

## HUNDRED AND SIXTY-SECOND MEETING

*Held at Lake Success, New York, on Friday, 14 October 1949, at 10.45 a.m.*

*Chairman: Mr. LACHS (Poland).*

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

#### **PART I: GENERAL (*continued*)**

1. Mr. CHAUMONT (France), in reply to the representative of Yugoslavia, said he was convinced that Mr. Liang of the Secretariat had been objective in preparing documentation for the Sixth Committee and in making it accessible to the representatives for research purposes.
2. With regard to the remarks of the representative of Yugoslavia concerning Professor François and his work in Sub-Committee 2 during 1947, members of the Committee would surely remember that Professor François had supported the thesis, maintained by the representatives of France and the USSR, that the General Assembly alone was the master of the International Law Commission and that any initiative on the part of the Committee must be approved by its parent body.

3. Professor François, members would recall, had been appointed Rapporteur of that Sub-Committee, but had been unable to attend all of the meetings and had been replaced by another representative for the Netherlands. Consequently, it was impossible to cite Professor François' views as the representative of Yugoslavia had done, firstly, because he had been absent from some of the meetings of the Sub-Committee and secondly, because he had supported the minority opinion.

4. The representative of Yugoslavia had not condoned the use of the summary records of Sub-Committee 2 in support of arguments favouring a broad interpretation of the International Law Commission's competence. Mr. Chaumont considered, however, that those debates were decisive. The records clearly indicated that a majority of the Sub-Committee had supported the broad interpretation of the Commission's Statute. He could see no valid objection to using those records to clarify members' views. It was true they had not been published, but they were not secret. Moreover, such a method was commonly used in juridical matters.

5. With regard to the Canadian amendment (A/C.6/L.31) to the French draft resolution, Mr. Chaumont understood the conciliatory spirit which had activated the Canadian representative. His first impulse had been to accept that amendment in the same spirit of co-operation. But after listening to remarks of various members during the 161st meeting, he was a little hesitant about accepting the Canadian proposal as a whole. He had noted during the previous meeting that the majority of the Committee favoured establishing a clear exposition of the competence of the International Law Commission to select topics for codification and to begin preparatory work.

6. The Canadian amendment would not do away with the ambiguity of article 18 of the Commission's Statute since it deleted all mention of the competence of the International Law Commission which had been contained in the French proposal (A/C.6/331).<sup>1</sup> The Canadian text would amend the latter proposal to read as follows (A/C.6/L.31):

*"The General Assembly,*

*"Noting, after examination of the first part of the report of the International Law Commission, that the Commission has undertaken the studies entrusted to it by the General Assembly in regard to the codification and progressive development of international law;*

*"Notes with satisfaction the steps taken by the Commission and the work upon which it is engaged; and*

*"Approves the first part of its report."*

Should the above Canadian amendment be adopted, it might be interpreted as a negation of the broad interpretation of the Commission's competence. For those reasons, Mr. Chaumont preferred to maintain his proposal. He would accept the first part of the Canadian amendment which was merely one of drafting change and improved the style of the original French proposal. He pointed out, moreover, that the word "and", in the first paragraph of the French proposal (A/C.6/331) following on the words "entrusted to it by the General Assembly", should be deleted. The French draft resolution thus

revised (A/C.6/331/Rev.1) would read:

*"The General Assembly,*

*"Noting, after examination of the first part of the report of the International Law Commission, that the Commission has undertaken the studies entrusted to it by the General Assembly coming within its competence as the body concerned with the codification and progressive development of international law;*

*"Congratulates the Commission on the work it has undertaken and on its work still in progress; and*

*"Approves the first part of its report."*

In conclusion, he repeated that he wished to maintain the original French proposal with those Canadian changes which he had accepted. He hoped that the majority of the Committee would support the French proposal as revised (A/C.6/331/Rev.1).

