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| (b) Resolution relating to article 1 of the Vienna Conven- tion on the Law of Treaties (<i>concluded</i>) | |

Chairman: Mr. Gonzalo ALCÍVAR (Ecuador).

AGENDA ITEM 86

Report of the International Law Commission on the work
of its twenty-first session (*concluded*)* (A/7610 and
Corr.1; A/C.6/L.746 and Add.1 and 2, A/C.6/L.746/
Rev.1)

AGENDA ITEM 94

Declaration and resolutions adopted by the United Nations
Conference on the Law of Treaties:

(b) Resolution relating to article 1 of the Vienna Conven-
tion on the Law of Treaties (*concluded*)* (A/7592;
A/C.6/L.743, A/C.6/L.746 and Add.1 and 2, A/C.6/
L.746/Rev.1)

1. Mr. USHAKOV (Chairman of the International Law Commission), speaking at the invitation of the Chairman, wished first of all, on his own behalf and on behalf of the Special Rapporteurs and other members of the International Law Commission, to thank all those who had commended the work accomplished by the International Law Commission at its twenty-first session. He also wished to assure the members of the Sixth Committee that the Commission would take account of their comments in its future work.

2. Concerning the possibility of extending the term of office of the members of the Commission, he pointed out that the Commission had merely expressed an opinion in order to draw attention to the question; the Commission believed that if that opinion was favourably received, its work would be facilitated. The extension of the members' term of office was only one means, in the Commission's view, of enabling it to accomplish its task more easily; in any case the Commission was determined to make further efforts to improve its methods of work.

3. In mentioning the possibility of an additional or extended session in 1971, the International Law Commission had merely wished to keep open the possibility of making a request for such a measure to the General Assembly at a later date. It had not taken a definite decision on the subject, since it would not know if the step was necessary until it had completed its first reading of the draft articles on representatives of States to international organizations. The Commission wished to have that possibility, since it felt that it would be better if its present membership also undertook the second reading of the draft articles. In view of those considerations, there was no need for the Sixth Committee to take a decision on the question at the present stage.

4. The CHAIRMAN recalled that the Sixth Committee had before it a draft resolution (A/C.6/L.746 and Add.1 and 2) on the agenda items it was discussing. He announced that Japan and the Ukrainian Soviet Socialist Republic had just joined the sponsors of the draft resolution and pointed out that, in the English version of the draft, Sudan had been inadvertently omitted from the names of the sponsors. Paragraph 5 of the Spanish text contained a translation error which should be corrected by changing the phrase "*que considere adecuadas*" to "*según lo considere adecuado*".

5. Mr. Krishna RAO (India) introduced the draft resolution on behalf of the sponsors. In addition to an error that had crept into paragraph 6 in the English text, and which needed to be corrected, some further changes needed to be made so as to conform to current practice regarding Sixth Committee draft resolutions on reports of the International Law Commission. In paragraph 2 the word "profound" should be inserted before the word "appreciation" and the word "valuable" should precede the word "work". The sponsors had wished to allow the International Law Commission the greatest possible latitude with regard to the wording of paragraph 5.

6. Lastly, he explained that the reason why the draft resolution made no mention either of the question of extending the term of office of the members of the International Law Commission or of the possibility of an additional or extended session in 1971, was that the sponsors had thought, in the light of the comments made during the discussions, that the members of the Sixth Committee were not, at the present stage, ready to accept the proposals made in paragraphs 90 and 92 of the Commission's report (A/7610 and Corr.1). He suggested, in order to remedy that omission, that the Sixth Committee's report should indicate that the Committee had taken note of the proposal concerning the extension of the term of office of the Commission's members, but that after having carefully considered the question it had thought it inappro-

* Resumed from the 1111th meeting.

priate to take a decision at its present session, although it would do so at a later session, and that it had invited the International Law Commission to give further consideration to the various possible solutions that might be applied concerning the duration of its members' term of office. The report might also mention that the Sixth Committee, while expressing the hope that the International Law Commission could complete its work at its regular session, wished to postpone until the twenty-fifth session of the Assembly any decision as to whether the Commission should hold an extended or additional session in 1971.

7. Mr. PINTO (Ceylon) said that his delegation was in full agreement with the two basic ideas underlying the draft articles on representatives of States to international organizations—first, that a balance must be maintained between the interests of the host State, those of the sending State and those of the organization and, second, that the privileges and immunities of representatives were accorded on the basis of "functional necessity". The draft articles certainly represented considerable progress in the elaboration of rules of law governing relations between States and international organizations.

