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**SIXTH SESSION**

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**SIXTH COMMITTEE, 263<sup>rd</sup>  
MEETING**

*Tuesday, 4 December 1951, at 3.30 p.m.*

*Palais de Chaillot, Paris*

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

**Tribute to the memory of Miss Elizabeth Scheltema**

1. The CHAIRMAN informed the Committee of the death of Miss Elizabeth Scheltema, a member of the Legal Department of the Secretariat, and paid tribute to her memory.

2. Mr. ROLING (Netherlands) and Mr. AMADO (Brazil) reminded the Committee of Miss Scheltema's boundless devotion to the ideals of the United Nations and the valuable help she had always given to the representatives on the Sixth Committee.

3. Mr. MAKTOŠ (United States of America) associated his delegation with the tributes paid by the previous speakers and suggested that, at its next session, the General Assembly should consider the possibility of rewarding the services of international officials such as Miss Scheltema. He proposed that the Committee should observe one minute's silence in her memory.

*The Committee observed one minute's silence in memory of Miss Scheltema.*

4. Mr. KERN (Assistant Secretary-General in charge of the Legal Department) thanked the Sixth Committee for the tribute paid to Miss Scheltema, whose devotion to the principles of the United Nations and exemplary work would be an inspiration to the Secretariat.

**Consideration of the Assembly's methods and procedures for dealing with legal and drafting questions (A/1897, A/1929) (*continued*).**

[Item 63] \*

5. Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) approved, on behalf of his delegation, the statements of the representative of the USSR (260th meeting) concerning the United Kingdom draft resolutions (A/C.6/L.175 and A/C.6/L.176). He criticized the preamble to draft resolution I (A/C.6/L.175), which claimed that a mere modification of methods and pro-

cedures would achieve one of the purposes laid down in the preamble to the Charter.

6. Like other representatives, he did not feel that a clear distinction could be drawn between political and legal questions, or that the legal aspect of a question, could be taken and isolated from the other aspects. At times delegations could not even agree on whether a question was a legal one or not.

7. The United Kingdom delegation had not proposed any new means of correcting the errors which it claimed to have discovered. If its draft resolutions were adopted, the Sixth Committee would have far too much work. He also pointed out how dangerous it would be to submit to a group of legal experts the documents mentioned in paragraph 3 of the United Kingdom's draft resolution I. The competence which the draft resolution sought to bestow on them was much too far-reaching.

8. He also criticized the United Kingdom draft resolution II (A/C.6/L.176). According to rule 44 of the rules of procedure, only the General Committee of the Assembly was competent to make alterations in the form of General Assembly resolutions.

9. The delegation of the Ukrainian SSR would therefore vote against the United Kingdom draft resolutions.

10. Mr. FITZMAURICE (United Kingdom) said that his reply to the members of the Committee would be a general one.

11. In taking the initiative of proposing the consideration of the matter before the Committee, the United Kingdom delegation had realized that it would be sharply criticized and would encounter determined opposition. It regretted, however, that some criticism had also been unfair, and had even distorted the intentions of the United Kingdom. He was astonished at the views expressed by some members of the Sixth Committee, who were nevertheless jurists. Nearly all of them had recognized the importance and gravity of the problem, but few had admitted the possibility of any improvement.

12. He was surprised to note that several members in fact acquiesced in the disappearance of the Sixth Com-

\* Indicates the item number on the General Assembly agenda.

mittee; they affected not to know what a legal question was or declared that in any case it was useless to reserve legal matters for the Sixth Committee.

13. He recognized that all the Committees of the General Assembly were political committees; but he felt that that was a common factor, and that each Committee also specialized in political, economic, social, financial or legal matters.

