

HUNDRED AND EIGHTIETH MEETING

Held at Lake Success, New York, on Tuesday, 1 November 1949, at 11 a.m.

Chairman: Mr. LACHS (Poland).

Report of the International Law Commission (A/925) (continued)

PART II: DRAFT DECLARATION ON RIGHTS AND DUTIES OF STATES (continued)

Proposals and amendments regarding the disposal of the draft declaration (A/C.6/L.50, A/C.6/L.55, A/C.6/L.56, A/C.6/L.58, A/C.6/L.60) (continued)

1. The CHAIRMAN invited the Committee to examine the seventh paragraph of the joint draft resolution (A/C.6/L.50) of Argentina, the Netherlands and the United States. To that paragraph, three amendments had been proposed as follows: one by Cuba (A/C.6/L.55) which called for the deletion of that paragraph; one by Chile and Colombia (A/C.6/L.56) which called for the addition to the seventh paragraph of the following words: "which shall be transmitted to the International Law Commission"; and the Australian amendment to add to the seventh paragraph of the joint draft resolution the following text (A/C.6/L.58):

"in particular on the following points:

"(1) Whether any further action should be taken by the General Assembly on the draft declaration;

"(2) If so, the exact nature of the instrument to be aimed at; whether it should be:

"(a) A restatement by experts of existing international law;

"(b) A convention;

"(c) A declaration to be proclaimed by the General Assembly as standard of international conduct;

"(3) Future procedure to be adopted."

The English wording of the Australian amendment was not very satisfactory, as the connexion between sub-paragraph (3) and the rest of the sentence was not, strictly speaking, grammatically correct.

2. Mr. PÉREZ PEROZO (Venezuela) recalled that his delegation had already indicated, in the course of the debate,¹ that it did not approve of the transmittal of the draft declaration to institutions engaged in the study of international law. Whereas the communication of the Panamanian draft² to those institutions had been justified, since their comments could have been of direct advantage to the International Law Commission's technical work, it would now be superfluous to submit to those institutions the draft prepared by the International Law Commission (A/925, paragraph 46). The scientific stage of the work had been completed, and the General Assembly had only the views of Governments to consider in order to take the purely political decisions required.

3. The Venezuelan delegation, therefore, proposed the deletion from the seventh paragraph of the following words: "and institutions engaged in the study of international law".

¹ See the Summary Record of the 171st meeting, paragraph 73.

4. Mr. FERRER VIEYRA (Argentina) considered that there would have been justification for the Venezuelan proposal if the technical phase of the studies had really been completed; he did not believe, however, that it had been. The drafting of the declaration was far from completed, and it could still profit by fresh scientific ideas. The draft declaration should, therefore, be communicated to legal institutions, as suggested in the joint draft resolution (A/C.6/L.50) which, moreover, merely reiterated a suggestion on that matter contained in the original Argentine draft resolution (A/C.6/332). The General Assembly could benefit considerably from their comments in improving the present text of the draft declaration. Furthermore, it should be remembered that no decision had been taken on the ultimate fate of the draft declaration; it was not known whether it would be referred to the International Law Commission first or to the General Assembly directly. In the former case, the International Law Commission would obviously have to redraft the declaration from a technical point of view. In any case, the Argentine delegation was of the opinion that the scientific drafting had not been completed: the political considerations would not become predominant for another two or three years, when the draft was scientifically quite complete. For the time being, scientific institutions should be consulted on the contents of the draft declaration; it should, consequently, be communicated to them at the same time as it was to Governments.

5. Mr. MAÚRTUA (Peru) agreed with the representative of Argentina. Although the work of the International Law Commission was of great interest, it nevertheless contained errors and omissions which should be corrected. It was true that the Panamanian draft had been communicated to Governments and to scientific institutions, but very few comments had been sent to the United Nations. If the International Law Commission's draft itself were sent to them, an advance towards the solution of the problem would certainly be made. Consultations between national societies of international law, legal organizations and universities had led to the success of the inter-American efforts in the codification of international law. Their collaboration had been of the utmost value, since those institutions worked in the calm and serene atmosphere necessary for success in a scientific task.

