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**Chairman:** Mr. Alberto HERRARTE (Guatemala).

**AGENDA ITEM 55**

Report of the International Law Commission on the work of its eleventh session (A/4169, A/C.6/L.443, 444 and Add.1 and 2, A/C.6/L.445/Rev.1) (continued)

1. Mr. NISOT (Belgium) said that, in view of the submission of a revised version of the Bolivian draft resolution (A/C.6/L.445/Rev.1), his delegation wished to withdraw the amendments (A/C.6/L.446) which it had proposed to the original Bolivian text. That withdrawal, however, should not be construed to imply the adoption by his delegation of any position on the revised version.

2. Mr. ZEPOS (Greece) agreed with the Canadian representative, who had stated (606th meeting) that an expansion of the Sixth Committee's role would undoubtedly help to promote the aims of the United Nations. So far as the International Law Commission's report (A/4169) was concerned, his delegation was satisfied both with the explanations contained in the report itself and with the statement by the Commission's Chairman regarding the reasons which had prevented the Commission from completing its work. He was confident that before the Assembly's fifteenth session the Commission would submit at least a complete draft on consular intercourse and immunities, as well as a study on *ad hoc* diplomacy. Those topics deserved preferential treatment not only because first priority had already been given to consular intercourse and immunities by the Commission itself, but also out of consideration for the view of delegations which believed that no final action should be taken on the existing draft on diplomatic immunities until the completed draft on consular immunities was also available.

3. With reference to the type of instrument in which the codification on the law of treaties should be embodied, paragraph 18 of the Commission's report was clearly of an interim character. His delegation therefore reserved its right to take a position after a final decision had been reached by the Commission also in the light of the opinions expressed in the Sixth Committee. On the report as a whole, he would support the joint draft resolution (A/C.6/L.444 and Add.1 and 2).

4. In dealing with the question of asylum, the Committee might recall that both the term and the conception were of Greek origin. Moreover, although the granting of asylum was currently regarded as mostly

a Latin American practice, some known instances of it had also occurred in non-Latin American countries only a few years before the Haya de la Torre case. For example, asylum had been granted in September 1941 by the Legation of Japan at Teheran to the Grand Mufti of Jerusalem, in April 1944 by the Legation of Turkey at Budapest to de Kallay, former Prime Minister of Hungary, and in March 1945 by the British Legation at Bucharest to General Radescu, former Prime Minister of Romania. Those examples showed that the right of asylum, even if not wholly accepted by all countries, was a recognized institution in many States outside the Latin American region. That fact was also borne out by the support which many non-Latin American representatives had already voiced for the Salvadorian draft resolution (A/C.6/L.443). Consequently, it could not be admitted that the right of asylum was only of regional interest and not of an international character.

5. The question of asylum was still of vital interest because certain basic humanitarian standards had not yet gained universal acceptance. That was why the matter had already been discussed in various United Nations organs and why a comprehensive declaration on the subject was under consideration by the Commission on Human Rights. The Greek delegation was well aware of the difficulties involved in codifying the relevant rules in universally acceptable terms, but the matter of diplomatic asylum was of sufficient importance to warrant referring it to the International Law Commission for consideration, at a time to be determined by the Commission itself. The adoption of the Salvadorian proposal would at least help to clarify the whole subject.

6. As to the Bolivian revised draft resolution (A/C.6/L.445/Rev.1), the Greek delegation understood the reasons which had prompted its sponsor to submit it. But adding such a complicated topic to the Commission's programme would only tend to prevent the Commission from completing its current work for a long time to come. The Commission was dealing not only with the draft on consular law but also with the law of treaties and State responsibility. If the subject selected by Bolivia was also added, no complete draft on any of those topics would be produced for at least five or seven years. Nor were his delegation's fears dispelled by the Belgian amendments (A/C.6/L.446), for the suggestion that the Commission should deal with the matter at such time as it considered suitable could apply equally well to every other branch of public international law. His delegation therefore regretted that it would be unable to support the Bolivian draft resolution.