7. Mr. MAYRAND (Canada), referring to the Cuban proposal contained in document A/C.6/L.30,<sup>2</sup> thought that the need to increase the emoluments of Rapporteurs and members of the International Law Commission had been made sufficiently clear. However, he doubted the wisdom of the first part of the Cuban amendment to article 13 of the Commission's Statute, in which a comparison was made with *ad hoc* judges in the International Court of Justice. He thought that more latitude in the question should be left to the Fifth Committee. For that reason the delegation of Canada thought that the Committee could consider paragraph 42 of the report of the International Law Commission sympathetically and recommend that the question should be considered in the light of the work entrusted to the Commission, the qualifications of its members and the compensation received by United Nations experts serving in a comparable capacity.

8. The Canadian amendment (A/C.6/L.31) to the French proposal (A/C.6/331) for approval of the first part of the Commission's report differed from it in three respects. It involved a change of form upon which the representative of Canada would not elaborate since the representative of France had accepted that part of the Canadian amendment. The Canadian proposal also omitted the words "coming within its competence", as many members felt that the question of the scope of the Commission's competence was a doubtful one. Furthermore, there was no need to make specific mention of its competence if the Sixth Committee accepted the Commission's report.

9. In order to meet the objections of the representative of Yugoslavia, the Canadian delegation proposed replacing the word "congratulates" in the second paragraph of the French draft resolution by "notes with satisfaction". That would cover the considerations he had raised. Moreover, as there was no need to discuss the future work of the Commission since it had already laid out for itself tasks which would undoubtedly occupy its time for a quarter of a century, it was also unnecessary to make the criticisms included in the Philippine amendment (A/C.6/L.32) to the original French draft resolution (A/C.6/331). The Philippine proposal would amend the last paragraph of the French proposal, which reads "Approves the first part of its report" to read as follows (A/C.6/L.32):

<sup>1</sup> See the Summary Record of the 160th meeting, paragraph 33.

<sup>2</sup> See the Summary Record of the 161st meeting, paragraph 22.

"Approves the first part of its report, except that it is the sense of the Sixth Committee that as regards the work of codification, the International Law Commission is expected first to submit its recommendations to the General Assembly and await the instructions of the General Assembly regarding the topics to be codified."

10. Mr. KORETSKY (Union of Soviet Socialist Republics) said that the Sixth Committee should dwell on questions of principle. They should be the subject of its deliberations and should be decided on the basis of principle and not from considerations of details or comparison. Moreover, in discussing statements of representatives and the democratic foundations of the Organization itself, the principles which representatives supported were the important thing to consider. The Committee should continue in the spirit of co-operation which had characterized its work since its inception.

11. At the 161st meeting, the United Kingdom representative had introduced into the debate a definition of sovereignty which had no bearing on the discussions of part I but rather touched on part II of the report (A/925). The Committee in examining part I should have considered methods for the codification of international law, who was to carry out that task and who should have the main responsibility for the progressive development of international law. To follow a logical course, therefore, the Committee should have turned its attention first to considering how international law could be developed and codified. Instead, it had been obliged to consider the concept of sovereignty.

12. In the debates, some members had attributed principles to some of their colleagues which in reality they had never supported. Mr. Koretsky regretted that he could not defend his country's position as well as the head of the USSR delegation had done on several previous occasions. As the Committee was well aware, the head of the USSR delegation, Mr. Vyshinsky, was a leading theorist on international law as it was understood in the Soviet Union. In his statements, Mr. Vyshinsky had already answered the points raised by the United Kingdom representative, but Mr. Koretsky was prepared to review them once again.

13. If Sir Hartley Shawcross had been acquainted with Mr. Vyshinsky's explanations to the General Assembly on the question of sovereignty, he would not again have raised that issue and would not have attributed the concept of absolute sovereignty to USSR statesmen and jurists. It had been stated that the USSR considered its sovereignty limited by every international treaty and even by the Charter of the United Nations itself. That statement was incorrect.

14. In 1947 Mr. Vyshinsky had spoken at length on the concept of sovereignty. Mr. Koretsky wished in that connection to quote some of Mr. Vyshinsky's basic remarks, which gave a decisive answer to the arguments raised by the United Kingdom representative and those who had supported his views.