6. Mr. TRUJILLO (Ecuador) wholeheartedly agreed with the representatives of Argentina and Peru. The draft declaration and all the relevant documentation should be communicated to Governments and to institutions engaged in the study of international law. It was obvious that the whole of that material should be communicated to jurists as well as to Governments, since the questions and difficulties it raised were by no means all political, as was clearly evident from the third paragraph of the draft resolution. Scientific institutions also should be acquainted with the

² See document A/CN.4/2, page 35.

material so that they could give their views on the technical aspects of the problem. Their opinions could be a useful complement to the views of Governments and impart a little daring to counter-balance the excessively timid views of certain States. Thus, scientific bodies could suggest an appropriate definition of the State; in fact, it would be much easier to determine accurately rights and duties of States after agreement had been reached on the true nature of the State. Finally, it would be illogical to omit any mention of the scientific institutions in the seventh paragraph, since the Commission had already decided in the fifth paragraph to draw the attention of jurists of all nations to the draft declaration.

7. His delegation hoped that the Venezuelan representative would take those considerations into account and would consequently change the position he had taken.

8. Mr. KORETSKY (Union of Soviet Socialist Republics) pointed out that the Venezuelan delegation had raised a question of principle. It had been led to do so by the fact that the International Law Commission had not complied with the procedure laid down in its own Statute whereby the Commission had to ensure that the maximum amount of publicity necessary was given to each plan of work which was drawn up, irrespective of whether it was concerned with codification or the progressive development of international law. The authors of the Statute had considered that world legal opinion, which was manifested through the agency of the scientific institutions, should be informed of any plans of that kind, in order that it contribute to the critical study of such undertakings and facilitate the task of the International Law Commission by enabling it to perform work that would meet the needs and wishes of the various peoples of the world. The question was, therefore, one of principle, and the Venezuelan suggestion was contrary to that principle. The draft declaration should be transmitted not only to Governments, but also to scientific organizations. The International Law Commission should have ensured that transmittal but, since it had not done so, the General Assembly was perfectly entitled to remedy the omission.

9. He added that the Secretary-General had also failed to comply with the Statute, since he had not given the necessary publicity to the draft declaration, which had not been publicized in the Press or in law journals. It could not be considered sufficient to publish it in the *United Nations Bulletin*, which had but a restricted circulation, was not received by all libraries, and was published in English. How could that kind of publicity reach the countries of Africa and Asia, for instance, which were too often neglected, as if the world, which had for so long been limited to Europe, was now reduced to America only? The Secretariat also had failed to establish the necessary contacts with juridical organizations, since it seemed that no comments on the draft declaration had been submitted by them.

10. With further reference to the Venezuelan suggestion, he stressed that the decision to be taken on it would depend, in the final instance, upon the position taken by the Sixth Committee on the procedure to be followed with regard to the draft declaration. If that draft was to be con-

sidered directly by the General Assembly, it was obvious that the Assembly would take into account only the views of Governments in making a final decision. In that event, it would be enough to transmit the draft to Governments only, as the Venezuelan delegation had suggested. If, on the other hand, the Committee adopted the amendment of the delegations of Chile and Colombia (A/C.6/L.56)¹ and decided to return the draft to the International Law Commission, a totally different procedure should be followed.

11. It was therefore important for the Sixth Committee to decide first of all to whom the comments of Governments and, possibly, those of scientific institutions, should be submitted; when the Committee had decided that question, it would be easy for it to deal with the question raised by Venezuela.