7. Mr. TABIBI (Afghanistan) recalled that the Commission's difficulties during its eleventh session had been mainly caused by the absence of the Special Rapporteur on consular intercourse and immunities. That Special Rapporteur had been detained at The Hague as an *ad hoc* judge on the International Court

of Justice, and the Commission had been unable to proceed with the draft until his arrival at Geneva. In order to avoid those difficulties in the future, the Statute of the Commission might be reframed so as to allow for two rapporteurs to be assigned to each topic: one responsible for preparing the draft, the other as an associate who could perform the necessary functions whenever the special rapporteur was unable to attend meetings. He hoped that the Commission would give some thought to that suggestion at its next session.

8. In order to expedite the Commission's work, Governments could be asked for their views on partially completed projects. For example, the partial texts on the law of treaties and on consular intercourse and immunities could be circulated immediately. Moreover, since the Commission's membership had been increased from fifteen to twenty-one members, the Commission could perhaps establish sub-committees for the discussion of various topics. The Commission's attention had been called to that possibility in previous years, and he would be glad to hear how the Commission had reacted to those suggestions.

9. With reference to the Commission's work in pursuance of Article 13 of the United Nations Charter, he shared the views expressed by the representatives of Canada and Ceylon. Progress in international law was not as rapid as elsewhere, but it could be speeded by the co-ordinated efforts of the Sixth Committee, the International Law Commission and the Secretariat. The Secretariat should prepare more reports and propose new items each year; the Commission should reconsider its methods of work, meeting schedules and selection of topics; and the Sixth Committee should always remain alert to its great responsibility.

10. Chapter II of the Commission's report (A/4169) encouraged the hope that the entire draft on the law of treaties might be completed shortly. After its completion, the draft would no doubt be circulated to Governments for their comments, and that would be the time to decide on the final form which the work should take. That decision could be taken either by a special conference or by the General Assembly.

11. His delegation also hoped that the study on *ad hoc* diplomacy and on relations between international organizations and States would be completed as soon as possible. Those matters were becoming constantly more important and traditional international law afforded no guidance on them.

12. With reference to the Salvadorian draft resolution, he noted that the right of asylum had been one of the fourteen topics originally selected for codification (A/925, para. 16). The institution was accepted and applied in almost all parts of the world, but was not uniformly practised. That fact had been recognized by the International Court in the *Haya de la Torre* case. Consequently the codification of the topic by the Commission would greatly clarify the picture. It should be borne in mind, however, that the Commission on Human Rights was also studying that subject and care should be taken to avoid a duplication of effort.

13. His delegation would also welcome the attempt, envisaged by the Bolivian representative, to compile the rules relating to the use and exploitation of international rivers. Efforts in that direction had already been made by many learned societies, but the formulation of universally acceptable principles had proved

difficult. The latest attempt had been made by the International Law Association in 1958, the four principles then adopted relying primarily on direct negotiations between the riparian States. Experience showed, therefore, that no uniform rules on the subject could possibly be found. So far as international rivers were concerned, it was difficult to separate juridical rights from policy. None of the relevant material available was of great assistance, and in certain countries the traditional principle of the supremacy of navigational rights had been overshadowed by the needs of irrigation. His delegation therefore believed that an attempt to codify the relevant principles would be premature and could do more harm than good. All that could be done, for the time, was to take the action proposed in operative paragraph 2 of the Bolivian draft resolution (A/C.6/L.445/Rev.1). It had rightly been stated that a study should be made of the available materials in order to understand the actual problems presented by international river systems and to analyse the tendencies of international practice; the question of law would be closely involved with questions of history, geography, strategy, economics and politics. Instead of premature codification, therefore, it would be better if international rivers were used both for navigation and for irrigation on the basis of local arrangements, arrived at after an evaluation of actual needs in the light of scientific data and with due respect for sovereign rights. So far as Afghanistan was concerned, irrigation was more important than navigation. In the absence of agreement, however, it would always be willing to call on the services of bodies whose impartiality and scientific knowledge were both beyond question. The Afghan delegation attached special importance to that subject and would state its views to any organ dealing with it at the proper time.

14. In conclusion, he agreed with the representatives of India, Indonesia, Yugoslavia and Ceylon regarding the importance of the work of the Asian-African Legal Consultative Committee. A close relationship should be established between that body and the International Law Commission, and either the Chairman or the Secretary of the Commission should attend the Committee's annual meeting.