14. He could not understand how jurists could claim to be incapable of distinguishing legal from non-legal questions, or of separating the legal elements from the other elements of a given question. He gave as an example the denunciation of a clause in a treaty, which raised first a legal problem for the other contracting party, and then a political problem as soon as it was necessary to decide what action should be taken as a result. In the same way, the General Assembly sought unceasingly to base political solutions on legal principles. He felt that by insisting on that argument, the Committee was signing its own death warrant. One of the speeches at the previous meeting which had seemed to him particularly cynical, appeared to be tantamount to an actual betrayal of the legal spirit.

15. Some delegations had expressed the fear that the adoption of the United Kingdom proposals would lead to an overloading of the Sixth Committee's agenda, since all matters, it was claimed, had a legal aspect. However, the United Kingdom proposals were in fact confined to certain clearly specified cases.

16. Some members maintained that if draft resolution I were adopted, the work of the Assembly would be delayed. Yet the Sixth Committee had always finished its work in time. The General Assembly's task would, on the contrary, be simplified if the Sixth Committee had a heavier agenda. Some delegations asserted that the legal aspects of questions should not be reserved to the Sixth Committee, since delegations included legal experts who could advise the members of the other Committees in that respect. He believed that the character of the other Committees would not be affected by that course, and that the Sixth Committee was the only one qualified to consider questions from the legal standpoint.

17. The problem was above all one of distributing the items on the agenda of the General Assembly. Some members wished to leave the matter entirely to the General Committee of the Assembly. The fact that the Chairman of the Sixth Committee was a member of the General Committee was not enough to guarantee that the Sixth Committee's interests would be taken into account, since the General Committee's decisions were adopted by a majority vote. He gave as an example the case of the draft Protocol relating to the Status of Stateless Persons, a legal question which had been referred to the Third Committee, by the General Assembly at its 342nd plenary meeting.

18. The problem also arose in the case of the non-legal questions which the United Kingdom delegation proposed to allot jointly to the Sixth Committee and another competent Committee. Some delegations had criticized the suggestion of instituting joint meetings as a solution to that difficulty, but without putting forward valid reasons. At the current session, however, the Joint Second and Third Committee had already half a dozen items on its agenda, which showed that such a solution was possible.

19. Some delegations were so afraid that law would

be master in the General Assembly that they would not even accept it as a servant. He thought that the balance was currently weighted against the legal side. Some basically legal questions never reached the Sixth Committee. Sometimes it seemed as though the Assembly went so far as wilfully to ignore the legal aspect. That situation would continue as long as no specific rule was laid down. At present, subjects were distributed among the various Committees haphazardly. The United Kingdom proposals were designed to remedy that state of affairs. No doubt, as the French representative had said (259th meeting), a certain equilibrium must be maintained between the Committees, and it was precisely that equilibrium which the United Kingdom proposals sought to ensure.

20. He turned next to the criticisms made of United Kingdom draft resolution II. Any international conference responsible for preparing a diplomatic instrument entrusted its drafting to a committee chiefly composed of legal experts. Such a task was never entrusted solely to the secretariat of the conference or to a rapporteur. He asked why the General Assembly should not conform to that wise practice, as did the International Labour Organisation. A committee of the Assembly responsible for co-ordinating the resolutions adopted by all the Main Committees seemed to be necessary. Otherwise, the Assembly would continue to employ unsatisfactory methods.

21. In conclusion he said that the United Kingdom delegation was willing to accept any suggestions for improving its draft resolutions. If his comments had sometimes been severe, it was because he had the work of the Sixth Committee particularly at heart. He hoped that the results of the discussions would be to improve the work of the Sixth Committee.

22. Mr. RIVEIRA SCHREIBER (Peru) congratulated the delegation of the United Kingdom on the action it had taken. The delegation of Peru considered that, in order to comply with the objectives prescribed in the preamble to the Charter, existing procedures should be improved by taking legal considerations further into account. It was therefore necessary to seek the means of arriving at such a result. The criticisms to which the United Kingdom drafts had given rise demonstrated the complexity of the problem, but common ground for agreement could be found. Certain amendments already submitted both simplified and improved the United Kingdom proposals, and they should be studied thoroughly. The delegation of Peru was in favour of setting up a committee specifically entrusted with the task of considering all aspects of the problem and reporting to the seventh session of the General Assembly. For that reason it would support the draft resolution submitted by the Netherlands (A/C.6/L.186), which advocated that solution.

23. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics) wished to comment briefly on the statement made by the representative of the United Kingdom and to reply to the question put to him at the 261st meeting by the representative of the United States.

24. He noted that thirty-five delegations had commented on the United Kingdom drafts, but none of them had accepted the provisions in those drafts in their entirety. The statement made by the representative of the United Kingdom had not contributed any new argument which would make it possible to modify that attitude. The representative of the United Kingdom, being unable to

refute the criticisms to which the draft resolutions of his delegation had given rise, had found it necessary to adopt a sharp tone and to resort to reproaches, which proved that the criticisms in question were fully justified.

25. When presenting draft resolution I (256th meeting), the representative of the United Kingdom, Sir Lionel Heald, had stated that in talking to jurists, he was preaching to the converted. Mr. Fitzmaurice now said, however, that his delegation had realized quite clearly that in raising the question it would provoke a storm of criticism. An obvious contradiction was therefore to be noted.

26. Mr. Morozov was surprised at the sharp words of the United Kingdom representative. Mr. Fitzmaurice had said, when referring to one of the ablest statements made at the previous meeting, that it was the most cynical declaration he had ever heard. That statement, had, however, constituted one of the most noteworthy analyses of the United Kingdom draft resolutions, even if all the conclusions contained therein were not acceptable. Although Mr. Fitzmaurice had not made his reference more specific, there was no doubt that he had had in mind the statement made by the representative of Belgium.

27. To hear the representative of the United Kingdom, one might think that if his draft resolutions were not adopted, there would be no hope of reaching a satisfactory solution with regard to the methods employed by the General Assembly for dealing with legal questions. That pessimistic attitude was not justified. The General Committee of the Assembly had no doubt made mistakes in the past, but its good sense was nevertheless to be relied upon. It had, moreover, referred to the Sixth Committee highly important legal questions having political implications, such as the draft Declaration on Rights and Duties of States and the draft Code of Offences against the Peace and Security of Mankind.

28. It was also an exaggeration to state that, by its criticism of the United Kingdom draft resolutions, the Sixth Committee was committing suicide. Furthermore, it was unjust to accuse it of having failed in its duty.

29. Mr. Morozov stated that the method proposed by the United Kingdom delegation could only introduce chaos in to the consideration of legal questions by the General Assembly. The existing method was admittedly defective but, as many speakers had emphasized, the remedy suggested was worse than the disease. It was absurd to maintain that the authors of such justified criticisms were denying the principles of international law and of the Charter.

30. Replying to the representative of the United States of America (261st meeting), he considered that the motive behind the question raised by that representative was quite plain. That question, which consisted in asking the USSR representative whether he agreed that matters in regard to which violations of the Charter had been committed should be referred to the International Court of Justice, was a mere manœuvre. Instead of citing concrete facts to refute the charge of violating the Charter, the representative of the United States had shifted his ground. He knew perfectly well that the USSR delegation could not reply to his question in the affirmative for, under its Statute, the Court was not a tribunal to which an appeal from the decisions of the General Assembly could be addressed; the Court was, moreover, not competent to interpret the provisions of the Charter, and finally it devolved upon the organs of the United

Nations applying the provisions of the Charter to interpret those provisions. The representative of the United States had wished solely to provoke a negative reply so as to develop spectacular arguments out of it, and thereby avoid a genuine investigation of the numerous violations of the Charter which had been attributed to his country.

31. Returning to the question of the methods employed by the Assembly in dealing with legal matters, Mr. Morozov was gratified at the interesting exchange of views that had taken place in the Committee, the usefulness of which was obvious, even though it might not yet be possible to arrive at a constructive solution immediately.