12. Mr. Soro (Chile) wished the text of the seventh paragraph to be retained in the form in which it appeared in the joint draft resolution (A/C.6/L.50). A declaration on rights and duties of States had two aspects, one technical and the other political. It was therefore advisable to refer to the two sources of information representing those two elements, which were the Governments and the institutions engaged in the study of international law.

13. It was obvious, therefore, as the representative of the USSR had rightly pointed out, that the decision to be taken on the Venezuelan proposal would depend to a great extent on the procedure that the Committee intended to follow with respect to the comments of Governments and, possibly, to those of scientific institutions. Those comments might either be submitted directly to the General Assembly, or they should be sent to the International Law Commission if it were to revise its draft.

14. The Chilean delegation, jointly with that of Colombia, had already stated² its views on that question and had proposed (A/C.6/L.56) that the comments and suggestions of Member States and of scientific institutions should be transmitted to the International Law Commission. That amendment to the seventh paragraph represented a coherent whole, together with the other changes suggested by the same delegations, especially that already adopted for the third paragraph—which now stated the need for further study of the question—and the amendment proposed for the eighth paragraph of the joint draft resolution. In lieu of that paragraph, those two delegations had proposed a text which would request the International Law Commission to prepare a new draft declaration, taking into consideration the comments of Governments and scientific institutions.

15. It was obvious, therefore, that the procedure would be greatly simplified if the Committee were to adopt the proposal of the USSR representative, and decide first of all what it intended to do with respect to the comments and suggestions provided for in the seventh paragraph. If they were to be submitted to the General Assembly only, the Venezuelan amendment might be retained; but if they were to be transmitted to the International Law Commission beforehand, it would be necessary to retain, in the text of the seventh para-

¹ See paragraph 1 above.

² See the Summary Record of the 175th meeting, paragraph 9.

graph, the reference to the institutions engaged in the study of international law.

16. Mr. GLASHEEN (Australia) stated that his delegation's amendment (A/C.6/L.58)¹ had been motivated by the wish to raise the fundamental questions that had to be solved in order to clarify the problem with which the Sixth Committee was now confronted.

17. The Rapporteur of the International Law Commission had rightly stressed the difficulties which had faced the Commission.² The origin of those difficulties lay in the very vague nature of its terms of reference, and those difficulties had increased progressively over a period of three years because the fundamental questions had been avoided. The joint draft resolution (A/C.6/L.50) would not help in any way to clear up the confusion in the matter. The Australian delegation, therefore, wished to face squarely the essential difficulties that had to be solved. It would be desirable, in the first place, to know whether any further action should be taken by the General Assembly on the draft declaration. If that were so, it was essential to specify the exact nature of the instrument to be aimed at and to determine whether it should be a restatement by experts of existing international law, a convention, or a declaration to be proclaimed by the General Assembly as a standard of international conduct. Finally, it was important to determine the future procedure to be adopted with regard to the draft declaration. It would thus be possible to define clearly the subject-matter of the comments and suggestions provided for in the seventh paragraph; and the purposes and consequences of that provision of the joint draft resolution, the interpretation of which varied according to delegations, would thus be specified. Mr. Glasheen recalled that, in reply to a question asked by the Canadian representative, the representative of the United States had said³ that the comments and suggestions concerned should be published and that nothing further would be done, unless a Member State again raised the problem at a future session of the General Assembly. Other delegations, especially those of Chile, Colombia and Cuba, had considered that specific measures should be adopted. The joint draft resolution was merely a compromise between those opposing tendencies, which sought to gloss over difficulties instead of solving them. The amendments that had already been adopted did indeed smooth over certain difficulties, but the contradictions remained. The adoption of the Australian amendment would result in eliminating them.

18. He added that he was prepared to alter the drafting of that amendment (A/C.6/L.58) if it were not considered to be satisfactory in its existing form. His aim was to draw the attention of Governments to fundamental questions which could not remain unsolved much longer. He stressed that his amendment could not serve as an answer to the question whether the draft resolution should simply be shelved or whether specific action should be taken on it. Thus, whatever views any delegation might hold, it should be able to accept the Australian amendment, since it would

be for Governments to choose between the various alternatives.