15. Mr. NISOT (Belgium) pointed out that some delegations seemed to have forgotten that he had formally withdrawn the Belgian amendments (A/C.6/L.446) to the Bolivian draft resolution. He again stressed that that withdrawal did not imply the assumption of any position on the Bolivian revised draft.

16. Mr. ORTIZ MARTIN (Costa Rica) said that the right of asylum, being an established institution of American international law, required proper doctrinal development. He could not accept the argument that it would be inadvisable to codify in universal terms rules which were of a purely regional character. In the first place, whatever was accepted as a humanitarian principle by some should be similarly accepted by all; and secondly, the institution was by no means purely regional but was widely accepted throughout the world. The institution's growth in Latin America was merely the result of that area's constant rebellion against any oppression of liberty.

17. Costa Rica had recently been confronted with a new problem relating to the right of asylum. A group of revolutionaries against the Nicaraguan Government who had been brought back to San José had sought and

obtained asylum in foreign embassies. The Costa Rican Government had expressed its surprise, for the question of asylum could hardly arise in a country where there had not been even a suspicion of persecution. That had led to confusion and misunderstanding, but all the difficulties had been overcome in the traditional American spirit of compromise. That incident showed the need for juridical regulation of the institution on a universal basis.

18. Mr. BELACHEW ASRAT (Ethiopia) said that, after the explanations that had been furnished, his delegation was satisfied with the Commission's progress. The Commission's Chairman had rightly stated that the report was of an interim character and there was no need to comment on its substance. His delegation reserved its right, however, to make such comments at the appropriate time.

19. With reference to the form of instrument in which the law of treaties should be embodied, he felt that the view expressed in paragraph 18 of the Commission's report seemed reasonable. However, until the complete text was available, any detailed observations on that point would be premature. His delegation would therefore support the joint draft resolution (A/C.6/L.444 and Add.1 and 2).

20. The Salvadorian draft resolution also appeared acceptable, and, there again, his delegation would express its views on the substance of the subject after the Commission had submitted its study. The Commission itself should be left to decide when that study should be initiated.

21. The question raised in the Bolivian draft resolution was of direct interest to Ethiopia. He would consequently support the initiation of the study envisaged in that proposal.

22. In conclusion, he agreed with the Canadian representative that it was necessary to affirm the rule of law in international relations. Positive efforts to that end should be made both by the International Law Commission and by the General Assembly.

23. Mr. CACHO ZABALZA (Spain) said that the summary records of his earlier statements wrongly implied that he had used the term "Latin American". He disliked that expression and had always been careful to refer to the sister States in the Americas as "Iberian-American".

24. In the matter referred to in the Bolivian revised draft resolution (A/C.6/L.445/Rev.1), Spain had always followed a well-defined road. As the Permanent Representative of Spain had said at the 822nd plenary meeting of the General Assembly on 6 October 1959, the Spanish delegation hoped that the second United Nations Conference on the Law of the Sea would reach international agreement on the question of the breadth of the territorial sea and related problems. He had added that Spain attached paramount importance to respect for the traditional principle of the freedom of the seas and could not approve any individual action designed to bring about changes in the limits of territorial waters.

25. In order to consolidate all the work previously done on the law of the sea, the General Assembly, by its resolution 1105 (XI) adopted in February 1957, had decided to call the first Conference on the Law of the Sea. That Conference had not reached complete agreement, for reasons sufficiently well known. A

further debate had accordingly taken place in the Sixth Committee at the thirteenth session of the Assembly, when the delegations of Indonesia (588th meeting) and Ceylon (593rd meeting) had advanced claims which, in his opinion, seemed contrary to customary international law.

26. The Spanish delegation believed in the principles established by the founders of the law of nations, among them the principle that the benefits to be derived from the sea were for the common welfare of all mankind. That applied equally to the land-locked countries, which were as entitled as the maritime States to reasonable enjoyment of the seas.

27. After the debate in the Sixth Committee at the thirteenth session, the General Assembly, by its resolution 1307 (XIII), had decided that a second conference on the law of the sea should be held at Geneva in the spring of 1960, soon after the eleventh Inter-American Conference due to be held shortly at Quito. The questions envisaged in the Bolivian draft resolution should therefore be discussed at the second Geneva Conference, where, as at the first Conference, States would inevitably display a sincere desire to arrive at positive rules governing all questions relating to the sea. In that connexion, he again wished to stress that Spain would never consider itself bound to recognize any unilateral measures whereby a State might seek to extend its territorial sea beyond the limit which Spain had set off its own shores.

