

TWO HUNDRED AND ELEVENTH MEETING

Held at Lake Success, New York, on Tuesday, 29 November 1949, at 3.15 p.m.

Chairman: Mr. LACHS (Poland).

Designation of non-member States to which a certified copy of the Revised General Act for the Pacific Settlement of International Disputes shall be communicated by the Secretary-General for the purpose of accession to this Act: report of the Secretary-General (A/941) (concluded)

1. The CHAIRMAN drew the Committee's attention to the Chilean draft resolution (A/C.6/L.109) on the item under discussion.
2. Mr. KORETSKY (Union of Soviet Socialist Republics) questioned the need for the first paragraph of the Chilean draft resolution. On the one hand, it was not necessary to stress the importance of a document which had already received the approval of the General Assembly; on the other, it was illogical to praise the Revised General Act for the Pacific Settlement of International Disputes in the first paragraph and to defer action with respect to it in the third paragraph.
3. Mr. SOTO (Chile) replied that the draft resolution proposed to defer action only because, as noted in the second paragraph, the General Act had not yet entered into force. He had introduced the first paragraph in order to avoid giving rise to the impression that by deferring action, the General Assembly expressed tacit disapproval of the Act itself.
4. Mr. TRUJILLO (Ecuador) remarked that severe criticism of the Revised General Act had been heard at the previous meeting. Since there was no general agreement with respect to the importance of that particular document, what should be stressed in the first paragraph of the draft resolution was the importance — on which all were agreed — of having an effective international instrument for the pacific settlement of international disputes. The second paragraph might then go on to say: "Noting that the Revised General Act for the Pacific Settlement of International Disputes has not yet entered into force".
5. Mr. SOTO (Chile) was in sympathy with the idea expressed by the Ecuadorean representative, but was not sure whether he could accept the latter's amendment until he had seen the text proposed for the first paragraph in writing.
6. Mr. FERRER VIEYRA (Argentina) suggested that the first paragraph might run along the following lines: "Recognizing the need to put into effect an instrument for the pacific settlement of international disputes". The second paragraph might read as suggested by the Ecuadorean representative, but begin with the word "However".
7. Mr. TRUJILLO (Ecuador) was satisfied with that text.
8. Mr. SVENNINGSSEN (Denmark) agreed with the USSR representative that there was no need for the first paragraph in any form. All representatives were aware of the importance of the Revised General Act; furthermore, the express mention of that importance served no purpose in the draft resolution, as the real reason for the action proposed in the third paragraph was stated in the second paragraph. He therefore moved the deletion of the first paragraph of the Chilean draft resolution.
9. Mr. MAKTO (United States of America) and Mr. LEQUERICA (Colombia) strongly supported the Danish amendment.
10. Mr. AMADO (Brazil) also supported it. The General Assembly had approved the Revised General Act, and it was therefore unnecessary to express any opinion on it, particularly in a resolution which was concerned with deferring the item under discussion. He was in favour of deferring it not to the following session of the General Assembly, as proposed in the draft resolution, but simply to a later date.
11. Mr. SOTO (Chile) accepted the Danish amendment to delete the first paragraph of the Chilean draft resolution.
12. Mr. SPIROPOULOS (Greece) wished to amend the remaining two paragraphs of that resolution to read as follows:

"Noting that no State Member of the United Nations has as yet adhered to the Revised General Act for the Pacific Settlement of International Disputes,
 "Decides to defer the consideration of the item on 'Designation of non-member States to which a certified copy of the Revised General Act for the Pacific Settlement of International Disputes shall be communicated by the Secretary-General for the purpose of accession to this Act' to a later date."
13. Mr. PÉREZ PERROZO (Venezuela) supported the Greek amendment, because it gave a better motive for the postponement recommended in the

operative part: the real reason why it had been agreed to defer the item was not that the Act had not yet entered into force, as suggested in the Chilean draft resolution, but that not a single Member of the United Nations had as yet adhered to it. The decision taken by the Committee with respect to inviting non-member States to adhere to the Convention on Genocide, which had not yet entered into force either, showed that it had not been considered necessary to await a convention's entry into force before inviting non-member States to become parties to it.

14. Mr. SORO (Chile) replied that his text also gave the real reason, though in a somewhat more discreet form; a glance at article 44 of the Revised General Act would show that accession by only two Member States was needed for its entry into force.

15. Mr. WENDELEN (Belgium) inquired whether the Secretary-General considered that it would be called upon to take any further action under article 46 of the Act in order to promote accession to it, if the General Assembly failed to designate, at its current session, non-member States to which a copy of the Act should be sent for that purpose.

16. Mr. LIANG (Secretary of the Committee) replied that, under article 46, the Secretary-General could not invite non-member States to adhere to the Act unless the General Assembly adopted a resolution designating the States to be so invited. If the General Assembly passed such a resolution at a later session, the Secretary-General would at once comply with it.

17. The CHAIRMAN called for a vote on the Greek amendment to the Chilean draft resolution.

The first paragraph of the Greek amendment was adopted by 24 votes to 4, with 11 abstentions.

The second paragraph of the Greek amendment was adopted by 20 votes to 9, with 10 abstentions.

The draft resolution as a whole, as amended, was adopted by 23 votes to 4, with 13 abstentions.

