice of supplying complete sets of United Nations documents to new Members and there again the Secretary-General should be invited to study the question and prepare a report for the sixth session of the Assembly.

37. He noted from paragraph 84 of the report that the Registry of the International Court of Justice had stocks of the publications of the Permanent Court, but his government had recently made a direct inquiry on the subject to the Registrar and had been referred to the publishers.

38. Turning to paragraphs 45 and 50 of the report, he said the three volumes of the *Reports of International Arbitral Awards* were extremely valuable; the series should be continued.

39. Referring to paragraph 73 of the report, he noted that once again it contained a misleading statement since the *Fontes Juris Gentium* was far more international in scope than the paragraph implied.

40. With regard to paragraphs 76 and 77, he agreed with the representative of France that the statement regarding the value of opinions of national legal advisers was somewhat unfortunate. Such opinions were undoubtedly connected with the implementation of national policy but they did not necessarily consist solely of *post facto* justifications of political decisions. When such opinions were acted upon, they provided a very useful guide to State practice. What was needed therefore was not so much reserve in assessing the value of such opinions, as discrimination in choosing only those which had actually contributed to the development of customary international law. Moreover, any compilation of the opinions of national legal advisers should be accompanied by a full description of the problem to which they related. He doubted, however, whether the time had come to propose such a compilation. The Secretariat could bear the question in mind as a future possibility and it might make a start by compiling its own opinions. He had noted the difficulties mentioned in that connexion by the Assistant Secretary-General in charge of the Legal Department at the 40th meeting of the International Law Commission, but he thought it might be possible to start with a selection of opinions of very general interest.

41. With regard to paragraph 78 of the report, he said that the *répertoire* mentioned did not deal with the problems of States' relations to international organizations, as the paragraph seemed to imply. A certain amount of information on the relations of States to the League of Nations could be found in the works of Schuecking-Wehberg² and of Jean Ray.³ The extent

² Schuecking, Walter, and Wehberg, Hans, *Die Satzung des Völkerbundes*, Berlin, 1931.

³ *Commentaire du Pacte de la Société des Nations selon la politique et la jurisprudence des organes de la Société*, Paris, 1930, together with the annual supplements, 1931-1935, Paris.

to which even those sources reflected customary international law with reference to States' relations to organizations, was still unknown.

42. Turning to the recommendations contained in paragraph 91 of the report, he welcomed the suggestion that a juridical yearbook should be published. There were already many yearbooks published by the United Nations concerning other subjects and it was time that a similar document was published by the Legal Department. There was, however, some discrepancy between the outline for the yearbook contained in the report of the International Law Commission and the interpretation given to the project in paragraph 141 of the second report of 1950 of the Advisory Committee on Administrative and Budgetary Questions (A/1312). Moreover, the Advisory Committee had recommended that the yearbook might appropriately be published in mimeographed form. He doubted the wisdom of such a recommendation if the yearbook was to take the form outlined in the report of the International Law Commission. He suggested that, just as the *Human Rights Yearbook* was kept under constant review by the Commission on Human Rights, so the juridical yearbook might be subject to review by an advisory editorial board.

43. As for the recommendation in paragraph 91 (c) concerning a collection of the constitutions of all States, he felt that the undertaking could be left quite satisfactorily to private initiative. In any event, if such a compilation were contemplated, it should cover only the constitutional provisions which had a bearing on international law and should not be a complete collection of constitutions.

44. He could see no need for the recommendation contained in paragraph 92 regarding the publication of digests of the *Reports of Judgments, Advisory Opinions and Orders* of the International Court of Justice. Such digests were already published in the Court's *Yearbook*, the annual reports of the Secretary-General, the *United Nations Bulletin*, the *Yearbook of the United Nations* and several publications on international law.

45. The purpose of the recommendation in paragraph 93 was commendable, but it required a considerably bolder approach which could only be found in greater use of the questionnaire method. Although the experience of the International Law Commission was not very favourable in that respect (as was shown in document A/CN.4/19), the results might have been much worse, and, in general, replies to United Nations questionnaires contained a great deal of valuable information.