28. For those reasons, his delegation would normally have voted against the Bolivian draft resolution. Bearing in mind, however, that that text had been submitted by a sister nation, he would abstain from voting.

29. Mr. SHIELDS (Ireland) said that, in view of the unusual difficulties and frustrations which the Commission had faced in 1959, the Commission's achievements appeared decidedly commendable. The progressive development and codification of international law were of necessity slow and time-consuming processes, and the Commission should continue to decline to sacrifice the quality of its work in favour of quantity. In view of the interim character of the Commission's report the Sixth Committee was not called upon to discuss the substance of the draft articles it contained, and accordingly his delegation would support the joint draft resolution (A/C.6/L.444 and Add.1 and 2).

30. The question of the final form that the codification of the law of treaties should take might be more appropriately discussed at a later stage, after the full draft had been completed. His delegation was confident that the Commission would carefully consider the Canadian representative's suggestion that the problem of "code versus convention" might best be resolved by dividing the articles and enshrining the formal articles in a multilateral treaty while placing the articles which related to the meaning and interpretation of treaties in a code declaratory of general principles.

31. With reference to the Salvadorian proposal, he stressed that the principle of the right of asylum in no way involved or implied the right of an individual to demand admission to a State, but consisted solely in the right to seek asylum, as referred to in article 14 (1) of the Universal Declaration of Human Rights, and in the right of the State to grant or deny the asylum so sought. On that basis, his delegation was



prepared to support the draft resolution. He felt that, if the proposal was adopted, the Commission would no doubt wish to benefit by the results of the discussion on the relevant draft declaration in the Commission on Human Rights, and in the Third Committee.

32. The Irish delegation had not yet completed a study of the revised Bolivian draft resolution, and accordingly reserved its right to give its views on that text at a later stage.

33. Mr. DADZIE (Ghana) said that, so far as the issue of code versus multilateral convention was concerned, in connexion with the law of treaties, the objective of the International Law Commission, as stated in article 1 of its Statute, was the promotion of the progressive development of international law and its codification. It would appear, therefore, that a topic was normally only referred to the Commission when the object of so doing was both its progressive development and its codification. His delegation consequently had no difficulty in understanding the Commission's recommendation concerning the draft articles on the law of treaties. He also agreed with the explanation offered by the special Rapporteur for the subject. And in any event, the Commission's recommendations would in no way preclude the General Assembly from convening a conference to conclude a convention. If such a further step was deemed necessary, consideration might be given to it after the Commission's draft had been completed.

34. With reference to the question of the appointment of special rapporteurs, his delegation thought that the matter should be left entirely to the discretion of the Commission. The Sixth Committee would, of course, always be in a position to take action against any abuse of that discretion.

35. In those circumstances, his delegation fully supported the joint draft resolution and would willingly join in as co-sponsoring it.

36. The question of the relationship between consular intercourse and immunities diplomatic intercourse and immunities and *ad hoc* diplomacy had been sufficiently elaborated by the Canadian representative. There was currently little practical difference between the rules applied to persons performing functions in any of those three fields. That was especially true in the diplomatic and consular practice of the smaller States. In view of those factors, his delegation believed that the three topics should be treated together.

37. On the question of the right of asylum, his delegation understood the Salvadorian proposal as merely a request to the Commission that it should study the topic and make recommendations to the General Assembly. On that understanding, he would certainly support the draft resolution. The Commission would then study and codify the rules of territorial asylum and of diplomatic asylum from the strictly legal viewpoint alone. Such work need in no way overlap with that in progress in the Commission on Human Rights, which was understandably more concerned with the humanitarian aspect of the question. The International Law Commission would, in any event, study the progress made by its sister body.

38. His Government believed that the proper place for the rules governing diplomatic asylum would be in the instrument on diplomatic intercourse and immunities. He had been expressly instructed to recommend, therefore, that the text relating to the right

of asylum, when approved, should be included in the final instrument governing diplomatic law.