18. Mr. WENDELEN (Belgium) stated that he had voted against the draft resolution as amended in view of Mr. Liang's statement that the Secretary-General could take no further action in the matter until the General Assembly designated the non-member States to which invitations should be issued. It was most desirable that non-member States should adhere to conventions of the United Nations, and he feared that they might be prevented from doing so because the Secretary-General was unable to draw the matter once more to the attention of the General Assembly and to call forth a decision on its part.

19. Mr. LIANG (Secretary of the Committee) felt that there had been a misunderstanding. He had merely said that the Secretary-General could not send invitations to non-member States to adhere to the Act until such States had been designated by the General Assembly. The reasonable interpretation of article 46 of the Act and of the decision just taken was, however, that when the Secretary-General was in receipt of sufficient accessions to the Act by Member States to cause it to come into force, he would exercise the right to bring the matter of designation of non-member States for the purpose of inviting them to accede to it, once more to the attention of the General Assembly. He did not think that the Secretary-

General was deprived of that initiative by the decision just taken.

20. Mr. WENDELEN (Belgium) was satisfied with that explanation.

Permanent missions to the United Nations: report of the Secretary-General (A/939/Rev.1 and Add.1)

21. The CHAIRMAN opened the discussion on the Secretary-General's report on permanent missions to the United Nations (A/939/Rev.1 and Add.1), submitted in compliance with resolution 257 A (III) of the General Assembly.

22. Mr. GARCÍA BAUER (Guatemala) introduced the draft resolution submitted by his delegation (A/C.6/L.106), and drew attention to its operative part, recommending that the Interim Committee should study all questions relating to the setting up of permanent missions, including the manner of regulating relations between the permanent delegations and the Secretariat, and should submit recommendations to the General Assembly at its following session.

23. He pointed out that the resolution originally proposed by Bolivia at the third session and adopted by the General Assembly as resolution 257 (III) consisted of parts A and B. The report of the Secretary-General which was before the Committee had been prepared in compliance with part A; a report under part B was optional, and the Secretary-General had chosen not to submit one.

24. It was in connexion with part B of that resolution, which instructed the Secretary-General to study all questions which might arise from the institution of permanent missions, that the Guatemalan delegation felt action was needed. In particular, relations between the permanent delegations and the Secretariat had reached a stage at which some measures might be required; the organ of the United Nations best fitted to study the subject was — as suggested in the Guatemalan draft resolution — the Interim Committee, both because all Member States were or could be represented on it and because it was composed largely of members of permanent delegations. The study undertaken by the Interim Committee would be independent of any study of the matter that might be made by the Secretary-General under resolution 257 B (III).

25. He could cite numerous examples of problems arising in connexion with the relations between the permanent delegations and the Secretariat. Some of them were: whether or not heads of permanent delegations should have the right to accredit alternates or advisers, or to name temporary representatives to the Councils or to the General Assembly; whether — the view taken by the Secretariat — a typewritten and unsigned cable from a Government constituted more acceptable credentials than the actual and easily identifiable signature of the head of a permanent delegation; whether it was proper for members of the Secretariat to write to Ministers of Foreign Affairs (let alone to Ministries) of Member States directly, rather than through the intermediary of the permanent missions; and what members of the Secretariat were authorized to address the permanent missions and Governments of Member States on behalf of the Secretariat.

26. A study of those and similar matters by the Interim Committee would greatly assist the permanent delegations in fulfilling their tasks.

27. The Interim Committee might also consider the question of credentials. Thus, the standard form of credentials reproduced in the annex to the Secretary-General's report failed to give due importance to the permanent missions which constituted a special category in the diplomatic hierarchy, as they represented Member States before the United Nations. The standard form did not take into account the fact that some Governments might wish to give full powers to their permanent missions. If a standard form was necessary — which he was inclined to doubt — it should be considered and decided upon by representatives of Member States, rather than by the Secretariat.

28. It was for those considerations that the Guatemalan delegation had submitted its draft resolution.

29. Mr. LOUTFI (Egypt) introduced his delegation's draft resolution (A/C.6/L.107), pointing out that it was extremely simple and was a natural concomitant to resolution 257 (III). After mentioning the Secretary-General's report and noting with satisfaction that fifty-one Member States had set up permanent missions, it invited such of those States as had not yet done so to transmit the credentials of their permanent representatives to the Secretary-General as soon as possible.

30. With reference to the Guatemalan draft resolution, he remarked that he saw no reason to refer to the Interim Committee a study which the Secretary-General had been instructed to make under resolution 257 B (III) and which he was eminently fitted to carry out. Any recommendations made by the Secretary-General in that connexion would be examined by the Sixth Committee. Such a procedure was greatly preferable to assigning the study to the Interim Committee.

31. Mr. CHAUMONT (France) said that he would support the simple and lucid Egyptian draft resolution. While he was in sympathy with the Guatemalan draft resolution, he was unable to vote for it, first, because its wording presupposed a detailed study of the Secretary-General's report which the Sixth Committee had not in fact made, and secondly, because the Interim Committee had been endowed with quite different functions.

32. Mr. ABDOH (Iran) warmly supported the Egyptian draft resolution, which was clear and raised no problems, whereas the Guatemalan draft resolution, as had been pointed out by the French representative, would give to the Interim Committee a task not falling within its functions. The Secretariat was certainly better qualified than that Committee to carry out the study in question.

33. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department), in reply to a question by the Guatemalan representative, stated that the Secretary-General had been carrying out a detailed study under part B of General Assembly resolution 257 (III). The Secretariat had considered first, whether there were not some further points in the relationship with the permanent missions which might be regulated and on which suggestions should be made to the General Assembly; and secondly, it had examined the matter of permanent missions to the European Office of

the United Nations at Geneva as requested in the resolution. As a result of that study the conclusion had been reached that, from the point of view of the Secretary-General and of permanent missions, the situation was satisfactory for the time being. Some flexibility had been considered advisable because too rigid a regulation of relations between permanent missions and the Secretariat might prove unsatisfactory to some delegations.

34. The Secretary-General had studied the situation at Geneva and had found it also satisfactory; the Swiss Government had granted diplomatic privileges to permanent delegations at the European Office of the United Nations. On the basis of that study, the Secretary-General had felt that there was no need to present the optional report envisaged in part B of resolution 257 (III) to the present session.

35. Mr. GARCÍA BAUER (Guatemala) regretted the fact that the Secretary-General had not dealt in his report with the questions mentioned in part B of resolution 257 (III); such a study would have provided more specific information than that just given by the Assistant Secretary-General, and thus it would not have been necessary for his delegation to raise the question.

36. Many Member States had no permanent missions and therefore were not aware of existing anomalies in the relations between the Secretariat and the permanent missions, which complicated the work of the latter. He did not know whether the Secretary-General's study under part B of resolution 257 (III) had been carried out in consultation with permanent missions; the Guatemalan delegation at any rate had not been consulted. Consequently, when it had proposed its draft resolution, it had not been aware that the Secretary-General was carrying out such a study.

37. Without wishing to go into the question of the competence of the Interim Committee raised by the French and Egyptian representatives who had both felt that the study should be carried out by the Secretariat, he pointed out that the Secretary-General saw the question from one point of view. The other point of view was that of permanent delegations, and consequently such a study should be carried out by the Interim Committee — which was predominantly composed of Members having permanent missions — in consultation with the Secretary-General. In that way both points of view would be represented.

38. Mr. RENOUF (Australia) supported the Egyptian draft resolution. While sympathizing with the Guatemalan draft resolution, he stated that in the opinion of the Australian permanent mission, the questions raised therein were not of sufficient importance to warrant study by the Interim Committee. The matter could be adequately settled between the permanent delegations and the Secretary-General.

39. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) stated that the Secretary-General was in constant contact with permanent missions, and had always been eager to settle any difficulties. Some difficulties had arisen in connexion with the appointment of alternates and their powers, but in forty-nine out of fifty cases there had been no trouble. The difficulties were always solved to the satisfaction of the permanent missions. On the other hand, the Sec-

retary-General must adhere to the rules laid down by the General Assembly and the other organs of the United Nations, and was compelled to draw the attention of permanent delegations to the need of complying with them. Of course, the Secretary-General was always glad to work with and for delegations.

40. Mr. GARCÍA AMADOR (Cuba) saw no incompatibility between the two draft resolutions before the Committee; they served two different purposes.

41. His delegation supported the Egyptian resolution. Regarding the Guatemalan draft resolution, he felt that it appropriately insisted on the fulfilment of resolution 257 (III), part B. As the Secretary-General had pointed out, that aspect of the question raised little difficulty, but Mr. García Amador felt, nevertheless, that the problems raised by the Guatemalan representative should be solved. The difficulties referred to by the Secretary-General were of a technical nature, while those indicated by the Guatemalan representative pertained to the daily work and functioning of delegations. Part B of resolution 257 (III) called for, not an over-all solution of the problem, but a Secretariat study and recommendations regarding the settlement of all questions which might arise from the institution of permanent missions. The Cuban delegation, which had an accredited permanent mission to the United Nations, wanted such a study to be carried out by the Interim Committee, as suggested in the last paragraph of the Guatemalan draft resolution. Several representatives had referred to the difficulty of entrusting such a study to the Interim Committee. The Guatemalan representative had rightly pointed out, however, that the Interim Committee was mainly composed of Member States having permanent missions who consequently were familiar with the problems to be studied. Moreover, it would be able to attend to the matter as it did not have many questions on its agenda. It would therefore greatly facilitate the work of the next General Assembly and of the Sixth Committee if, in addition to a report of the Secretary-General on the matter, it could have a report by the body whose purpose it was to facilitate and expedite the work of the General Assembly.

42. The Guatemalan draft resolution had two aspects; one, in the third paragraph, asking the Secretary-General, by implication, to present a report on part B of the resolution 257 (III); and the other, asking the Interim Committee to prepare a report on all questions relating to the setting up of permanent missions, including the manner of regulating relations between permanent delegations and the Secretariat. In order to permit representatives who were in favour of one aspect of the draft resolution, but not of the other, to express their views, he proposed that the third and fifth paragraphs of the Guatemalan draft resolution should be voted separately. His delegation, however, would support that draft resolution as a whole.

43. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) pointed out that the Secretary-General did not consider his task under part B of the resolution 257 (III) completed. He had merely stated in his previous intervention that the study carried out so far had led the Secretary-General to the conclusion that no report on the matter would be necessary at that

juncture. If any difficulties should arise in the future, the Secretary-General would bring them to the attention of the General Assembly with the appropriate recommendations. The Secretary-General had always understood, however, that a report under part B of the resolution was optional.

