



**CONTENTS**

	<i>Page</i>
Agenda item 50: Report of the International Law Commission on the work of its seventh session ( <i>continued</i> ).....	37

**Chairman:** Mr. Manfred LACHS (Poland).

**AGENDA ITEM 50**

**Report of the International Law Commission on  
the work of its seventh session (A/2934, A/C.6/  
348, A/C.6/L.355, A/C.6/L.356, A/C.6/L.357)  
(*continued*):**

1. Mr. PEREZ PEROZO (Venezuela) said that the valuable comments made at the previous meeting had introduced fresh elements into the debate. Some delegations had suggested that the International Law Commission should thoroughly study the whole question, so that the General Assembly could take a considered decision at its eleventh session. The Committee's work would accordingly be facilitated if some delegation formally proposed that its decision should be deferred.

2. He read aloud a draft resolution to the effect that the General Assembly, recognizing that it would be desirable to publish the documents of the International Law Commission and that the form of publication required careful study, would request the Commission to submit to the Assembly, at its eleventh session, a report setting forth in detail the views and suggestions expressed by its members in the light of the Sixth Committee's debates.

3. Before preparing the final text of the draft and presenting it formally, he would be grateful for the comments of other delegations.

4. Mr. MEMON (Pakistan) thought that the documents of the International Law Commission ought to be published, since they were of interest not only to specialists in international law but also to the general public. Delegations were in agreement in admitting the need for publication, but they did not agree on how much should be published. As, under article 24 of its Statute, the Commission's function was to make the evidence of customary international law more readily available, it would seem desirable to publish all the Commission's documents, as its Chairman had suggested. The Commission's work would have full meaning only if that were done.

5. The USSR representative's objection was not wholly convincing, for when once the members of the Commission had stated their views during a meeting, those views were no longer exclusively their own, but belonged to the Commission and to the United Nations.

6. Some delegations had said that only the final documents should be published. On the contrary, he thought that all draft resolutions, even if not adopted, should be taken into account for they all related to the progressive development of international law and its codification. It would be very difficult to make a choice from among the documents of the Commission, as the criteria of selection would vary from country to country and from person to person. No one could be a better judge in that respect than the Commission itself.

7. His delegation, while agreeing that it would be desirable to publish the documents in the three working languages, thought that the undertaking should begin on a modest scale, so that it would have a better chance of success. For the time being, therefore, it would be better to publish the documents in English only, because, although the Sixth Committee was responsible for dealing with questions of principle, it could not ignore the financial implications of its decisions. But he thought that the estimates of possible revenue were too low: the revenue should cover, if not all, at least a large part, of the costs.

8. There should be no hesitation in arranging for the immediate publication of those documents. The question of publication had been debated twice before, in 1950 and 1952, so that there would be no point in the Sixth Committee's deferring a decision until the eleventh session.

9. He would support the joint draft resolution of Egypt and Sweden (A/C.6/L.355), but suggested that the two delegations should perhaps incorporate into their text the substance of paragraph 2 of the operative part of the eleven-Power draft resolution (A/C.6/L.356), which provided that the documents relating to future sessions of the International Law Commission would be published in the three working languages of the General Assembly.

10. Mr. HOLMBACK (Sweden) reserved the right to speak later in the debate on the points just raised by the representatives of Venezuela and Pakistan.

11. With regard to the draft resolution contained in document A/C.6/L.355, he wanted to make it clear that the intention of the sponsors was to ensure the immediate publication of the Commission's documents. Immediate publication in one language only was preferable to publication in several languages at some unspecified time in the future. The draft resolution did not, however, contain any provision which ruled out subsequent publication in languages other than English. The sponsors of the draft resolution had been guided entirely by budgetary considerations. Article 18, paragraph 2, of the Charter provided that decisions of the General Assembly on important questions should be made by a two-thirds majority, and that Article included budgetary questions among the important questions. The eleven-Power draft might well not obtain a two-thirds majority.