39. In conclusion, he said that his delegation had not had time for a full study of the revised Bolivian draft resolution. It accordingly reserved its right to refer to that topic at a later stage.

40. Mr. HOLMBACK (Sweden) said that the subject of the utilization and exploitation of international rivers referred to in the Bolivian revised draft resolution (A/C.6/L.445/Rev.1) was one of far-reaching scope, since besides navigation it comprised such problems as irrigation, drainage and the use of rivers for waterpower, the generation of electric power and the like. In the light of his personal experience in dealing with those complex problems in Sweden, he questioned whether the International Law Commission was the appropriate body to undertake such a study, which would necessarily require a profound knowledge of the many technological, mineralogical, meteorological and other factors involved. The study could perhaps better be undertaken by a special committee set up for that specific task. In any case, it would be preferable to wait a year or two and ponder the matter carefully before reaching a final decision.

41. He could not accept operative paragraph 2 of the revised draft resolution, which requested the Secretary-General to undertake, in collaboration with the International Law Commission, the task of compiling, classifying and analysing the available information on that question. In his opinion, it was inappropriate to ask the Secretariat to make such studies and enter into such collaboration before the item had been submitted to the Commission. It was also questionable whether the Secretariat possessed the necessary financial resources to undertake that task. Lastly, it should be borne in mind that the International Law Association had already compiled much useful information on the subject of international rivers, and that material should perhaps be carefully evaluated before any new work of compilation was carried out. For those reasons, his delegation felt that any action on the proposal contained in the Bolivian revised draft resolution should be postponed to a later stage.

42. Mr. URQUIA (El Salvador) said that his delegation was prepared to support the joint draft resolution (A/C.6/L.444 and Add.1 and 2). He reserved his delegation's position with respect to the Bolivian revised draft resolution (A/C.6/L.445/Rev.1).

43. He then turned to various points which had been raised by representatives in connexion with the Salvadorian draft resolution (A/C.6/L.443). The United States representative had attributed the fact that the draft resolution left it to the Commission to determine when the question of the right of asylum should be taken up to a desire to take into consideration the work currently being done on the question by the Commission on Human Rights (605th meeting). He wished to point out that he had used the words "as soon as it considers advisable" not out of deference to the important work of the Commission on Human Rights but because he had thought that the International Law Commission should be given complete freedom to decide its final plan of work. The Israel representative had said (605th meeting) that some clarification was needed regarding the respective functions of the Commission on Human Rights and the Economic and Social Council on the one hand, and of the International Law Commission and the General Assembly on the other

with regard to the right of asylum. The representative of Spain had said that in introducing his resolution the Salvadorian representative had referred to both diplomatic and territorial asylum, but that as the Commission on Human Rights had already for some time been considering the question of territorial asylum, it should be made clear that the Sixth Committee was concerned with the right of diplomatic asylum.

44. To answer the questions raised by the representatives of Israel and Spain, he reviewed in detail the work which had been done on the right of asylum in the Commission on Human Rights since 1947. The first general statement on the subject was to be found in article 14 (1) of the Universal Declaration of Human Rights, which read: "Everyone has the right to seek and to enjoy in other countries asylum from persecution". In his opinion, that principle was more forcefully expressed in article XXVII of the American Declaration of the Rights and Duties of Man of 1948, which he read out. Progress had been slow from 1949 to 1957, when the subject of the right of asylum had received new impetus from the Commission's resolution requesting Governments, through the Secretary-General, to comment on the question whether a United Nations declaration laying down the principles which should govern the actual grant of asylum would not in itself be of value.<sup>1/</sup> By the first few months of 1959, however, replies had been received from only twenty-three Governments. An excellent summary of the present state of affairs was to be found in paragraphs 57, 59 and 60 of the report of the Commission on Human Rights on its fifteenth session,<sup>2/</sup> the text of which he read.

45. On the basis of the Commission's work to date, the following conclusions could be drawn: first, the study now before the Commission was concerned exclusively with territorial asylum; secondly, the Commission had already decided that it would prepare a declaration on territorial asylum; and thirdly, that declaration would only be an expansion of, or an explanatory supplement to, article 14 of the Universal Declaration of Human Rights. Representatives would, he was sure, agree that despite its value, the work already accomplished by the Commission on Human Rights in that field was very far from meeting the aspirations of States with respect to the possible codification and progressive development of the international law concerning the right of asylum. Since it was perfectly apparent that the Universal Declaration of Human Rights did not impose any legal obligations on States, an explanatory supplement to that Declaration would not impose any obligation either.