44. Mr. KORETSKY (Union of Soviet Socialist Republics) thought that the questions raised in the Guatemalan draft resolution were essentially simple, and did not involve any important questions of policy or principle. They could be appropriately studied by the Secretariat and settled with the permanent missions without the adoption of a long and impressive resolution on the subject. The fact that the Interim Committee did not appear to have work to do was no reason for the Sixth Committee to act as an employment agency. He therefore supported the Egyptian draft resolution, which was rational and correct, and which adequately covered the subject. He suggested, however, that the Egyptian draft resolution might be amended to ask the Secretary-General to study all questions which might arise in the relations between permanent missions and the Secretary-General. The Secretary-General had already manifested his willingness to co-operate in the matter.

45. Mr. GARCÍA BAUER (Guatemala) understood the USSR representative's desire to avoid any reference to the Interim Committee, but felt that that was no reason for opposing his draft resolution. The USSR delegation might not have experienced difficulties in its relations with the Secretariat, but other delegations had; he could cite concrete cases where such difficulties had arisen. Having in mind those difficulties, the Bolivian delegation had submitted the proposal at the third session of the General Assembly which ultimately had resulted in the adoption of resolution 257 (III); since the study referred to in part B of that resolution had not been presented, the Guatemalan delegation had, for the same reasons, submitted a draft resolution calling for a study of the subject.

46. With reference to the Assistant Secretary-General's remarks concerning the need for flexibility in the regulations for relations between permanent missions and the Secretariat, he wished to point out that permanent missions were in a special position, which should be recognized. Their credentials were accepted, not by the Secretary-General, but by the Credentials Committee, a body of representatives appointed by the General Assembly. Hence, when he had spoken, by way of example, of the Secretary-General's point of view on the matter of credentials, he had done so only as a reference and had not implied that the Secretary-General could decide on credentials, which was a function of the General Assembly. His delegation felt that provisional accreditation by cable was not sufficient, and that a more authentic accreditation bearing an official signature was required. That question, however, was determined by the Credentials Committee.

47. On the other hand, there were other questions such as the verification of credentials of permanent missions which should have been studied by the Secretary-General. However, no report on the matter had been submitted by the Secretary-General, and only when the Guatemalan delegation had raised the problem had any verbal information been obtained from the Secretary-

General. His delegation was glad to hear that the Secretary-General was studying the problem, and would like him to submit concrete recommendations on it at the next session of the General Assembly.

48. In view of the Committee's reluctance to adopt the Guatemalan draft resolution, he would not press for a vote on it but merely wished to draw attention to problems which might be considered by the Interim Committee. The objection to such consideration on the grounds that such study did not correspond with the Interim Committee's functions was not serious. The Interim Committee's functions had been extended to the consideration of diverse problems. In any case he hoped that the Secretary-General would take into account the views expressed during the discussion and prepare a study accordingly. He reserved the right of his delegation to reintroduce its draft resolution at the plenary meeting or at some other opportunity.

49. The CHAIRMAN noted that, the Guatemalan draft resolution having been withdrawn, only the Egyptian proposal remained.

50. Mr. GARCÍA AMADOR (Cuba) suggested that the Egyptian draft resolution might be amended to make clear that the Secretary-General's report pertained to part A of the General Assembly resolution 257 (III). The words "submitted in compliance with General Assembly resolution 257 A (III)" might be inserted in the first paragraph after the words "Having examined the Secretary-General's report".

51. Mr. MAKTOŠ (United States of America) thought that all resolutions of the General Assembly referring to other documents, such as Secretary-General's reports, should mention the symbol number and date of the documents.

52. Mr. LOUTFI (Egypt) accepted those suggestions.

53. The CHAIRMAN put to the vote the Egyptian draft resolution as amended (A/C.6/L.107).

The Egyptian draft resolution, as amended, was adopted by 37 votes to none, with no abstentions.

Privileges and immunities of the United Nations (A/940, A/940/Add.1 and A/940/Add.2)

54. The CHAIRMAN invited the Committee to consider the question of the privileges and immunities of the United Nations. He noted that representatives of specialized agencies were present at the discussion.

55. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) said that the Secretary-General's report on the question consisted of two parts. The first part dealt with accession by Member States to the Convention on the Privileges and Immunities of the United Nations (General Assembly resolution 22 A (I) of 13 February 1946); the second part dealt with the Convention on the Privileges and Immunities of the Specialized Agencies (General Assembly resolution 179 (II) of 21 November 1947).

56. With regard to the former Convention, he pointed out that twenty-six Member States had not yet adhered to it. That situation could not be

considered satisfactory since, in the words of General Assembly resolution 93 (I), it was essential for the efficient exercise of the functions of the Organization and the fulfilment of its purposes that the provisions of the Convention be brought into force in all Member States. So long as the Convention was not fully in effect there was danger of confusion, of a lack of co-ordination between the rules applied in various States, and the probability of judicial decisions and administrative acts adversely affecting the position of the United Nations in the country of the headquarters and elsewhere.

57. In the second part of his report (A/940 and A/940/Add.1), the Secretary-General had pointed to some divergent provisions in the International Telecommunication Convention of 1947 and in the Convention on the Privileges and Immunities of Specialized Agencies.

58. Both document A/940 and A/940/Add.2 showed what the difficulties were, and indicated the action taken in the matter by the Secretary-General of the United Nations and by the International Telecommunication Union. It was for the Committee to decide what action to take on the report of the Secretary-General.