19. The Australian delegation was, on the whole, in favour of the Venezuelan amendment. If the Sixth Committee would agree to raise the three fundamental questions embodied in the Australian amendment, it was obvious that those questions would primarily concern Governments and that their comments would be mainly political. If, on the other hand, the Sixth Committee were to decide also to consult scientific institutions, he could see no objection to those institutions submitting juridical comments, not only on the draft declaration but also on the questions of procedure raised in his delegation's amendment.

20. Mr. CHAUMONT (France) pointed out, in answer to the remarks of the representative of the USSR regarding the *United Nations Bulletin*,⁴ that that publication appeared in the two other languages as well as in English and was distributed among States Members through the sales agencies which existed in most countries, though not in the USSR. Moreover, its contents could be reproduced without acknowledgment. Thus, questions with which the United Nations was concerned could receive all the publicity desirable, as had been the case with the draft declaration on rights and duties of States in France and in many other countries.

21. Turning to the Venezuelan amendment,⁵ Mr. Chaumont said he had only a few objective remarks to make on the observations to which it had given rise.

22. First, if it was true that the International Law Commission had not acted in conformity with its Statute in refraining from submitting the draft declaration to Governments as prescribed in article 16, sub-paragraph (h), and article 21, paragraph 2, of that Statute, the Commission was not open to the reproach levelled at it by the USSR representative that it had not communicated the draft to scientific institutions, since article 16, sub-paragraph (e), and article 21, paragraph 1, did not impose such a procedure, but simply made it optional.

23. Moreover, the USSR representative's suggestion that the Committee, before voting on the Venezuelan amendment, should decide between the direct transmittal of comments to the General Assembly and their reference to the International Law Commission no longer corresponded to the present stage of the discussion. It would have been possible to make such a choice at the time the original Argentine draft was being examined (A/C.6/332), but to do so now would upset the entire balance of the joint draft resolution (A/C.6/L.50), which had been drawn up on the understanding that such a decision would be postponed until a later date. That fact was clear from the text of the eighth paragraph, which provided that the comments would be published "for such use as the General Assembly may find desirable".

24. With regard to the Australian amendment, without wishing to give any opinion on its substance, Mr. Chaumont pointed out that if the Venezuelan proposal was rejected and if the text of the seventh paragraph was retained in its present form, it would be difficult, contrary to what

¹ See paragraph 1 above.

² See the Summary Record of the 177th meeting, paragraph 12.

³ *Ibid.*, paragraphs 10 and 11.

⁴ See paragraph 9 above.

⁵ See paragraph 3 above.

the Australian delegation seemed to think, to add to that paragraph the questions proposed in the Australian amendment (A/C.6/L.58). In point of fact, those questions, particularly the first and the third, were essentially political, and it would hardly be proper to ask scientific institutions whether the General Assembly should take any further action on the draft declaration, or to consult them as to the further procedure to be adopted by the United Nations in that respect. Only Governments could give an opinion on questions of that kind. If the Venezuelan amendment was not adopted, therefore, the Australian delegation should alter the wording of its amendment.

25. Mr. FERRER VIEYRA (Argentina) said, in reply to the comments of the representatives of Chile and the USSR, that the draft resolution was not intended to provide for referring the question of the formulation of rights and duties of States to the General Assembly without going through the International Law Commission. As the representative of France had pointed out, the draft was simply intended to permit the General Assembly to decide at a later date on the steps to be taken with respect to the draft declaration. When the matter came up before the General Assembly once again, it could always decide to refer the draft declaration back to the International Law Commission.