46. With the exception of the delegations of Mexico and Ceylon, all the previous speakers had supported the Salvadorian draft resolution (A/C.6/L.443), on the understanding, of course, that the International Law Commission would be free to decide, first, the opportune time to undertake a study of both territorial and diplomatic asylum, and secondly, whether or not it should wait until the Commission on Human Rights had completed its own work on territorial asylum before considering that aspect of the question itself.

47. In referring to the Salvadorian proposal, the representative of Mexico had ascribed the particular

<sup>1/</sup> See Official Records of the Economic and Social Council, Twenty-fourth Session, Supplement No. 4, chap. VIII, para. 214, resolution X.

<sup>2/</sup> *Ibid.*, Twenty-eighth Session, Supplement No. 8, chap. III.

development of the right of asylum in Latin America in part to the existence in that area of dictatorial régimes and to an instability or lack of political maturity which had caused frequent and violent changes of government (608th meeting). He (Mr. Urquiza) could not, however, agree that Latin America possessed a monopoly of dictatorships, instability and political immaturity, since those phenomena were equally to be observed in other parts of the world. And that the right of diplomatic asylum was favoured not only in Latin America was evident from the fact that the Salvadorian draft resolution had been welcomed in the Sixth Committee by eminent jurists from such non-Latin American countries as Italy, Spain, Austria, Israel, Burma, China, Pakistan, Japan, Philippines, Thailand, Greece, Afghanistan and Ghana.

48. The need for the progressive development and codification, on a world level, of the law concerning the right of diplomatic asylum had been pointed up by the unfortunate results of the only judgement which had yet been pronounced in the matter by the International Court of Justice, in the *Haya de la Torre* case. A careful study of the rules of positive and customary law governing the right of diplomatic asylum would do much to prevent such errors in the future. Both types of rules existed in Latin America, while the rules of customary law were to be found in general international law. With respect to positive law, several speakers had already referred to the various conventions on the subject which had been concluded in Latin America, the most recent of which had been the Convention on asylum concluded at Havana in 1928, the Convention on political asylum concluded at Montevideo in 1933 and the Convention on diplomatic asylum concluded at Caracas in 1954. A characteristic feature of the law of asylum in Latin America was the unilateral right accorded to the State granting asylum to decide whether or not the crime in question was of a political nature. That right had been clearly recognized by the Seventh International Conference of American States, held at Montevideo in 1933, and by the Inter-American Council of Jurists at its fourth meeting, held at Santiago, Chile, in August and September 1959. The draft additional protocol prepared by the latter body would be submitted to the eleventh Inter-American Conference which was to be held at Quito, and he hoped that it would meet with the approval it deserved.

49. In conclusion, he wished to reply to the representative of Ceylon, who had intimated that it was pointless to request the International Law Commission to undertake the codification of the principles and rules of international law relating to the right of asylum unless the Commission was also specifically asked at the same time to give priority to that question. His own view was that the use of the courteous phrase "as soon as it considers advisable" was in itself sufficient to induce the Commission or any similar body to attempt to meet the Assembly's wishes.

50. Mr. SALAMANCA (Bolivia), explaining his revised draft resolution and replying to the Swedish representative, said that he had been anxious only to draw attention to a subject that was suitable for codification and had not wished to force the matter to an issue. It should, however, be realized that no international body which had discussed questions connected with international waters had studied the legal aspects of non-maritime waters. The subject had been one that had been within the terms of reference of the League

of Nations, and the economic but not the legal aspects of matters connected with international rivers had been discussed by the Second Committee of the General Assembly and the Economic and Social Council. However, the difference between the approach to the problem in that body and a legal approach was considerable.

51. The problem demanded urgent solution because, with the population of the world increasing daily, half the world's arable land remained unworked for lack of water. In making its proposal, his delegation was not prompted by any partisan interest, as his country was one that suffered no lack of water.

