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Chairman: Mr. Gonzalo ORTIZ MARTIN (Costa Rica).

AGENDA ITEM 66

Question of the publication of a United Nations juridical yearbook: report of the Secretary-General (A/4406 and Corr.1; A/C.6/L.471, A/C.6/L.477 and Rev.1, A/C.6/L.478) (continued)

1. Mr. PERERA (Ceylon), introducing the revised draft resolution (A/C.6/L.477/Rev.1), pointed out that Bolivia, one of the sponsors of the original draft resolution, had not been listed as a co-sponsor of the revised text simply because the other sponsors had been unable to consult the Bolivian representative concerning the revision. The committee envisaged in the original draft resolution had been composed, not on the basis of political considerations or geographical distribution, but merely with a view to keeping the question of the yearbook alive and furthering its publication. Unfortunately, the proposal had not found sufficient support among the members of the Sixth Committee: some members had wanted to increase the membership of the committee, and the Canadian representative had said that he could not vote for a committee reduced in size. The sponsors had accordingly come to the conclusion that the establishment of a committee would not be feasible. The revised draft resolution would defer the question until the seventeenth session of the General Assembly when, it was to be hoped, a better climate of opinion would prevail and something might be done to further the publication of a juridical yearbook.

2. Mr. ITURRALDE CHINEL (Bolivia) said that his delegation fully endorsed the changes which the sponsors had made in the draft resolution when it had proved impossible to reach agreement on the establishment of a committee. Bolivia would therefore like to be listed as a co-sponsor of the revised draft resolution.

3. Mr. ZEMANEK (Austria) asked the sponsors to substitute the words "consideration of" for the words "study on" in the third preambular paragraph of the revised draft resolution. Since no body was assigned to make a further study, the retention of the word "study" would be somewhat embarrassing.

4. Mr. PERERA (Ceylon) replied that, for his part, he could not comply with that request. The sponsors had felt that, at the seventeenth session of the General As-

sembly, some practical step might be taken, such as the appointment of a committee to study the question. If the Austrian representative's suggestion was accepted, the revised draft resolution would be tantamount to a postponement of the question *sine die*.

5. Mr. CHAYET (France) asked the sponsors whether the further study referred to in the third preambular paragraph would be carried out prior to the seventeenth session of the General Assembly or would be left for the General Assembly itself to undertake at that session.

6. Mr. PERERA (Ceylon) explained that the further study in question would have to be conducted at the seventeenth session of the General Assembly. The sponsors had made no provision for a study to be undertaken before that session. The fact that further study was required had been repeatedly stressed in the Committee's debate.

7. Mr. ZEMANEK (Austria) said that, in view of the Ceylonese representative's interpretation of the word "study" as a study to be conducted at the seventeenth session of the General Assembly or subsequently, he had no objection to retaining that word in the revised draft resolution.

8. Mr. PEREIRA (Portugal) said that his delegation was not satisfied with the revised draft resolution, and would like to consult with other delegations before the text was put to the vote. He proposed that the meeting be suspended for a short time.

It was so decided.

The meeting was suspended at 11.25 a.m. and resumed at 12 noon.

9. Mr. PEREIRA (Portugal) said that he was concerned about the fact that the Sixth Committee seemed to be developing into a machine for postponing issues and casting the blame on the Secretary-General. He had therefore requested the suspension of the meeting in order to ascertain what support existed for an entirely new approach to the matter of the yearbook. Unfortunately, he had been unsuccessful and would therefore join with the majority in supporting the draft resolution.

10. Mr. RODRIGUEZ (Philippines) felt that the Sixth Committee should have a definite basis for its study of the matter at the seventeenth session. He therefore proposed that an additional operative paragraph should be inserted in the draft resolution reading: "Invites Member States to submit to the Secretary-General written comments or observations on the nature, form and contents of the proposed yearbook not later than 1 July 1962" (A/C.6/L.478).