15. In regard to State sovereignty, Mr. Vyshinsky had referred to Mr. McNeil's attack on that concept which had been followed up by a speech by Mr. Spaak, who had called "State sovereignty" a political veil, an outmoded idea and an old

reactionary concept. All those ideas, however, had been expressed earlier by those adversaries of State sovereignty who had been preaching that suspicious doctrine for twenty years under the guidance of other professors and European and American jurists arguing in favour of the supremacy of international law and supporting a denial of national sovereignty. Mr. Vyshinsky had said that many younger nations were fighting for sovereignty, especially those peoples whose national feeling had been recently awakened and who were endeavouring to achieve their political and economic liberation from the domination of stronger colonial Powers. "The idea of creating a unified national, independent and sovereign State", Mr. Vyshinsky had said, "is being put forward and this State is expected to save its people from being exploited by foreign intruders. The sovereignty of other countries, however, stands in the way of the States seeking economic domination and endeavouring to extend this sphere of their economic and political influence. Monopolistic tendencies are not in harmony with such principles as State sovereignty, the latter being a strong obstacle for the realization of such tendencies."<sup>1</sup> Evidently Mr. Vyshinsky's words had made little impression on his listeners.

16. In 1948 Mr. Vyshinsky had again reiterated the Soviet concept of national sovereignty in reply to Professor Cassin, who had been in favour of limiting the sovereignty of States. Mr. Vyshinsky had said:

"I must note that at the present time a certain tendency has appeared, which was already pretty clearly seen last year in a definite circle of the United Nations, concerning a theory to the effect that the principle of governmental sovereignty is a reactionary and out-dated idea and that the rejection of this principle of sovereignty is one of the necessary premises for international co-operation."<sup>2</sup>

17. Mr. Vishinsky had reminded the General Assembly that Professor Cassin had been discussing sovereignty in the same spirit as had Mr. Spaak in 1947. The USSR representative had stressed the importance of that question.

18. Many jurists had defined the term "sovereignty" in great detail and therefore it was not a concept to be attributed to Mr. Vyshinsky alone. Basic texts on international law supported his views, which were not revolutionary in the history of international law by any means, but were very well known among progressive jurists who desired to liberate peoples from foreign domination.

19. Mr. Koretsky thought that the Sixth Committee could accept the teachings of progressive thinkers and reject reactionary, out-moded concepts. The Sixth Committee surely did not wish to stifle all progressive ideas in the field of international law. What had been said the previous day with regard to sovereignty represented, in Mr. Koretsky's opinion, a reactionary view which should not be supported by the Sixth Committee.

20. Much propaganda had been expounded against the idea of national sovereignty. It had been characterized as the concept of absolute sovereignty but those were only theories intended to justify the penetration, whether economic or otherwise, of one country by another.

<sup>1</sup> See document A/C.1/PV.67, page 102.

<sup>2</sup> See document A/PV.183, page 76.

21. The importance of national sovereignty should be apparent. That was the concept which made it possible for several conflicting political and economic systems to exist side by side in harmony and peace. Members had been told that the United Nations limited sovereignty but that was a distortion of the facts. Far from having diminished national sovereignty, the United Nations had strengthened it. Moreover, a rejection of that concept would be equivalent to a re-institution of the old system under which stronger Powers exercised domination over the weaker nations. Such a concept was unthinkable in connexion with the United Nations, the purpose of the Organization being to strengthen national sovereignty.

22. The strength of international treaties was derived primarily from the principle which made all nations equal. Surely Members did not wish to return to the old forms of political agreements but would prefer to deal with each other on a basis of equality.

23. Treaties between weaker and stronger States derived their strength from that very equality, from the concept of national sovereignty which ensured the independence of each State. If a nation wished to pursue a policy of exploitation, however, it should certainly be opposed to the concept of national sovereignty. Moreover, if members claimed that international treaties limited national sovereignty, they were actually attacking the smaller nations of the world, which were engaged in a struggle for independence and equality. The only possible logical course was to advocate a union of equal nations which, thus united and strengthened, could march shoulder to shoulder on the road to international peace and progress.