59. Mr. TARN (Poland) quoted from the Secretary-General's report to the third session of the General Assembly (A/565, page 111) concerning the questions of the free movement of United Nations officials in and out of the United States and of the interpretation by that country of article VII of the Convention on the Privileges and Immunities of the United Nations which would greatly diminish the value of the United Nations *laissez-passer*. He recalled that the matter had previously been raised by the Polish delegation in the Fifth Committee. On that occasion, in reply to a question put to him by the Polish delegation, the Secretary-General had stated that no administrative arrangement with the United States recognizing the *laissez-passer* as a valid travel document had as yet been reached.¹ In the view of Mr. Tarn, in order to ensure the proper functioning of the Secretariat, this matter must be regulated. He found it most regrettable that after three years' functioning of the United Nations the Convention on the Privileges and Immunities of the United Nations had not yet been brought into effect in regard to the United States of America, the country where the headquarters of the Organization was located.

60. The Polish delegation had previously drawn the attention of the Fifth Committee to the difficulties of United Nations officials in moving in and out of the United States.² Mr. Tarn referred, in that connexion, to a specific incident. On 9 September 1949, a member of the United Nations Secretariat arriving in the United States had had his baggage searched by customs officials, who had taken from him and carefully inspected all personal papers. A United Nations transportation official, who had been present, had been unable to intervene on his behalf. That incident, which had occurred in violation of the provisions of article VI, section 22 (f) of the Convention on the Privileges and Immunities of the United Nations,

¹ See the *Official Records of the fourth session of the General Assembly, Fifth Committee, 193rd meeting, paragraphs 94 to 97, and 195th meeting, paragraphs 16, 28 and 29.*

² *Ibid.*, 202nd meeting, paragraphs 8 and 12.

showed that the failure of the United States to accede to the Convention must be considered in a different light from that of other countries. The Secretary-General should therefore be urged to take the necessary steps to secure accession by that country.

61. He also recalled the case of the closing of the delegates' bar on Election Day. The representative of the Secretary-General, whose attention had been drawn to that incident, had failed to give a satisfactory reply.¹ Mr. Tarn felt that if under the Headquarters Agreement the international character of the headquarters could not be preserved, the Agreement should be revised.

62. Mr. BARTOS (Yugoslavia) stated that his country had not as yet ratified the Convention on the Privileges and Immunities of the United Nations, although it applied its provisions. He recalled, in that connexion, that in April 1947, the Yugoslav representative had informed the Secretary-General that as soon as the United States Government ratified the Convention, Yugoslavia would do likewise. His country was still waiting for the United States to adhere to the Convention in order itself to take the appropriate action.

63. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) wished to reply to the questions raised by the Polish representative. First, with regard to the recognition of the *laissez-passer*, he pointed out that the *laissez-passer* had been instituted by the Convention on the Privileges and Immunities, and that the best means of ensuring recognition of the *laissez-passer* was for Member States to adhere to the Convention. He had approached the United States State Department with a view to making sure that there would be no reservation made with respect to the *laissez-passer* provisions in the Convention which would diminish its validity as a travel document. Until the Convention was ratified by the United States, problems might arise which might be difficult to settle with United States authorities. Hitherto, however, the problems had been solved satisfactorily, and members of the United Nations Secretariat had been able to travel abroad on their *laissez-passer* and without their national passports. Negotiations were under way with United States authorities with a view to obtaining recognition of the *laissez-passer* even before ratification of the Convention by the United States.

64. With regard to the concrete case cited by the Polish representative, he said that complaints of that nature by Secretariat members should be transmitted to the proper department in the Secretariat so that the problems might be properly settled. The best solution, however, was accession to the Convention, which was particularly important in the case of the United States in view of the fact that the United Nations headquarters were located in that country.

65. With regard to the second question raised by the Polish representative, he pointed out that article III, section 16 of the Headquarters Agreement gave the United Nations law-making powers, since under its provisions any regulations made by the United Nations had precedence over local law. The provisional Headquarters Agreement,

which was applicable to the Interim Headquarters of the United Nations, was substantially the same as the Headquarters Agreement, and contained a similar provision to that cited above. So far, however, the Secretary-General had not recommended any special action by the General Assembly in that regard. The Secretary-General was studying the question at the time, and would submit his recommendations to the following session of the General Assembly on what arrangements should be made under section 16 of the Headquarters Agreement.

66. Mr. MAKTOS (United States of America) explained that there were numerous instances in which the United States and the United Nations had settled cases concerning privileges and immunities and that only in a very few had any difficulties arisen. The customs officer who had taken the papers of the United Nations official in the case referred to by the representative of Poland was probably not fully informed of the implications of the agreements between the United States and the United Nations, and the State Department could not take up the case because no report on the matter had been submitted to the United States delegation or to the State Department.

67. With regard to the United States accession to the Convention on Privileges and Immunities, he wished to explain that the Executive Branch of the United States Government had actively pursued the matter, but that accession depended upon an Act of Congress. The Legislative Branch of the Government had had very important legislative issues on its calendar for the last year and had, therefore, not been able to proceed with the matter of the Convention on Privileges and Immunities. It would be considered the following year.

68. He added that 95 per cent of the privileges and immunities provided for in the Convention were already extended to the United Nations under the Headquarters Agreement and the domestic legislation of the United States. He hoped that no delegation had been deprived of privileges which it might have obtained under the Convention. As for the closing of the bar, that question would be settled when the permanent Headquarters Agreement would come into force. However, he considered that even if the United Nations made regulations for the headquarters district as envisaged in article III, section 16, of the Agreement, it could still, as a matter of courtesy, keep the bar closed on a day of elections.