8. His delegation had noted with satisfaction the caution with which the International Law Commission intended to deal with the question of permanent observers from non-member States to international organizations and of the possible effects on State representation to such organizations of exceptional situations such as the absence of recognition or of diplomatic relations. The formulation of appropriate provisions would be a very complex task, but his delegation was sure that the International Law Commission and its Special Rapporteur on the subject would accomplish it with complete success.

9. Although his Government was still studying Mr. Bedjaoui's report on the succession of States, his delegation was already in a position to state that it approved of most of the ideas advanced in it, including the view that the successor State was a legal entity endowed with rights and obligations even before it succeeded the predecessor State. Likewise, at the twenty-third session his delegation had held (1036th meeting) that it should be recognized that the successor State had in fact been a State before foreign sovereignty, the withdrawal of which had brought it into being, had been imposed. It also supported the suggestion calling for a study on public debts and public property as a preliminary stage in the codification of the rules governing State succession in respect of economic and financial matters.

10. His delegation awaited with interest the draft articles on State responsibility, which the Special Rapporteur was to submit to the International Law Commission at its twenty-second session, and the eventual results of the Commission's work on the most-favoured-nation clause.

11. His delegation had joined the sponsors of the draft resolution because it fully approved of its provisions. It should be noted, in connexion with paragraph 5, that the vast amount of practical experience of the main international organizations should be very useful for the study of the question of treaties concluded between States and international organizations or between two or more international organizations.

12. Mr. DUPLESSY (Haiti) noted with particular satisfaction, in the report of the International Law Commission, the draft articles on representatives of States to international organizations and the study on State succession and the problem of acquired rights; his delegation would offer more detailed comments on those questions in due time. However, he believed it was too early to take a decision regarding the extension of the term of office of the members of the Commission.

13. His delegation welcomed the organization of the fifth session of the Seminar on International Law; it hoped that that Seminar would continue and that an increasing number of nationals of developing countries would take part in its sessions.

14. His delegation endorsed the recommendation contained in the resolution relating to article 1 of the Vienna Convention on the Law of Treaties, and he would therefore vote for draft resolution A/C.6/L.746 and Add.1 and 2, with the changes indicated by the Chairman and by the Indian representative.

15. Mr. MAURTUA (Peru) said that the codification and progressive development of international law was a long-term task and that the term of office in the body responsible for it should be commensurate with that task. While fairness and the representation of the different legal, economic and social systems were ensured by the geographical distribution of membership and the replacement of members of the Commission at regular intervals, that representation was based on political and technical considerations which, though sound for the most part, should not interfere with the continuity which was essential in the work of that body. What was needed was a solution that would take due account of both those considerations, and it seemed to his delegation that the arguments advanced by the International Law Commission in favour of extending the term of office of its members should be given careful consideration by the Sixth Committee.

16. The CHAIRMAN put to the vote draft resolution A/C.6/L.746 and Add.1 and 2, with the changes indicated by himself and by the Indian representative (A/C.6/L.746/Rev.1).

17. Mr. NALL (Israel) requested a separate vote on paragraph 5.

Paragraph 5 of the draft resolution was adopted by 79 votes to none, with 3 abstentions.

The resolution as a whole (A/C.6/L.746/Rev.1) was adopted unanimously.

18. Mr. DARWIN (United Kingdom) expressed gratification at the adoption by the Sixth Committee of the draft resolution, and particularly paragraph 5 of that draft, which gave effect to the recommendation of the United Nations Conference on the Law of Treaties. He also expressed the view that the finding that question of treaties concluded between States and international organizations or between two or more international organizations was an important one meant that the Commission should give it priority.

19. Mr. PERSSON (Sweden) also welcomed the adoption of the draft resolution, and in particular paragraph 5.

20. Mr. BREWER (Liberia) expressed particular satisfaction at the adoption by the Sixth Committee of paragraph 5 of the draft resolution and said that, in his opinion, the International Law Commission should give priority to the question referred to in that paragraph.

21. Mr. DELEAU (France) explained that his country's abstention from the vote on paragraph 5 was in line with the position which the French delegation had adopted at the Vienna Conference on the Law of Treaties, and which had already been expounded in the Sixth Committee

(1108th meeting). His delegation nevertheless welcomed the unanimous adoption of the draft resolution as a whole.

22. The CHAIRMAN said that if there were no objections he would take it that the members agreed that the report of the Sixth Committee should contain a passage referring to the question of extending the term of office of the members of the International Law Commission and of the possibility of an additional or extended session in 1971, drafted on the lines indicated by the Indian representative.

It was so decided.

The meeting rose at 12.25 p.m.