24. If that interpretation of State sovereignty were not accepted, members would be reverting to the traditional concept of the colonial Powers and the practice of imposing treaties on weaker nations. The United Nations had been created to increase political independence or national sovereignty. Every nation wished to strengthen and increase its independence, and thus realize to the fullest its national potentialities. Only through union could the different world cultures reach their highest development.

25. Any other position on the question of sovereignty would favour a situation in which the strong governed the weak. The United Nations, created after a period of fascist aggression which had destroyed the sovereignty of small nations of the world, could not adopt that view. The United Nations had been established to ensure the freedom, sovereignty and equality of all nations. The Member States were combining their efforts to guarantee the rights of all to sovereignty and independence. The United Nations Charter strengthened the political independence of each Member because it was easier to secure independence through a union with others than to struggle for that right alone.

26. In order to ensure international peace and security a union of equal nations was needed. Such a group was the only truly strong union. There could be no union where the stronger nations decided arbitrarily what the weaker nations should do. For that reason, the term "sovereign equality" had been included in the Charter. That term should not be distorted. It was the guiding light on the world Organization's thorny path

towards the achievement of international peace and security.

27. Mr. Koretsky next turned to the question of the Commission's competence to proceed with the codification of topics without the approval of the General Assembly. The International Law Commission had been called a body of experts which had to do technical work. He took issue with that view; a body dealing with the sources of international law could not divorce international law from living realities. He wished to quote, in that connection, the view of Professor Fenwick, a United States authority on international law whose opinion, like that of other foreign legal experts, had the respect, if not always the undivided approval, of Soviet legal experts who strove for a progressive interpretation of international law. Professor Fenwick had stated that international law was brought into existence through the need for social and economic co-operation; as regards its historical development, he had stressed that international law implied the consent of Governments to enter into agreements with each other and to be guided by law. Even the technical question of the methods and procedures of the General Assembly had involved many political points and matters of principle. Could there be any doubt then that the selection of topics for codification, such as the topic of the régime of the high seas, which touched upon the vital interest of Governments, should be approved by the General Assembly and that the Commission's work in that regard must be directed by the fifty-nine States Members of the United Nations?

28. It was not a question of striking a bargain, but of being guided by logic and the fundamental principles of the Charter. That was the only course possible in an Organization composed of Members of differing ideologies.

29. There had been many historical, practical and even grammatical interpretations of the Commission's competence under article 18 of its Statute. Some representatives had quoted from summary records of the meetings of the International Law Commission. None of those views, however, had been based on the fundamental principle that the General Assembly had the final authority over its organs.

30. Following the extreme view that, having established the Commission, the General Assembly should give it absolute freedom of action, the more moderate opinion had been advanced that the Commission had the competence under article 18 to initiate its work and to make recommendations to the General Assembly which retained the power to reject, approve or change the Commission's choice of topics. In that way, it had been argued, the General Assembly retained control of the work of the Commission. That, however, was not the proper approach to the problem. The Commission unquestionably had the right to initiate studies, not in the manner of legislative bodies, but to survey the field of international law with a view to selecting and recommending certain topics to the General Assembly for approval. In no circumstances could it disregard the authority of the latter and proceed with the work of codification on its own initiative.

31. The view had been taken in the International Law Commission that it could begin the study of the topics without awaiting the General Assembly decision. That view raised the following



question: Which organ had the supreme authority? The General Assembly composed of fifty-nine Governments, or a Commission of fifteen independent experts?

32. The only practical and real answer was that the General Assembly must approve the topics recommended by the International Law Commission for codification before the latter could proceed with its work on them. The Commission had therefore had no right to decide to approach Governments for further information on the topics of international law which it had selected for codification until those Governments had approved its selection in the General Assembly. Mr. Koretsky desired that the General Assembly should reply, not to the question worded by the International Law Commission in paragraph 12 of its report, but to another question hidden behind it: Should the General Assembly approve the topics recommended by the Commission so that the latter could proceed with its work?