52. In proposing a study of the possibility of codifying current laws on the use and exploitation of international rivers, he had wished simply to assist in the clarification of a matter that was at present governed by customary rules. As the matter had not been studied before, preliminary work would be required, and Governments' views would have to be sought. In conclusion, he drew attention to the Declaration of Dubrovnik, adopted in 1956 by the International Law Association, which proposed a number of rules for the peaceful solution of the problem.

53. Mr. ERADES (Netherlands) observed that his country was one which had many waterways and lakes and was thus extremely interested in the matter raised in the Bolivian draft resolution. He was, however, inclined to support the views of the Swedish representative, particularly as he had no instructions from his Government on the subject and would be unable to receive any in time for the present discussion. He therefore suggested that no decision should be taken during the current session and that Governments should be given an opportunity to study the matter in detail; it could then be taken up, if necessary, at the fifteenth session of the General Assembly.

54. Mr. GLASER (Romania), in reply to the Greek representative, wished to point out that the Radescu case had not been an instance of the granting of diplomatic asylum.

55. Mr. NUGROHO (Indonesia) said, in reply to the representative of Spain, that many countries now claimed more than three miles of territorial waters; that had been made clear by the discussions at the United Nations Conference on the Law of the Sea held at Geneva in 1958. Moreover, the International Court of Justice had decided that special rules should apply to archipelagos. In any case, as the three-mile limit was no longer universally accepted, it was to be hoped that a satisfactory solution would be found in the future.

56. He had now received instructions from his Government regarding the Salvadorian draft resolution and he was pleased to announce that he could support it.

57. Mr. HOMBACK (Sweden) said, in reply to the Bolivian representative, that he wished to stress three points. The first was that the Bolivian representative had said that the question of the use and exploitation of international rivers was extremely important. On that point he concurred. Secondly, he had not intended to hinder discussion of the question but had simply asked whether the International Law Commission was the most appropriate body to discuss it. His third point was in connexion with what the Bolivian representative had called the urgency of the

matter. If the matter was urgent, then it should not be referred to the International Law Commission, as that body had a great deal of work before it, and would be unable to take up the question for several years, while the date of completion of its study would be a matter of pure speculation.

58. Mr. ROSENNE (Israel) said that, in the light of the explanation given by the Salvadorian representative, he was now able to support the draft resolution sponsored by El Salvador (A/C.6/L.443).

59. In connexion with the right of asylum, many speakers had made points of some considerable importance, and if the International Law Commission did study the question, it might derive some benefit from having the proceedings of the present discussion in the Sixth Committee available to it at that time.

60. Mr. MOROZOV (Union of Soviet Socialist Republics) said that while he was fully prepared to support the Joint draft resolution (A/C.6/L.444 and Add.1 and 2), he would be unable to support either of the other two draft resolutions before the Committee (A/C.6/L.443 and A/C.6/L.445/Rev.1). Neither of those texts raised problems of sufficient importance to warrant a change in the International Law Commission's programme of work, or to justify overburdening it with the study of a new question. A long list might well be made of the subjects which the Commission could profitably discuss, and that list might include subjects for whose discussion there would be more justification than for the two proposed. Normally, however, no changes should be made in the Commission's programme of work and no new subjects should be proposed for its consideration unless they were really of exceptional importance, particularly as any decision to the effect that the Commission should study a new item on the recommendation of the Sixth Committee would amount to adding a further item to the agenda of the General Assembly. The questions raised were not of sufficient importance to warrant special study, and members should exercise restraint by not recommending any changes in the Commission's work programme.

61. Earlier speakers, indeed, had expressed doubts regarding the real importance of the two draft resolutions concerned. The very fact that the Bolivian draft resolution had been amended indicated that its sponsor was not sure that he had good reasons for recommending it for study to the Commission. The Bolivian representative's arguments in favour of his draft had been very interesting, but the regional problems of any one area of the world were not of sufficient importance to warrant a world-wide study. If the problem was important regionally it could be settled by regional agreement.

62. He suggested that the Bolivian representative should reconsider his position and reframe his arguments for presentation at the fifteenth session of the General Assembly if he still considered it desirable to do so.

63. With reference to the Salvadorian draft resolution (A/C.6/L.443), he said that the Salvadorian representative, in referring to the discussion on the right of asylum at the fifteenth session of the Commission on Human Rights,<sup>3/</sup> had made no mention of a proposal to include an article on the right of asylum in the draft International Covenants on Human Rights.