12. He reserved his delegation's position on the question of deferment, if the draft resolution submitted by Egypt and Sweden (A/C.6/L.355) was not adopted.

13. Mr. PATTABHI RAMAN (India) did not think that much headway could be made in the discussion, because the Committee did not have the necessary evidence before it. The question of publication was not expressly on the agenda; hence the confusion. Probably a special committee would have to be appointed to choose the documents for publication. But, on that point as well as on the question of financial implications, the International Law Commission's views had to be requested.

14. It would be dangerous to make a hasty decision, and he hoped that the Committee would wait until the eleventh session before making up its mind.

15. Mr. NINCIC (Yugoslavia) agreed that the question of a United Nations Juridical Yearbook was not on the agenda, and that the Committee could not, therefore, take a decision on that point. Otherwise, the members of the Sixth Committee were in agreement that the documents of the International Law Commission should be published. In that connexion, sufficient allowance should be made for dissenting opinions, for otherwise the documents would hardly be a faithful reflection of the Commission's work.

16. It also seemed to be agreed that the documents should be printed from the first session, and that if the question of languages raised any difficulties, it should nevertheless be possible to find a method which, while giving due prominence to each language, did not entail excessive expenditure.

17. Still, the most important question, that of the selection of the documents to be published, had not been properly clarified. In his view, it would not be possible to publish all the documents and it would be necessary to make a choice, both from the documents of the first six sessions and from those of subsequent sessions. While agreeing that it would be desirable to make a decision at the current session, he doubted if the members of the Sixth Committee had sufficient evidence at their disposal and thought that some aspects of the matter should probably be re-examined.

18. The Committee might accordingly decide in principle on the publication of the Commission's documents and, at the same time, request the Commission, in conjunction with the Secretariat if necessary, to study in detail what form the publication should take.

19. Mr. EL ERIAN (Egypt) said that one of the objects of General Assembly resolution 176 (II), was to promote public interest in international law. The documents of the Commission should be more accessible, particularly for universities. The Secretariat had stated that many special studies submitted to previous sessions of the Commission were already out of print.

20. In fact, the Committee had already accepted the principle of the systematic publication of the Commission's documents. However, various problems had arisen in the course of the debate. With regard to the form of publication, the International Law Commission and the Secretary-General had proposed two possibilities: that of the United Nations Juridical Yearbook and that of separate publication. The first possibility was open to objections of a technical nature, the chief one being that the question of the yearbook was not on the agenda of the current session. Furthermore, it was clear from paragraph 69 of the study prepared by the

Secretary-General (A/C.6/348) that the question of the contents of the yearbook had not yet been settled. The same difficulties did not arise in the case of the second possibility, and there should be no difficulty in selecting the contents for a separate publication. It had been pointed out that the documents of the Commission were not in final form; but their scientific value was incontestable, and one should not forget that the development and codification of international law was necessarily a long-term process. With regard to the date from which publication should start, he thought the documents should be published systematically from the Commission's first session.

21. The draft resolution proposed by Egypt and Sweden (A/C.6/L.355) provided that the documents should be published initially in English. The word "initially" had been used intentionally, to show that there was no question of giving preferential treatment to the English language. The proposed solution was essentially practical and constructive, and would not in any way prevent the subsequent publication of the documents in the five official languages of the United Nations.

22. He reserved his position with regard to the Venezuelan proposal and the amendment suggested by the representative of Pakistan to the draft resolution submitted by Egypt and Sweden.

23. Mr. GABRE-EGZY (Ethiopia) said that he supported the principle of publication and would consider any proposal putting that principle into effect. A number of questions had been raised, however, and the Committee should rather take a decision on principle alone and ask the Secretariat, or the International Law Commission itself, to study every aspect of the problem which still needed clarification. The Commission did not expect the Assembly to take a decision at the current session, but perhaps the Chairman of the International Law Commission would be good enough to give his comments.