33. Mr. BARTOS (Yugoslavia) wished to reply to the remarks made by the representative of Ecuador and France with reference to his earlier statement (161st meeting). The representative of France had reproached him with opposing consultation of summary records for clarification of the meaning of article 18 of the Statute. Mr. Bartos' point had been that the French representative had cited summary records which had been neither approved nor published, and which consequently could not be considered authoritative, but at best as only a beginning of written evidence.

34. In reply to the representative of Ecuador, he stated that the Yugoslav delegation had not contradicted itself in its view on chapter II of the Commission's report, a view which it still maintained, that while the Commission had gone beyond its competence, its choice of topics had been generally considered as appropriate, and the General Assembly should therefore ratify it.

35. The question of the formulation of the Nürnberg principles differed from other topics in that these principles had already been approved by the General Assembly in two resolutions. He was therefore in favour of asking the International Law Commission to present a formulation of those principles to the next session of the General Assembly. The representative of Ecuador had further stated, in that connexion, that the victor was the judge of who had been guilty of war crimes. The Nürnberg principles, however, should be formulated objectively and be made obligatory on all States, victors and vanquished alike. Aggressive war and crimes such as those committed in the last war should be outlawed. The nations which had been victims of the crimes against humanity during the war had the right to ask the United Nations for protection just as a citizen could ask his national Government for protection against breakers of the law.

36. Mr. FERRER VIEYRA (Argentina), recalling the numerous references made at the preceding meeting to the records of the debates of the International Law Commission and of the Sixth Committee at the second session of the General Assembly, pointed out that the most important text, which was the report of Sub-Committee 2 of the Sixth Committee at that session had not

been cited. The draft report of the Sub-Committee<sup>1</sup> had stated, with reference to paragraph 11 of the report of the Committee on the Progressive Development of International Law and its Codification (A/331) which was the result of a compromise between divergent views and which ultimately became article 18 of the Commission's Statute, that some delegations had felt that the activity of the Commission should be confined solely to questions referred to it by the General Assembly and consequently had opposed giving the Commission any right of initiative; other delegations however had been in favour of granting that right. The paragraph had further stated that, in the view of those delegations, the "... Commission's work would be unproductive unless it was given fairly wide terms of reference. The Commission should itself have power to take the initiative with regard to the choice of questions to be studied. It would, however, be understood that before starting to frame draft treaties, the Commission would have to get the approval of the General Assembly."<sup>2</sup> In conclusion, the paragraph had stated that after lengthy discussion, the Sub-Committee had adopted, by 10 votes to 5, what had later become article 18 of the Statute. The draft report clearly showed that the disagreement had arisen only over the question whether or not the Commission should have the right to select topics for codification; the understanding had always been that it would require the approval of the General Assembly before proceeding with its work. The draft report had been approved by the Sub-Committee without any modification of the paragraph in question.

37. At its 58th meeting, on 20 November 1947, the Sixth Committee had considered the report<sup>3</sup> of the Sub-Committee.

38. The representative of Argentina quoted, in that connexion, from the summary record of the 58th meeting at which the United Kingdom representative<sup>4</sup> had said that the problem was whether or not the Commission should have the power of initiative. The Sixth Committee had studied that report paragraph by paragraph, and had adopted the paragraph in question unamended, as proposed by its Sub-Committee. Thus it had recognized the power of the Commission to select topics, survey the field of international law and submit to the General Assembly, for the necessary approval, recommendations on topics suitable for codification.

39. The International Law Commission, however, according to paragraph 12 of its report (A/925), had interpreted article 18, paragraph 2, as implying that it was competent to proceed with the work of codifying international law on a certain topic without awaiting the General Assembly's approval. While the Commission, as a body of experts, was fully qualified to determine which of the many topics of international law were ripe for codification, the General Assembly had to be the final judge of whether or not the codification of such a topic was politically desirable. Consequently, the final approval of selected topics for codification was a political function and must be exercised by the General Assembly. That was the sanest and most logical course to take. It was therefore necessary to go back to the compromise arrived at in 1947 by

<sup>1</sup> See document A/C.6/SC.5/W.20.