<sup>3/</sup> See footnote 2.



Such an article would be legally binding on the signatory States. The USSR delegation had made that proposal,<sup>4/</sup> and he believed that a State should guarantee the right of asylum to all persons persecuted in defence of democracy, in scientific work and in the struggle for national freedom. The USSR delegation now proposed to put the same proposal before the Third Committee of the General Assembly at the present session, and if that proposal was accepted, any State which signed the Covenant on Civil and Political Rights would be undertaking a legal obligation with respect to the right of asylum.

64. As the Third Committee of the General Assembly was about to study the question of the right of asylum it seemed somewhat pointless at the present stage to make a recommendation that the question should be studied by the International Law Commission.

65. A further objection to the Salvadorian draft resolution was that the question of the right of asylum already appeared on the International Law Commission's programme of work, and the Commission would thus be studying the matter irrespective of any decision that the Committee might now take on the Salvadorian proposal. That proposal in fact amounted to giving priority to the study of the matter; but as the Salvadorian representative had said that he did not insist on immediate study of the question by the Commission, it would seem that the practical outcome of the draft resolution would be almost nil. Indeed, the only purpose that would be served by putting the proposals in the two draft resolutions under consideration before the International Law Commission would be to disrupt its programme of work as already approved by the Sixth Committee.

66. As for the question of the so-called right of diplomatic asylum, he disagreed completely, for reasons of principle, with everything the representative of El Salvador had said in that regard. The right of asylum, as a rule of international law, could be formulated only within the framework, and on the basis of recognition of the so-called right of territorial asylum. In addition, the Salvadorian representative, in listing the delegations which had apparently supported his draft resolution, seemed to have included among them those delegations which had spoken without stating any views on the subject, and which he had therefore simply supposed to support his proposal.

67. Mr. URQUIA (El Salvador) said that the USSR representative had at the beginning of his speech accused him and the Bolivian representative of trying to introduce new items into the Commission's programme of work. In so far as the right of asylum was concerned, that item was already part of the Com-

mission's programme, as the USSR representative had himself recognized later in his speech.

68. The USSR representative had also accused him of listing among the countries which supported the Salvadorian draft resolution those which had stated no views on the subject. Such an assertion was entirely without foundation as he had himself taken the names of all those delegations which in their statements had supported his draft resolution from the records of the previous meetings of the Committee.

69. He welcomed the USSR representative's statement that the Soviet delegation intended to propose in the Third Committee the inclusion of an article on the right of asylum in the draft Covenant on Civil and Political Rights. He believed, however, that the Third Committee would be discussing territorial rather than diplomatic asylum, and as had already been made abundantly clear, the Salvadorian draft resolution covered both types of asylum. He had already stated his willingness to agree that any study that the International Law Commission might make of the subject should await the outcome of the work by the Commission on Human Rights. It seemed, however, that the Commission on Human Rights would prepare only one article on the subject, which in his view was entirely inadequate. Indeed, more than one article would be required for each type of asylum.

70. Mr. MOROZOV (Union of Soviet Socialist Republics) said that if the International Law Commission were to await completion of the discussion of the right of asylum in the Third Committee before taking the matter up itself, no time would in fact be lost, because it would be two years before the Commission would be able to deal with the topic, in view of its present programme of work. There was therefore no need to take an immediate decision.

71. If he had involuntarily given the impression that the question of the right of asylum was not already on the International Law Commission's programme of work, he wished to apologize for any misunderstanding to which that might have given rise.

72. Mr. SALAMANCA (Bolivia), in reply to the USSR representative, said that the problem of international rivers could not be treated as if it were a purely artificial problem. Nor was it a purely regional problem peculiar to his part of South America. In fact, he had already made it clear that his country had no personal interest in the matter.

73. It had not been his delegation's intention to attempt to impose a study of any particular subject upon the International Law Commission but simply to draw attention to a problem that was of great importance and of world-wide significance.

The meeting rose at 6.20 p.m.

<sup>4/</sup> See *Official Records of the Economic and Social Council, Fourteenth Session, Supplement No. 4*, chap. IV, para. 202.