32. Mr. VAN GLABBEKE (Belgium) referring to the remarks of the USSR representative, who had intimated that certain regrettable comments made by the representative of the United Kingdom were meant for the delegation of Belgium, stated that his delegation attached no importance to comments of that nature but was interested solely in arguments proper. Jurists who had experienced in their own countries the heavy responsibilities of power, but who did not on that account abjure a profession which they deeply respected, might look at legal or other problems differently from specialists who, however devoted they were to their cause, had not experienced such responsibilities.

33. The delegation of Belgium earnestly desired that the general discussion might lead to positive results, and it would continue to do its utmost to enable the Committee to find a satisfactory solution.

34. The CHAIRMAN declared the general discussion closed and invited the members of the Committee to vote on the various draft resolutions and amendments.

35. There were, first, United Kingdom draft resolution I (A/C.6/L.175) and the amendments of Sweden (A/C.6/L.177), Chile and Cuba (A/C.6/L.180), Canada (A/C.6/L.181), France (A/C.6/L.182) and Belgium (A/C.6/L.183); secondly, United Kingdom draft resolution II (A/C.6/L.176) and amendments by Sweden (A/C.6/L.178) and Iran (A/C.6/L.185); and lastly, the draft resolutions of El Salvador (A/C.6/L.179), Venezuela (A/C.6/L.184) and the Netherlands (A/C.6/L.186), and the joint amendments to the Netherlands text submitted by Afghanistan, Saudi-Arabia, Burma, Egypt, India, Indonesia, Iraq, Iran, Lebanon, Pakistan, Syria and the Yemen (A/C.6/L.187).

36. He asked the representative of the Netherlands to present his draft resolution.

37. Mr. ROLING (Netherlands) said that at the 261st meeting he had spoken of submitting two distinct draft resolutions, one relating to the question dealt with in United Kingdom draft resolution I and the other relating to that dealt with in United Kingdom draft resolution II.

38. Realizing that it would be easier for many representatives to accept only draft resolution I, he had decided not to submit the second draft, partly also because the special committee proposed to be appointed would be able to deal with the question referred to in draft resolution II. As guidance for the proposed committee, he read the text which he had intended to submit :

*" The General Assembly,*

*" Considering that it is necessary to ensure the greatest possible consistency in the style, form and language of General Assembly resolutions, and accuracy in the use of technical terms contained therein;*

"*Recalling* the resolution of the General Assembly of 20 October 1947 (No. 183 (II)) on the utilization of the services of the Secretariat;

"*Being of the opinion* that the Secretariat is the qualified advisory organ to guarantee uniform and correct wording,

"*Recommends* to the Main Committees that they utilize to the utmost the services of the legal experts of the Secretariat, and

"*Requests* the Secretariat to advise, in the course of their debate, the Committees as well as the General Assembly in plenary meeting about questions of style, form, language and technical terms of resolutions".

39. It was with regret that he had come to the conclusion that the time was not ripe for the Sixth Committee to settle the question at that stage, but perhaps it was wiser not to take any hasty decisions.

40. His draft resolution (A/C.6/L.186) did not call for any lengthy comment. It proposed the appointment of a committee to study the problem as a whole in conjunction with the Secretariat and to report to the seventh session of the Assembly. His delegation had not specified any time limit for the presentation of that report, but governments would have to receive it soon enough to be able to study it before the session began.

41. As a conciliatory gesture and so as to make his text acceptable to the largest possible majority, he agreed to the amendments contained in document A/C.6/L.187, and he would request those who had expressed support for his draft resolution also to accept those amendments.

42. He asked the authors of the other draft resolutions and amendments to agree that his delegation's draft resolution should be put to the vote first, as that procedure would enable the Committee, in the event of its adopting the draft, to avoid lengthy discussions; he made a formal proposal to that effect.