46. In conclusion, he made the following suggestions and announced his intention of submitting them in writing at the next meeting of the Committee:

(a) Members of the United Nations which had not been Members of the League of Nations should each receive *gratis*, upon request, two complete sets of the publications of the League of Nations and the Permanent Court of International Justice in so far as such documents were available;

(b) The Secretary-General should be requested to study the existing conventions for the exchange of official publications and to make recommendations con-

cerning accession to, or revision of, the existing agreements and/or their consolidation;

(c) Attention should be given to the possibility of publishing an additional volume of the *League of Nations Treaty Series* containing the Peace Treaties of 1919;

(d) The Secretary-General should be requested to prepare a study on the availability of sources of international law for Member States;

(e) The Secretary-General should consider the advisability of publishing—as an experiment—a first series of the legal opinions of the Secretariat;

(f) The Secretary-General should study the problem of establishing an advisory editorial board for a United Nations juridical yearbook;

(g) The Secretary-General should give further thought to the publication of diplomatic correspondence and should study the usefulness of the questionnaire method;

(h) The projects outlined in paragraph 91 and its sub-paragraphs should be carefully examined before being approved on an experimental basis. Attention should also be given to the preparation of a consolidated index for the entire documentation of the Permanent Court of International Justice.

47. Mr. CASTAÑEDA (Mexico) said that he had noted from the addendum to the working paper submitted by Mr. Hudson to the International Law Commission (A/CN.4/16/Add.1) that the United Nations Educational, Scientific and Cultural Organization had been carrying out work on the subject of the exchange of official publications. The conclusion seemed to have been reached that it was not feasible to revise the Brussels Convention of 1886 and that efforts should be concentrated on the promotion of bilateral agreements. The recommendation in paragraph 94 of the Commission's report was at variance with the conclusions of UNESCO and he thought it would be helpful if the Committee could examine the relevant documentation so as to see how those conclusions had been reached.

48. Mr. LIANG (Secretariat) said he wished to elaborate the remarks, made by the Assistant Secretary-General in charge of the Legal Department, in reply to the representatives of the United Kingdom and the Union of South Africa, regarding the financial implications of the recommendations contained in paragraph 91.

49. The recommendation in paragraph 91 (b) was certainly very comprehensive, but the Legal Department had already undertaken some work in that field to provide material for the International Law Commission. It had prepared a collection of the provisions which, in the constitutions of States, governed the ratification of treaties; it had also prepared a document on national legislation concerning the regime of the high seas. The financial appropriations for the publication of those two documents had already been made. If work of a wider scope was to be done under paragraph 91 (b), then further appropriations would be needed.

50. The recommendation in paragraph 91 (q) could be carried out in connexion with the annotation of the

Charter and no additional appropriations would be needed. The same applied to the recommendation in paragraph 91 (h).

51. Replying to the representative of Israel, he said the discrepancy between the type of juridical yearbook outlined by the International Law Commission and that envisaged by the Advisory Committee was due to the fact that the Advisory Committee's report had been drafted before that of the International Law Commission, which favoured a yearbook of a wider scope. As it was intended to be widely used, printing was obviously preferable to mimeographing.

52. Mr. MOROZOV (Union of Soviet Socialist Republics) pointed out that in its report, and in paragraph 91 in particular, the Commission had recommended a programme so vast in scope that the Committee could not simply accept it then and there.

53. In part II of the report, the Commission had attempted not only to deal with, but also to solve, extremely complex questions of international law which, in his opinion, required further study. For that reason, he thought the criticisms concerning the preparation of that section of the report were well-founded. Moreover, he considered that in its approach to its work, the Commission had gone beyond the provisions of article 24 of its Statute. It had not limited itself to the task which the General Assembly had set.

54. Furthermore, he thought that paragraphs 29 and 30 of the report and the other statements relating to the classification of the sources of international law were open to criticism. By way of a general reservation, he said that he could not endorse many of the views expressed by the Commission in part II of its report and he reserved the right to discuss the matter in detail, should that become necessary.

55. He also entertained misgivings with regard to paragraph 91. The statements of other representatives had only served to confirm his views. He would not repeat those arguments, but he stressed that the programme would have serious financial implications and would lay an excessive burden on the Legal Department of the United Nations. To his mind, the International Law Commission had not distinguished clearly between desirable projects and proposals which were within the realm of possibility. Furthermore, if the programme proposed in paragraph 91 were carried out, the Commission might find there was nothing more for it to do.