24. Mr. SPIROPOULOS (Chairman of the International Law Commission) said that he could hardly say what the Commission's reaction would be to a decision of principle alone. He referred the Ethiopian representative to the second paragraph of the preamble to the resolution in paragraph 35 of the Commission's report (A/2934). The Commission would naturally regard publication of its documents as most desirable and would welcome any decision which the Committee might take to that end. But he did not know how the Commission would react if the Committee decided to refer the technical questions relating to publication to it.

25. Mr. MAURTUA (Peru) said the Commission's documents should most definitely be published. The work of the Commission was to codify existing law and necessarily progressed through several stages, but nonetheless, taken as a whole, this work constituted a permanent monument of legal science. As the Yugoslav representative had said, the practical advantages of publication must be the paramount consideration.

26. The most difficult question that had emerged from the discussion was the selection of documents, but a glance at articles 16 to 26 of the Commission's statute would show that all the various duties which had been entrusted to it had one common end—the development of jurisprudence. The articles clearly showed that the Commission could, in certain cases, request the Secretary-General to publish some of its documents. The Secretariat should then give the necessary publicity to

the documents in question and supplement them with such explanations and supporting material as the Commission considered appropriate. The question of selection was therefore relatively simple, and the choice could be left to the Commission in conformity with its Statute.

27. Mr. HSU (China) recalled that several members, including the Venezuelan representative, had proposed postponement of any decision. Their arguments, none of which questioned the principle of publication itself, were not convincing.

28. It had been said, for example, that the question of verifying the records had to be considered, or that the spontaneity of the Commission's discussions should be preserved. But he felt that such questions could take care of themselves. The Commission's recommendations with respect to the documents to be published were wise; the summary records gave the substance of the discussions, the special reports were the basis of those discussions and the studies also were related. The documents could hardly be summarized, as had been proposed, for nobody could say what rules should govern the summarizing or who would be responsible for applying them. It would be unfair to give the Secretariat such a thankless task. This question was bound up with the general question of the form in which the Commission wished its documents to be published. Clearly, if the object of publication was to make the Commission's proceedings available to the public, the documents should not be summarized. In any case, the fact that the questions of document selection and the form of publication remained to be settled was no reason for postponing the issue.

29. Mr. VALLAT (United Kingdom) said that it would be tempting to accept the formula proposed by the Venezuelan representative; but if the principle of publication was approved without any practical decision the results would probably be unsatisfactory. The problems would not decrease with time; on the contrary, the longer the decision was postponed, the greater would be the accumulation of problems. Moreover, the Sixth Committee's agenda would be much heavier at the next session than it was at the current session.

30. The practical consequences of the two draft resolutions before the Committee would be very much the same. His delegation was prepared to support the principle of publication and to vote for any satisfactory proposal which provided that in future publication would be in the three working languages.

31. With certain amendments, his delegation could vote for the eleven-Power draft resolution (A/C.6/L.356). That draft could be criticized because it quoted out of their context certain passages from General Assembly resolution 176 (II) and the recommendation of the International Law Commission. He therefore proposed the following amendments:

(1) The first paragraph of the preamble should be replaced by the words: "*Recalling* the terms of its resolution 176 (II) of 21 November 1947", in other words, a reference to the whole resolution, which concerned the general question of the teaching of international law.

(2) The second and third paragraphs of the preamble would be replaced by the preamble of the draft resolution proposed by Egypt and Sweden (A/C.6/L.355) which referred to the International Law Commission's recommendation (A/2934, para. 35) and to the Secretary-General's report (A/C.6/348) together. It was obviously desirable to show that the Sixth Committee had

taken account of those documents and, in particular, of the budgetary implications mentioned in the Secretary-General's report.

(3) Lastly, operative paragraph 2 should be amended, in accordance with the Chinese representative's excellent suggestion (449th meeting, para. 16), so that the words "in the three working languages of the General Assembly" would be replaced by the words "in English, French and Spanish".