43. Mr. FITZMAURICE (United Kingdom) said that his delegation was prepared to agree that the Netherlands draft resolution should be put to the vote first.

44. Mr. TOBAR CHAVES (Colombia) said that in view of the large number of proposals and amendments submitted to the Committee, his delegation proposed that a sub-committee be set up, consisting of the sponsors of the various draft resolutions and amendments, to study the several texts, if necessary in consultation with the Secretariat, with a view to working out a single text on which the Committee could decide.

45. The question was of particular importance since the decisions adopted would affect the General Assembly's proceedings. That was sufficient reason for settling the question as soon as possible. Moreover, the exchange of views during the general debate should make it possible to reach a solution which would correct the faults in the General Assembly's methods. The question, though complex, raised no political but only technical difficulties, which could probably be solved without delay.

46. It would be regrettable if the Sixth Committee were to admit that it could not adopt a decision on the question at the current session and thus fail to profit by the initiative taken by the United Kingdom delegation and the good will manifested by all delegations, especially those which had submitted draft resolutions or amendments.

47. Mr. BERNSTEIN (Chile), while agreeing to the

Netherlands draft resolution being voted upon first, said that did not mean he would support it. He reserved the right to speak when discussions began on the draft resolution in question.

48. Mr. PEREZ PEROZO (Venezuela), Mr. ASTROM (Sweden), Mr. CHAUMONT (France) and Mr. VAN GLABBEKE (Belgium) agreed that the Netherlands draft resolution should be put to the vote first.

49. Mr. HERRERA BAEZ (Dominican Republic), Mr. ABDOH (Iran) and Mr. BENNETT (Canada) also agreed that the Netherlands draft resolution should be put to the vote first, and added that their respective delegations would vote for it.

50. Mr. MENDEZ (Philippines) referred to a suggestion, similar to the Colombian representative's, which he had made at the 261st meeting but had withdrawn in favour of the Netherlands draft resolution. He, too, therefore agreed that the latter should be put to the vote first.

51. Mr. TOBAR CHAVES (Colombia) said he was prepared to agree that the Committee should first vote on the Netherlands draft resolution.

52. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) pointed out that with the exception of the Netherlands draft resolution, all the draft resolutions and amendments submitted raised the preliminary question whether the matter should be postponed until the seventh session of the General Assembly, or whether the Sixth Committee should adopt a final decision at the current session.

53. Without wishing to influence the decision of the Committee members, who were alone competent to judge whether the question was so complicated that a special committee should be instructed to study it after the close of the current session, he pointed out that the proliferation of committees and hence the repetition of discussions were causing a certain congestion and involved further expense. It would therefore be better, if it were considered possible to do so, to settle at the current session a matter with which the Sixth Committee had been dealing for two weeks and all aspects of which had already been carefully studied.

54. The CHAIRMAN suggested that the Committee should vote first on the Netherlands draft resolution, since the authors of the various draft resolutions and amendments had agreed to that procedure. If the draft were rejected, the Committee would then consider the other draft resolutions and amendments, and a sub-committee would be appointed for that purpose as several representatives had suggested.

55. Mr. MOUSSA (Egypt) said that before the Committee proceeded to vote, he would like to thank the Netherlands representative for having accepted the amendment in document A/C.6/L.187 and so having displayed a practical and realistic spirit conducive to progress in the Committee's proceedings. The mere fact that the amendment had been accepted by the Netherlands delegation made all comment on it unnecessary, except that it should be pointed out that by placing the membership of the Committee at fifteen instead of eleven, the authors of the amendment had intended to make the composition of the committee more adequate.