56. A programme such as the one recommended would require the services of additional technical staff far out-numbering the present staff of the Legal Department of the United Nations. For example, a large editorial staff would be needed for research and for preparing the proposed volumes for publication. He agreed with those members of the Committee who had called the programme too broad. Moreover, he thought that further consideration should be given to the practical aspects of the Commission's recommendations.

57. The project outlined in paragraph 91 (f) was commendable, but as work on those volumes was already in progress, he wondered whether the Committee needed to take a decision in the matter. The same remarks applied to the proposals contained in para-

graph 91 (h). The programme recommended in paragraph 91 (b) was not advisable; as to the compilations referred to in sub-paragraphs (c) and (d), experience had shown that the States themselves were better qualified for such work. Moreover, for reasons of economy and efficiency, he thought a further burden of editorial work should not be laid upon the Secretariat.

58. He endorsed the recommendations contained in paragraphs 90 and 93, but did not regard the publication of digests (as recommended in paragraph 92) as necessary since the decisions of the International Court of Justice were published regularly in its *Reports*.

59. In conclusion, he said that sufficient study had not been given to the proposal contained in paragraph 94 and that therefore the Committee was not in a position to take a decision in the matter.

60. Mr. SPIROPOULOS (Greece) said illness had prevented him from participating in the deliberations of the International Law Commission of the subject matter of part II of its report.

61. He noted that in the first place, members of the Sixth Committee had criticized certain theoretical considerations contained in the report and had made particular reference to paragraphs 29 and 30. He pointed out, however, that the Committee's task was not to approve every paragraph of a report which had been made by a scientific organ of the United Nations. Its attention should more properly be turned to the conclusions of part II of that report as set out in paragraphs 90 to 94.

62. Secondly, the proposals in the last section of part II had met with criticism. It should be remembered, however, that the International Law Commission had not attempted to study those matters in detail but rather to outline a general programme of measures which in its opinion might be taken, leaving it to the General Assembly to decide what could appropriately be undertaken at that juncture from the point of view of desirability and feasibility.

63. There were two courses which the Committee could follow. It could decide on each recommendation separately, after considering if it was practical and how much its implementation would cost; or else it could postpone a decision on the Commission's recommendations until the Secretary-General had ascertained the views of governments. In the meantime, the Secretary-General could prepare an estimate of the financial implications of each project and report to the Committee at its next session.

64. Mr. AMADO (Brazil) said the International Law Commission had been anxious to devote the major part of its energies to the fundamental questions of law referred to it by the General Assembly. It had devoted relatively less time to the subject matter of part II of its report because of its heavy agenda. The Chairman of the Commission at its first session, a distinguished authority in international law, had been asked to prepare for the Commission's consideration a paper on the subject of the ways and means for making the evidence of customary international law more readily available. The summary record of the fortieth meeting of the Commission's second session (A/CN.4/SR.40) testified to that body's pre-occupations.

tion with the notion of customary international law and its interest in the problem of making more readily available what it considered to be the evidence of customary international law.

65. Some apparent inconsistencies in the report could be ascribed to the speed with which the Commission wished to make its recommendations.

66. The Commission's report was a working document. It offered several suggestions for making the evidence of customary international law more readily available. The Sixth Committee could select those projects which it felt should be carried out and which would produce early results.

67. Mr. VALLAT (United Kingdom) said that at the next meeting he proposed, in conjunction with the United States representative, to submit a draft resolution for the Committee's consideration. The draft would take note of part II of the report of the International Law Commission and the recommendations contained therein, with particular reference to para-

graph 91, and would request the Secretary-General to consider the proposals in paragraph 91 in drawing up future programmes concerning publications, in the light of the views which had been expressed in the Sixth Committee.

68. The CHAIRMAN suggested that it might be better to suspend the discussion of part II of the Commission's report until definite proposals had been circulated.

It was so decided.

After a discussion in which the Chairman, the Rapporteur, the representatives of France, Yugoslavia, Greece and Uruguay, the Assistant Secretary-General in charge of the Legal Department and the Secretary of the Sixth Committee took part, it was decided that the following meeting would be held in the afternoon of Wednesday, 1 November, unless the plenary meeting of the General Assembly should then discuss items on which the Sixth Committee had presented reports.

The meeting rose at 5.30 p.m.