<sup>2</sup> *Ibid.*

<sup>3</sup> See document A/C.6/193.

<sup>4</sup> See *Official Records of the second session of the General Assembly*, Sixth Committee, page 152.

the Committee on the Progressive Development of International Law and its Codification. Furthermore, no regional organization had ever undertaken the work of codification without the political approval of Governments.

40. In view of those considerations, he concluded that article 18 should be interpreted as meaning that the Commission had the right of initiative, but that the political power to approve topics selected should rest with the General Assembly.

41. Mr. MAÚRTUA (Peru) agreed with the Argentine representative that under article 18, paragraph 2 of its Statute, the Commission was empowered merely to recommend the codification of laws on certain topics, and not to submit completed drafts.

42. The formulation of law must rest on the mutual agreement of States. The decision that codification on a certain topic was desirable should be the outcome of a process of investigation from which Governments should not be excluded; their freely given consent was especially necessary in establishing the order of priority. Moreover, the selection of a certain topic for codification would inevitably give added authority to the principles involved and raise them to the status of law; a glance at Article 38 of the Statute of the International Court of Justice would demonstrate the importance of that fact.

43. The recent war had brought about a veritable revolution in legal concepts; many old institutions needed to be modernized, others to be revitalized or based on new principles. Attention might be given to such questions as the use of greatly destructive weapons such as the atom bomb. In that connection, it was worthy of note that many members of the Sixth Committee at the previous session had criticized the Nürnberg principles on the ground that errors both of form and of substance had crept into the formulations of the Nürnberg Tribunal; that in itself was proof enough that political considerations exercised a strong influence on the formulation of principles of international law.

44. What the basis of international law was remained an unresolved problem. The Peruvian representative observed that to those who, like himself, believed not in antiquated historical precedent but in living law which had its roots in the ideal of justice and adapted itself to the requirements of time and place, international law was a dynamic concept capable of constant evolution. Positive law met only part of the requirements of justice. For that reason, among others, the International Law Commission should always be keenly aware of the needs of the international community and do what it could to satisfy them.

45. The Peruvian delegation welcomed the establishment of the Commission, and believed that that serene and authoritative organ would perform good work in the very midst of political dissension; that work should not, however, be undermined by biased criticism. As the codification of the law on any given topic should be the result of a thorough process of investigation, the Commission could do no better than to follow the practice laid down in article 19 of its Statute and request of Governments all the materials it found necessary for its work.

46. It was for the General Assembly to guide the Commission on its way; he therefore felt

that an official interpretation was needed of article 18, paragraph 2 of the Statute, which had given rise to so much discussion. He associated himself with the views expressed by the representatives of Argentina and the Philippines, and would vote in favour of the Philippine amendment (A/C.6/L.32) to the French draft resolution (A/C.6/331), since that amendment provided a logical interpretation of the existing provision and indicated clearly the Commission's subordinate role in relation to the General Assembly. He recalled that when the problem of legislative uniformity had arisen in the Organization of American States, it had been found that the organ corresponding to the International Law Commission was not competent to proceed with the work of codification without the previous agreement of Governments. Such a decision was only natural; the same course should be followed in the current instance.

47. Those considerations being taken into account, he was prepared to vote for part I of the Commission's report (A/925), reserving any criticism of detail for a later occasion.

48. Mr. IMRU (Ethiopia) stated that, in the view of his delegation, the Commission had performed a very great deal of valuable work in very little time. He was in favour of a liberal interpretation of the controversial paragraph 2 of article 18; it was clear that the topics already selected by the Commission would occupy it for years to come, and the progress achieved in the crystallization of international law since the war would help it to perform its task effectively. The Commission's choice of topics was excellent; there was consequently every reason to permit it to go ahead. If the Commission had left the selection to the General assembly, a great deal of time might have been lost. Furthermore, the General Assembly could always, if it found it necessary, ask the Commission to give priority to any special assignment which appeared to call for immediate attention.