69. With regard to the *laissez-passer*, as Mr. Kern had said, the effect of it could not be foretold and recognition of it depended on the action of Congress in regard to the Convention on Privileges and Immunities.

70. He felt that the most important aspect of the matter was that, in countless cases arising yearly, the United States Government had co-operated in negotiations with the United Nations and had tried to make the provisions of the Headquarters Agreement as broad as possible in order to give the United Nations all the privileges possible. It would continue to do so.

71. Mr. KORETSKY (Union of Soviet Socialist Republics) remarked that, since everything that could be done to provide immunities was already being done, according to the United States repre-

¹ See the *Official Records of the fourth session of the General Assembly*, Fifth Committee, 221st meeting, paragraphs 3 to 5.

sentative, it might be asked what was the need for a convention on the subject. In regard to the incident cited by the representative of Poland concerning the inspection of the baggage of the United Nations official by customs officers, he wished to say that United Nations officials should be free of local regulations. He pointed out that there was no guarantee of privileges and immunities until there was legislation on the subject. A convention must guarantee them. Otherwise, there was only good will and courtesy on the part of the United States officials, and the customs officers and police could, in the absence of such a convention, ignore privileges and immunities and take arbitrary action even concerning who should or should not be arrested, in which connexion he recalled the case of Mr. Gubitchev. Mr. Koretsky observed that United Nations officials did not feel as secure in the United States as the representative of that country seemed to think. No United Nations official would be secure from provocative action unless a convention was acceded to.

72. Mr. TARN (Poland) explained that he had made no complaint about the case he had referred to, but had merely wished to call attention to the conditions in which United Nations officials had to work. He had cited only one instance, but he could have given more instances of difficulties that had arisen in regard to immunities to be granted to United Nations officials.

73. Mr. MAKTOS (United States of America) explained that he had waited to reply to the representative of the USSR in order to see if any other delegation had complaints on the subject. He had not said in his previous statement that everything was all right, as Mr. Koretsky had remarked. There might be some cases in which complaints were justified; that was inevitable in any institution which annually handled thousands of cases involving privileges and immunities. Cases in which differences had arisen, however, were so few as to fall under the rule *de minimis*. With regard to the remarks that a document of some sort was needed to guarantee privileges and immunities, he wished to point out that there was a Headquarters Agreement.

74. As for the case of Mr. Gubitchev, there was some question as to whether or not he was entitled to immunity. No United Nations employee, when he committed a crime which was not an act connected with his official duties, was entitled to immunity.

75. Mr. ABDOH (Iran) pointed out that several delegations considered that the United Nations flag was not sufficiently visible, especially in bad weather; the colours were too pale. That might give rise to some difficulties or errors in recognition of the flag. He suggested that the Secretary-General should study the possibility of having the flag made more visible and report on the matter at the next session.

76. Mr. BARTOS (Yugoslavia) mentioned an incident which had occurred when a judge of the International Court of Justice, a Yugoslav national, had requested transit through France and his request for a visa had been refused. He had been forced to pass through Switzerland. The President of the Court had protested, with no result. It seemed that even States that had ratified the Convention on Privileges and Immunities

might make errors in the application of the provisions of the Convention.

77. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) wished to clarify the immunities of the United Nations officials in the United States. He explained that the General Convention was not yet in force as far as the United States was concerned. If it had been, article V, section 18 (a) would be applicable. What was law in the United States was Act No. 291 of 1945 concerning the privileges and immunities of international organizations which provided in section 7 (b) that "representatives of foreign Governments in or to international organizations and officers and employees of such organizations, shall be immune from suit and legal process relating to acts performed by them in their official capacities and falling within their functions as such representatives, officers and employees, excepting in so far as . . ." That was the legal basis of immunities; they were confined to official acts.

78. With regard to the remark of the representative of Iran concerning the flag, the Secretary-General had received similar comments from other representatives and would be glad to have the matter studied. If it was found that it would be possible to make changes in the shape or colour of the United Nations flag in order to make it more visible, he would call the matter to the attention of the General Assembly at its next session.

79. The CHAIRMAN stated that there was no draft resolution before the Committee in connexion with the agenda item under discussion.

80. Mr. MAKTOS (United States of America) suggested that if it was necessary for the Committee to adopt a resolution, the Rapporteur might draft such a resolution, so that the Committee might complete its work at the current meeting.

81. Mr. CHAUMONT (France) supported that suggestion.

82. Mr. WENDELEN (Belgium) questioned the necessity for a resolution.

83. Mr. FERRER VIEYRA (Argentina) proposed the following draft resolution:

"The General Assembly

"Takes note of the Secretary-General's report presented in document A/940, A/940/Add.1 and A/940/Add.2."

84. Mr. TARN (Poland) requested that the Assistant Secretary-General's statement in reply to the questions which the Polish representative had raised in his remarks on privileges and immunities should be included in the Sixth Committee's report.

85. Mr. RENOUF (Australia) asked the Assistant Secretary-General if he considered that a reply to the communication of the International Telecommunication Union should be drafted.

86. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) replied that the International Telecommunication Union (ITU) had sent a letter to the Secretary-General presenting the point of view of the Union in regard to the contradiction between the terms of the International Telecommunication Union Convention and those of the Convention on the Privileges and

Immunities of the Specialized Agencies.¹ The latter had not been accepted by the ITU. The ITU had recommended that its members should make reservations when acceding to the Convention in respect of the specialized agencies. The General Assembly had previously recommended that the Members should accept that Convention. The Committee should decide whether it wished to make a new recommendation to the General Assembly.

87. Mr. RENOUF (Australia) stated that it was the understanding of his delegation that the General Assembly did not wish to change its attitude, but wished to recommend that Member States should accept the Convention on the Privileges and Immunities of the Specialized Agencies without reservation.

88. Mr. FAWCETT (United Kingdom) wished to know if the International Telecommunication Union regarded the Secretary-General's reply as closing the incident. He thought that the Committee should consider the substance of the matter further, if the representative of the ITU thought that difficulties might arise. He requested that the latter should give his views.

89. Mr. DE WOLF (representative of the International Telecommunication Union) explained that the members of the Sixth Committee had before them the text of the resolution adopted by the ITU Administrative Council concerning the application of article IV of the Convention on the Privileges and Immunities of the Specialized Agencies (A/940/Add.2). It approved the opinion of the International Telegraph and Telephone Conference (Paris, 1949) concerning treatment to be granted to telecommunications of the subsidiary organs and specialized agencies of the United Nations. Annex 2 of the International Telecommunication Convention (Atlantic City, 1947), providing for priority of Government telegrams and telephone calls, contained a definition of Government telegrams and telephone calls and a list of those who could originate them. Included in that list were the Secretary-General of the United Nations and the heads of the Organization's subsidiary organs. Since then, the ITU had received a list of the subsidiary organs which omitted the specialized agencies.

90. At the International Telegraph and Telephone Conference in Paris, a new set of international telegraph regulations had been adopted, in which provision was made that, except in cases of special arrangements or regional agreements concluded by virtue of articles 40 and 41 of the Convention, Government telegrams would be charged for, as private telegrams, whether or not they were given priority. As stated above, the ITU Administrative Council had approved the opinion of the Paris Conference, and had requested the ITU to suggest that its members who were also Members of the United Nations should have the matter put on the agenda of the fourth session of the General Assembly with a view to proposing that the United Nations should call a conference for the purpose of abrogating article IV, section 11, of the Convention on the Privileges and Immunities of the Specialized Agencies. The reason for that attitude on the part of the ITU was that the telegraph administrations feared the ex-

tension of special privileges to the specialized agencies.

91. Another consideration, not included in the resolution (A/940/Add.2), was the fact that such privileges constituted a burden on Governments of countries in which the specialized agencies were located, and it seemed fairer that the members of the specialized agencies should bear the cost themselves.

92. As for priorities, if the use of them were increased, priorities would become meaningless.

93. There was a conflict between the provisions of the specialized agencies Convention and those of the Atlantic City Telecommunication Convention: the latter had been concluded before the specialized agencies Convention and, from a legal point of view, it would seem that the specialized agencies Convention, being later in time, would supersede the Telecommunication Convention. Under article 40 of the Atlantic City Convention it was provided that ITU members and associate members reserved for themselves the right to make special arrangements on telecommunication matters in regard to such points as giving special rates on Government telegrams. That was a matter which was usually settled between Governments or telecommunication companies and Governments. Individual Governments should decide whether they would give special treatment to telegrams of specialized agencies.

94. The United Kingdom Government had made a reservation in communicating its accession to the specialized agencies Convention to the Secretary-General of the United Nations. The Secretary-General had pointed out that in order to call a meeting to consider abrogation of article IV of the Convention, the consent of two-thirds of the Member States would be necessary. If such a meeting were impossible. Mr. de Wolf suggested that other Governments, in acceding to the Convention, might make reservations similar to that of the United Kingdom.

95. A telecommunication conference was to be held in Buenos Aires in 1952. Members acceding to the Convention on the Privileges and Immunities of the Specialized Agencies might instruct their delegations to obtain there a revision of the Atlantic City Convention, so as to extend privileges to specialized agencies. That would defer solution of the question until 1952. Meanwhile, the various Governments could decide what action they would take. They might decide to give privileges to the specialized agencies, and that would end the matter.

96. The CHAIRMAN remarked that the Committee should decide whether or not it wished to take action or leave it for further consideration.

97. Mr. BARTOS (Yugoslavia) asked what replies had been received from the Governments to which the ITU Administrative Council's resolution (A/940/Add.2) had been addressed.

98. Mr. DE WOLF (representative of the International Telecommunication Union) replied that the resolution of the ITU Administrative Council had not called for an answer. The Council had adjourned on 3 October and the resolution had been circulated later; so far as he knew, no answers had been received.

¹ See documents A/940, paragraphs 15 to 22, and A/940/Add.2.

99. The CHAIRMAN stated that, as no resolution had been proposed, he concluded that it was the Committee's desire not to take action on the ITU representative's suggestion.

100. He recalled that the Committee had before it the Argentine draft resolution to take note of the report of the Secretary-General contained in documents A/940, A/940/Add.1 and A/940/Add.2.

101. He put to the vote the draft resolution submitted by the delegation of Argentina.

The draft resolution was adopted unanimously.

102. Mr. KORETSKY (Union of Soviet Socialist Republics) requested that the Secretariat should prepare the reports and documents to be referred to the General Assembly as quickly as possible in order to expedite the consideration of the items

concerned in the plenary meetings of the Assembly.