26. With regard to the Australian amendment, he considered that the idea on which it was based was extremely important. Most of the difficulties encountered by the International Law Commission and the Sixth Committee arose from the fact that there had been no clear decision on what had to be achieved. In its resolution 178 (II), the General Assembly had restricted itself to instructing the International Law Commission to prepare a draft declaration. A declaration, however, could vary, both in form and legal character. It would therefore be useful to know in advance the precise aim to be achieved, so that the General Assembly could subsequently decide whether the draft was to be drawn up as a convention, as a declaration open for signature, or in some other form.

27. Mr. Ferrer Vieyra did not consider, however, that the Australian text could be embodied in the seventh paragraph of the draft resolution (A/C.6/L.50) since scientific institutions were hardly competent to give opinions on questions of that kind. In his opinion, therefore, the Australian amendment should form a separate paragraph.

28. Mr. KORETSKY (Union of Soviet Socialist Republics) wished first to remind the French representative that the *United Nations Bulletin* was not published in Russian and could not therefore reach the mass of the Soviet people. The draft declaration, with the relevant documentation, should be given the greatest possible publicity, so as to enable scientific institutions throughout the world to become acquainted with and comment upon it. It was with that purpose in mind that the Committee on the Progressive Development of International Law and its Codification had drafted article 21 of the International Law Commission's Statute, and it was only through such a procedure that the General Assembly could eventually issue a declaration which would satisfy the true aspirations of all peoples.

29. Moreover, the draft resolution did not, in his view, specify the use to be made of the comments and observations to be received from Governments and scientific institutions. Contrary to the belief held by the Argentine representative, a strict interpretation of that draft resolution would enable the Secretary-General to refer those observations directly to the International Law Commission. Moreover, as the representatives of Chile and Colombia had already pointed out, if a thoroughly well-considered document was to be placed before the General Assembly, that would be the best course to follow.

30. With regard to the Australian amendment (A/C.6/L.58), Mr. Koretsky declared that it would be most dangerous to try to solve questions affecting basic principles incidentally, while other questions were being considered. Consequently, Governments should not have to deal with theoretical questions of considerable importance, of the kind raised by the Australian representative, during the discussion of a question of procedure such as the action to be taken on the draft declaration.

31. Moreover, those questions had been studied, in 1947, by the Committee on the Progressive Development of International Law and its Codification. Two concepts had emerged from that Committee: the concept of the British school, distrustful of codification and favourable to the reaffirmation of the generally accepted doctrine and of precedents; and the dominant concept of the other schools, which held that international law should be codified in order to make it obligatory. After much discussion, that Committee had agreed to redraft article 23 of the Statute of the International Law Commission, which set forth the various measures which the latter could recommend to the General Assembly. There was, at the moment, no question of revising the Statute of the Commission.

32. The Australian amendment raised a serious problem concerning the choice to be made between codification and the restatement of law. That was a problem which should, if necessary, be submitted to the International Law Commission or included in the agenda of a later session of the General Assembly, but which could not be lightly solved during a discussion on procedure. Moreover, the legal nature of the future declaration could not be defined in advance.

33. The Australian amendment raised, *inter alia*, the question whether that declaration should contain a standard of international conduct. What did that expression mean? The expressions "international order" or "international relations" were well known, but "standard of international conduct" was a vague expression which could not be adopted without careful preliminary study. In the present circumstances, the General Assembly could not ask Governments for their opinions on questions of such a controversial character. In view of article 23 of the Statute of the International Law Commission, the Australian amendment was both useless and dangerous.

34. In conclusion, Mr. Koretsky stated that the purpose of the draft resolution was to ask Governments for their opinions on what should be included in a declaration on rights and duties of States which would be approved by all nations. That was a definite question, and no other obscure questions of a purely academic nature should be

brought up to complicate it. The best procedure to follow would therefore be to collect and collate the statements and comments of Governments, and to refer them to the International Law Commission, which could then combine them into a new draft declaration for submission to the General Assembly. The work of the Assembly would thereby be made easier, and the future declaration would have a more solid basis.