56. Mr. BERNSTEIN (Chile) said that, before the Committee proceeded to vote, he would like to state that his delegation would be very sorry to see the Sixth



Committee postpone a decision on the matter until the seventh session of the General Assembly. During the discussion a number of speakers had recognized that the United Kingdom draft resolutions contained some very interesting ideas and that some parts of those drafts had met with the unanimous approval of the various representatives. In particular, it had been realized that the Sixth Committee had to participate in the drafting of requests to the International Court of Justice for advisory opinions and of requests to the International Law Commission for reports. Because there was general agreement on that point, his own and the Cuban delegations had submitted a number of amendments (A/C.6/L.180) to the United Kingdom draft resolution I. In that connexion, his delegation, being anxious to reach a solution, would not have hesitated to drop its own proposals and support the Venezuelan draft resolution (A/C.6/L.184). The United Kingdom delegation would also surely have displayed a spirit of understanding and admitted that the majority of the Committee were not in favour of the establishment of a co-ordination committee, though he personally felt it would have been a very useful body.

57. It seemed therefore that it might have been possible to reach a compromise solution without resorting to a procedure like that suggested in the Netherlands draft resolution, which was manifestly going to be adopted. By evading that question, as it had evaded consideration of the draft Declaration on Rights and Duties of States, the Sixth Committee was yielding to a tendency which was only too common and which did serious damage to the prestige of the United Nations. One might well consider whether the question of reservations of multilateral conventions would suffer the same fate, and it was distressing to note that after complaining of being treated as the least of the Committees of the Assembly and having too small an agenda, the Sixth Committee should display such lack of courage. It took courage to say so, but it seemed that the representative of the United Kingdom was right, and that if one day the dissolution of the Sixth Committee were proposed, the Committee would have very few convincing arguments in support of its continued existence.

58. For those reasons, he would vote against the draft resolution submitted by the delegation of the Netherlands and would support the suggestion for the establishment of a sub-committee to study the matter at the current session.

59. The CHAIRMAN said that at the request of the United Kingdom representative, the Netherlands draft resolution, as amended by document A/C.6/L.187, would be voted on in parts. The Committee would vote first

on the first paragraph of the preamble, then on the second paragraph of the preamble and paragraph 1 of the operative part, then on paragraph 2 of the operative part and after that on paragraph 3 of the operative part. Finally it would vote on the amended draft resolution as a whole.

*The first paragraph of the preamble was adopted by 41 votes to 9 with 3 abstentions.*

*The second paragraph of the preamble and paragraph 1 of the operative part were adopted by 46 votes to 5 with 3 abstentions.*

*Paragraph 2 of the operative part was adopted by 44 votes to 6 with 3 abstentions.*

*Paragraph 3 of the operative part was adopted by 45 votes to 5 with 3 abstentions.*

*The amended draft resolution as a whole was adopted by 46 votes to 6 with 3 abstentions.*

60. The CHAIRMAN said that at a subsequent meeting he would submit a list of the States which might be represented on the Special Committee. The list would take due account of the interest manifested by various delegations during the discussion and also of the principle of geographical distribution.

61. Mr. FITZMAURICE (United Kingdom), explaining his vote, said that to a great extent he shared the Chilean representative's opinion, but, anxious not to impose his delegation's point of view and conscious of the numerous practical difficulties involved, he had finally accepted the idea of establishing a special committee which would report at the seventh session. Accordingly he had voted for the amended Netherlands draft resolution as a whole. On the other hand, he had voted against the first paragraph of the preamble because he preferred the two paragraphs of the original Netherlands draft. He had preferred to abstain from the vote on paragraph 2 of the operative part.

62. Mr. WYNES (Australia) explained that he had voted against the amended Netherlands draft resolution because his delegation would have liked the matter to be settled at the current session without recourse to a special committee, involving additional expenditure and delay. Already the matter had been debated at length and a further committee plus consideration at the next session would involve duplication.

63. Mr. ASTROM (Sweden) stated that, for the reasons given by the United Kingdom representative, he had voted against the first paragraph of the preamble but had voted for the amended Netherlands draft resolution as a whole.

The meeting rose at 6.20 p.m.