103. Mr. RENOUE (Australia), followed by Mr. KORETSKY (Union of Soviet Socialist Republics), Mr. MAKTO (United States of America), Mr. SPIROPOULOS (Greece), Mr. AMADO (Brazil), Mr. ZIAUDDIN (Pakistan), Mr. ABDOH (Iran) and Mr. SVENNINGSEN (Denmark), expressed to the Chairman the thanks and appreciation of the Sixth Committee for the tact, patience and ability with which he had conducted the business of the Committee and to the members of the Secretariat who had assisted the Committee in the performance of its duties.

104. The CHAIRMAN expressed his thanks to the representatives and the Secretariat.

The meeting rose at 6.15 p.m.

SALES AGENTS OF THE UNITED NATIONS PUBLICATIONS

ARGENTINA

Editorial Sudamericana S.A.
Alsina 500
BUENOS AIRES

AUSTRALIA

H. A. Goddard Pty. Ltd.
255a George Street
SYDNEY, N. S. W.

BELGIUM

Agence et Messageries de la
Presse, S. A.
14-22 rue du Persil
BRUXELLES

BOLIVIA

Librería Científica y Literaria
Avenida 16 de Julio, 216
Casilla 972
LA PAZ

CANADA

The Ryerson Press
299 Queen Street West
TORONTO

CHILE

Edmundo Pizarro
Merced 846
SANTIAGO

CHINA

The Commercial Press Ltd.
211 Honan Road
SHANGHAI

COLOMBIA

Librería Latina Ltda.
Apartado Aéreo 4011
BOGOTÁ

COSTA RICA

Trejos Hermanos
Apartado 1313
SAN JOSÉ

CUBA

La Casa Belga
René de Smedt
O'Reilly 455
LA HABANA

CZECHOSLOVAKIA

F. Topic
Narodni Trida 9
PRAHA 1

DENMARK

Einar Munksgaard
Nørregade 6
KØBENHAVN

DOMINICAN REPUBLIC

Librería Dominicana
Calle Mercedes No. 49
Apartado 656
CIUDAD TRUJILLO

ECUADOR

Muñoz Hermanos y Cía.
Nueve de Octubre 703
Casilla 10-24
GUAYAQUIL

EGYPT

Librairie "La Renaissance d'Egypte"
9 Sh. Adly Pasha
CAIRO

ETHIOPIA

Agence éthiopienne de publicité
P. O. Box 8
ADDIS-ABEBA

FINLAND

Akateeminen Kirjakauppa
2, Keskuskatu
HELSINKI

FRANCE

Editions A. Pedone
13, rue Soufflot
PARIS, V°

GREECE

"Eleftheroudakis"
Librairie internationale
Place de la Constitution
ATHÈNES

GUATEMALA

José Goubaud
Goubaud & Cía. Ltda.
Sucesor
5a Av. Sur No. 6 y 9a C. P.
GUATEMALA

HAITI

Max Bouchereau
Librairie "A la Caravelle"
Boîte postale 111-B
PORT-AU-PRINCE

ICELAND

Bokaverzlun Sigfusar Eymundsonnar
Austurstreti 18
REYKJAVIK

INDIA

Oxford Book & Stationery Company
Scindia House
NEW DELHI

IRAN

Bongahe Piaderow
731 Shah Avenue
TEHERAN

IRAQ

Mackenzie & Mackenzie
The Bookshop
BAGHDAD

LEBANON

Librairie universelle
BEYROUTH

LUXEMBOURG

Librairie J. Schummer
Place Guillaume
LUXEMBOURG

NETHERLANDS

N. V. Martinus Nijhoff
Lange Voorhout 9
's-GRAVENHAGE

NEW ZEALAND

Gordon & Gotch, Ltd.
Waring Taylor Street
WELLINGTON

United Nations Association of
New Zealand
P. O. 1011, G.P.O.
WELLINGTON

NICARAGUA

Ramiro Ramírez V.
Agencia de Publicaciones
MANAGUA, D. N.

NORWAY

Johan Grundt Tanum Forlag
Kr. Augustgt. 7A
OSLO

PERU

Librería internacional del Peru,
S.A.
Casilla 1417
LIMA

PHILIPPINES

D. P. Pérez Co.
132 Riverside
SAN JUAN, RIZAL

POLAND

Spoldzielna Wydawnicza
"Czytelnik"
38 Poznanska
WARSZAWA

SWEDEN

A.-B. C. E. Fritzes Kungl.
Hofbokhandel
Fredsgatan 2
STOCKHOLM

SWITZERLAND

Librairie Payot S. A.
LAUSANNE, GENÈVE, VEVEY,
MONTREUX, NEUCHÂTEL,
BERNE, BASEL
Hans Raunhardt
Kirchgasse 17
ZURICH I

SYRIA

Librairie universelle
DAMAS

TURKEY

Librairie Hache
469 Istiklal C
BEYOGLU-IST

UNION

Centre
Comm
JOH
and L

UN

UNITED

Internat
Columbia
2960 Broadw
NEW YORK 2

URUGUAY

Oficina de Rep
Editoriales
Av. 18 de Julio 13
MONTEVIDEO

VENEZUELA

Escritoría Pérez Machado
Conde a Piñango 11
CARACAS

YUGOSLAVIA

Drzavno Preduzece
Jugoslovenska Knjiga
Moskovska Ul. 36
BEOGRAD