35. Mr. SHANAHAN (New Zealand) pointed out that the joint draft resolution was a combination of the various solutions which had been suggested with respect to the action to be taken on the draft declaration prepared by the International Law Commission. The resulting compromise solution would be useless unless the exact nature of the action to be taken in the future was known. Like some other delegations, the delegation of New Zealand had pointed out, during the general debate, the advantages of stating clearly what the aims of a declaration on rights and duties of States were.

36. Opinions on the draft of the International Law Commission were divided. Some considered it as a formulation of principles of positive law, others partly as a statement of such principles and partly as an enunciation of principles in the process of becoming positive international law. Until there was agreement on what the declaration on rights and duties of States should contain, it would be difficult, if not impossible, to decide on the form in which it was advisable to proclaim rights and duties of States.

37. In considering future action, it must not be forgotten that the Member States must finally decide on the measures to be taken. For that purpose, they must study the draft of the International Law Commission, as well as all the documents relating to it, and express their opinions concerning them. Obviously, their work would be greatly facilitated by the comments of the institutions engaged in the study of international law. Mr. Shanahan stated, in that connexion, that he fully shared the opinion of the representative of Argentina on the usefulness of consulting such institutions. But it was not sufficient to ask Governments to express their views on the draft declaration; their attention must be drawn to the important questions which arose in connexion with that draft, so that they might indicate, with a full knowledge of the facts, what action they thought should be taken with regard to the formulation of rights and duties of States.

38. The representative of the USSR had suggested that the course of action outlined in the Australian amendment could not properly be taken, and had called the attention of the Committee to the provisions of article 23, paragraph 1, of the Statute of the International Law Commission, which specified the four kinds of recommendations which the International Law Commission could make to the General Assembly. Mr. Shanahan remarked that those recommendations were related, under sub-paragraph (f) of article 16, to questions connected with the progressive development of international law and, under article 18, paragraph 2, to topics for codification. The declaration of rights and duties of States did not fall exclusively within either of those categories so that the provisions of article 23 did not necessarily apply to the case in question.

39. The preparation of a draft declaration on rights and duties of States was a special task which the General Assembly had entrusted to the International Law Commission. Moreover, it was for that reason that the Commission had decided to submit its draft directly to the General Assembly without first awaiting the comments of Member Governments. In the opinion of the delegation of New Zealand, the fact that that task was a special project of the International Law Commission was a further argument in favour of the course outlined by the Australian amendment.

40. Finally, Mr. Shanahan stated that his delegation shared the views of the Argentine delegation on the need of redrafting the Australian amendment, in the event that the Committee should decide to retain, in the seventh paragraph of the draft resolution, the reference to institutions devoted to the study of international law.

41. Mr. ROBINSON (Israel) was of the opinion that the Australian amendment should be adopted, since it stated clearly the questions arising in connexion with the draft declaration and would therefore greatly assist Governments in determining their views on that draft. He asked the Australian representative whether he would not consent to the insertion of an additional sub-paragraph, between sub-paragraphs (2) and (3) of his amendment (A/C.6/L.58), to read as follows: "What should be the relations between the declaration and the Charter of the United Nations?"

42. In reply to the remarks of the representative of France,¹ he pointed out that there was no reason not to consult institutions engaged in the study of international law on the measures that the General Assembly should take with regard to the draft declaration on rights and duties of States. He recalled, in that connexion, that it would not be the first time that the United Nations had consulted technical bodies on problems with which it had to deal. Thus, the Carnegie Endowment had submitted its views on the following topics: "United Nations Budget"; "Co-ordination of Economic and Social Activities"; and "Conduct of Business of the General Assembly". All of the questions formulated in the Australian amendment should be submitted to institutions engaged in the study of international law; he was convinced that those institutions would show tact and would express their views only on questions within their competence.