32. He hoped that the sponsors of the draft resolution contained in document A/C.6/L.356 would accept his amendments.

33. Mr. SCOTT (New Zealand) agreed with the other members of the Sixth Committee that the International Law Commission's documents should be published, but noted that opinions were divided as to the method to be followed. The Secretary-General's estimates (A/C.6/348) had been submitted before the draft resolutions had been proposed and the Sixth Committee could therefore not decide in full knowledge of the facts. A number of important issues had been raised which deserved more careful attention than the Sixth Committee could devote to them in the time available. With regard to the language question, he felt that French and Spanish should be given their rightful place, as far as was compatible with financial considerations.

34. If he had to decide at once, he would support the eleven-Power draft resolution with the United Kingdom amendments, but he felt that it would be advisable to ascertain the International Law Commission's opinion on the question of document selection.

35. His delegation, therefore, favoured the Venezuelan suggestion and would give sympathetic consideration to it if it were formally submitted in suitable terms.

36. Mr. RONSE (Belgium) asked the Legal Counsel to comment on the Venezuelan suggestion.

37. Mr. STAVROPOULOS (The Legal Counsel) noted that the Committee wished the International Law Commission's documents to be published. Such publication would be an exception to the rule of strict economy at present being observed by the Organization. In his opinion, the question of the selection of documents to be published should be discussed.

38. The Committee might usefully consider the Venezuelan representative's proposal, but it would have to decide either to place the question on the agenda of the eleventh session, or to request the International Law Commission to decide on the form of publication and instruct the Secretary-General accordingly. The Commission might consider, for example, whether, so far as earlier sessions were concerned, the volume of the documents to be published might not be appreciably reduced.

39. Mr. RONSE (Belgium) said that if the Sixth Committee adopted the principle of publication immediately, it would then merely have to consider ways and means at its eleventh session, as the Venezuelan representative had proposed.

40. Mr. SETTE CAMARA (Brazil) who was a co-sponsor of the eleven-Power draft resolution, was certain that the Committee could decide the issue immediately. It was a simple matter and the United Nations had already published many documents without getting involved in such discussions.

41. He did not think there should be any selection of documents. They would all have to be published, if the Commission's proceedings were to be comprehensible.

The members of the Commission could easily correct any errors in the summary records. The suggestion that some of them opposed the publication of the summary records for reasons of prestige was an invidious reflection on the members of the Commission.

42. His delegation felt that the decision should not be postponed. It was convinced that the eleven-Power draft resolution (A/C.6/L.356), which satisfactorily settled the language question, would not lead to excessive expenditure. He called on the Committee to support that text.

43. Mr. CASTANEDA (Mexico) invited the Legal Counsel to state his suggestions more clearly.

44. Mr. STAVROPOULOS (The Legal Counsel) said that if the Sixth Committee adopted the Venezuelan representative's suggestion, the item was likely to appear on the agenda of the eleventh session in its original form. It seemed preferable to let the International Law Commission examine in detail the ways and means of publication and instruct the Secretary-General accordingly. Thus, at the eleventh session, the Committee

would merely have to make its observations on the decisions taken.

45. Mr. CASTANEDA (Mexico) thought that the proposals before the Committee called for consultation among members. He therefore proposed that the Committee should not meet in the afternoon.

46. His delegation would accept the United Kingdom amendments to the eleven-Power draft resolution, but he would have to consult the other sponsors.

47. The CHAIRMAN said that a draft resolution by Afghanistan, India and Venezuela, based on the Venezuelan representative's suggestions,<sup>1</sup> would be presented to the Committee.

48. In view of the number of proposals made it would be desirable to dispense with the afternoon meeting, as the Mexican representative had suggested.

*It was so decided.*

The meeting rose at 1.20 p.m.

<sup>1</sup> This draft resolution was issued after the meeting as document A/C.6/L.358.