49. The Commission should be permitted a certain amount of initiative also because its members, all of whom were eminent jurists, were the best judges of what topics they should deal with.

50. For those reasons, he would vote in favour of the French draft resolution and against the Philippine amendment to it.

51. Mr. FITZMAURICE (United Kingdom) wished, in the unavoidable absence of Sir Hartley Shawcross, to reply to the USSR representative. He would not deal with the substance of the latter's remarks, since he failed to see their relevance to the subject under discussion, but he felt obliged to point out that the controversy on national sovereignty was not of the United Kingdom's making. The observations of Sir Hartley Shawcross on the relationship of national sovereignty to the rule of law, made to emphasize the importance which his Government attached to the rule of law in international relations and hence to the work of the International Law Commission, had been misinterpreted by the Polish representative, further elucidated by Sir Hartley Shawcross, and once again apparently misunderstood by the USSR representative. Having no desire to prolong the discussion, Mr. Fitzmaurice would leave it to the Committee

to judge the true meaning of Sir Hartley's speech and the true intentions of the United Kingdom delegation.

52. He suggested that, in the interests of obtaining a quasi-unanimous vote, the French and Canadian representatives might combine their texts, which differed very little in substance, and lay before the Committee a joint proposal concerning part I of the Commission's report.

53. With respect to the debate concerning the interpretation of article 18, paragraph 2 of the Commission's Statute, he remarked that there could be no doubt that, in the last resort, the General Assembly was entitled to give directions or assign specific tasks to the Commission. The General Assembly could also express disapproval of topics selected by the Commission for codification, in which case the Commission would not proceed with its work. In the absence of specific instructions or disapproval by the General Assembly the Commission should, however, be allowed full discretion to organize its work.

54. In that connexion, he drew attention to the fact that the task of selection required nearly as much expert knowledge as the process of codification itself, and was therefore a task for the members of the Commission; it was, in fact, most unlikely that the General Assembly would reject a topic which the Commission had selected after thorough consideration. Moreover, as the Commission might frequently be compelled to go into the substance of a matter in order to be able to decide what priority to assign to it, he felt that it should be permitted considerable latitude in proceeding with studies without prior reference to the General Assembly. A certain amount of freedom was a necessary condition to enable it to discharge its duties.

55. With respect to the Cuban amendment to article 13 of the Commission's Statute dealing with emoluments (A/C.6/L.30) he said that,

while his delegation supported the Commission's remarks on that subject contained in paragraph 42 of its report (A/925), he did not think the Committee should make specific proposals without prior reference of the matter to the Fifth Committee. At most, it might recommend that the Fifth Committee should give sympathetic consideration to the Commission's remarks.

56. Mr. GARCÍA AMADOR (Cuba) could not agree with the remarks of the Peruvian and Argentine representatives on the part assigned to the Inter-American Juridical Committee in the Organization of American States. That organ was in fact empowered under article 70 of that organization's charter to undertake studies on its own initiative. The text of article 70 follows:

"The Juridical Committee shall undertake such studies and preparatory work as are assigned to it by the Inter-American Council of Jurists, the Inter-American Conference, the Meeting of Consultation of Ministers of Foreign Affairs, or the Council of the Organization. It may also undertake those studies and projects which, on its own initiative, it considers advisable."

57. He therefore supported the view of the United Kingdom representative that the International Law Commission could initiate studies without prior approval by the General Assembly, which could always, however, reject those studies and, under article 18, paragraph 3 of the Commission's Statute, could also divert the Commission's attention to some other project.

58. Mr. FERRER VIEYRA (Argentina) replied that resolutions 2 and 40 adopted at the Bogotá Conference had altered the situation described by the Cuban representative; thus, the Inter-American Juridical Committee would have to submit the plan for its current work of codification to the approval of the Inter-American Council of Jurists at its following session.

The meeting rose at 1.5 p.m.