43. Mr. MAYRAND (Canada) realized that the Australian delegation had submitted its amendment with the best intentions, but doubted whether it would be wise to ask Member States to give their views on the questions contained in that amendment before obtaining the views of other Governments and of scientific institutions. He thought a far better procedure would be to collect first all the documentation and ascertain the views of the International Law Commission on those questions. The Canadian delegation would, therefore, be unable to support the Australian amendment, and would abstain from voting on it.

44. Mr. AMADO (Brazil) felt some misgivings with regard to the provision, in the seventh paragraph of the draft resolution (A/C.6/L.50), for consulting all of the institutions engaged in the study of international law; there were several

¹ See paragraphs 22 to 24 above.

hundred of them, according to the list drawn up by the Secretary-General. He feared that the replies of those institutions might be too numerous and that their publication might impose too heavy a burden on the United Nations Secretariat. Furthermore, it did not seem that those institutions would be able to help the General Assembly to solve difficulties of the kind pointed out by the representative of Ecuador.¹

45. The Brazilian delegation considered that political differences constituted the main obstacle to the adoption of a declaration on rights and duties of States. Member Governments had not yet reached agreement on a definition of positive law. It would be preferable, for the time being, to consult Governments only on the International Law Commission's draft and on the relevant documentation. The Brazilian delegation would therefore vote for the Venezuelan amendment, which proposed that the reference to institutions engaged in the study of international law be deleted from the seventh paragraph of the draft resolution.

46. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) wished to reply to the remarks of the representatives of the USSR and France on the publicity given by the Secretary-General to the draft declaration prepared by the International Law Commission.

47. In accordance with the provisions of article 26, paragraph 2, of the Statute, the report (A/925) of the International Law Commission, which contained the whole text of the draft declaration, had been distributed to the national and international organizations on the list drawn up by the Secretary-General, after consultation with that Commission. Furthermore, the Secretary-General had given the draft declaration the maximum publicity that was customarily given to important United Nations documents.

48. He was sure that the representatives of the USSR and France would agree that the Secretary-General could not apply the provisions of article 21, paragraph 1, of the Statute in that case, since the International Law Commission had decided not to follow the procedure provided for in that article. It was not for the Secretary-General to judge whether or not the decision of that Commission was well founded and, in any case, he could not act in contravention of that decision.

49. He wished to point out that, if the Committee decided to consult institutions engaged in the study of international law, the Secretary-General would assume that its decision applied to the organizations on the list he had drawn up in accordance with the Statute.

50. Mr. ABDOH (Iran) stated that the Iranian delegation would vote for the seventh paragraph of the draft resolution. That delegation considered that the problems raised by the declaration on the rights and duties of States had both a political and a technical aspect, and that it was therefore advisable to consult both Governments and scientific institutions.

51. The Iranian delegation would willingly support the Australian amendment. It considered that the efforts to draw up a declaration on rights and duties of States had not met with success because the General Assembly had not given the International Law Commission sufficiently precise instructions. The debate that had taken place in the Sixth Committee might further increase the existing confusion with respect to the juridical nature and scope of the future declaration. It would be preferable to obtain the express opinion of Governments on that point.

52. Adoption of the Australian amendment would have a further advantage. The small number of comments submitted by Member States on the original Panamanian draft led to the assumption that many Governments would not transmit their comments on the draft of the International Law Commission. The position would be different if they were asked clear and precise questions and if their responsibilities were pointed out to them. Some of them might consider that a declaration on rights and duties of States should not be formulated now; if so, it would be preferable for them to say so openly. Others might indicate their wish that such a declaration should be adopted, even at the present stage of the development of international law.

53. The Iranian delegation considered the arguments of opponents of the Australian amendment to be unconvincing. If the Committee were not to adopt that amendment, it would be faced with the same difficulties as those which it had encountered during the current session when, within a few years, it resumed its work on the draft declaration in the light of the comments made by Governments.

¹ See paragraph 6 above.

The meeting rose at 1 p.m.