11. He shared the Portuguese representative's concern over the work of the Sixth Committee and suggested that the question might be placed on the provisional agenda of the sixteenth, rather than the

seventeenth, session; one year was ample for the study of a problem which was, after all, neither delicate nor extremely important.

12. Mr. MAURTUA (Peru) thought that the revised text would accomplish even less than resolution 1451 (XIV) on the question of the yearbook adopted at the Assembly's fourteenth session. The discussion in the Committee had disclosed various opinions regarding the nature, form and contents of the yearbook which should be reflected in the draft resolution. Thus, it had been clear from the debate that the financial implications were the main obstacle to the publication of a juridical yearbook, and that the form and contents of the yearbook would have to be studied and adjusted to meet the budgetary requirements. Yet, none of those points appeared in the revised draft resolution, which merely indicated that the Sixth Committee considered it necessary to study the problem. In his opinion, draft resolutions such as the present proposal impaired the prestige of the Sixth Committee. If the Committee continued to postpone decisions on all issues, it would find it difficult to perform its duties as an advisory body in the manner envisaged in annex II to the rules of procedure of the General Assembly.

13. His delegation believed that the publication of the yearbook was urgently needed to further legal education in many areas of the world. The least that the Committee could do was to appoint a body to give practical effect to the ideas expressed in its debates. The Peruvian delegation could not vote for anything less.

14. Mr. MUSTAFA (Pakistan) said that his delegation had decided to vote for the revised draft resolution. However, in order to avoid any misunderstanding about the meaning of the word "nature" in the third preambular paragraph, he wished to state that his delegation was categorically opposed to the inclusion in the yearbook of articles written by private individuals and learned societies. At the preceding meeting, the United Kingdom representative had pointed out that resolution 1451 (XIV) rejected the idea of including such articles, and the representative of the United Arab Republic had agreed that the idea had been definitely dropped.

15. Mr. BUCETA (Argentina) said that his delegation, like the United Kingdom and Pakistan delegations, was opposed to the inclusion in the yearbook of articles written by private individuals and learned bodies. He merely wished to add that his delegation would like to have the yearbook include a list of all institutions and universities where courses in international law were given, and of the professors who conducted those courses.

16. Mr. ASSELIN (Canada) said that he had been surprised that the sponsors had substantially changed their original text; it had appeared from the discussion at the previous meeting that unanimity had virtually been reached on the draft and that the sponsors had accepted many of the suggestions offered. The question of financial implications presented no insuperable obstacle and the only major difficulty remaining had been the composition and size of the proposed committee, about which most delegations had expressed some misgivings.

17. The basic defect of the present text was that it gave no indication of who would be responsible for undertaking the proposed further study on the nature, form and contents of the proposed yearbook and the

financial implications of its publication; if the revised text were adopted, it would be quite possible that, at the seventeenth session, the Sixth Committee would have nothing concrete before it to serve as a basis for its discussion. He shared the Peruvian representative's concern that a postponement of the question would undermine the prestige of the Organization, and urged the Sixth Committee to take a more practical and effective decision. He therefore suggested that the Chairman might nominate a group of nine countries to study the question in collaboration with the Secretary-General and to present a report which would serve as a positive and practical basis for the Sixth Committee's discussion at the seventeenth session.

18. The CHAIRMAN pointed out to the Canadian representative that, if he wished the Sixth Committee to consider his suggestion formally, he would have to submit an amendment to the draft resolution. He personally thought that it would be pointless to reopen the debate on the problem, which could be solved only by a vote. The members of the Committee could state their positions in their explanations of vote.

19. Mr. ROSENNE (Israel) recalled that his delegation had consistently supported the idea of the publication of a yearbook since its inception ten years ago and accordingly shared the feeling of anxiety that the Sixth Committee was developing into some kind of postponement machine. Like the Canadian representative, he had been surprised by the contents of the revised draft resolution and thought that it represented a step back from the original proposal.

20. His delegation considered the Philippine amendment a good one; it would go far towards meeting the objection that, by adopting the draft resolution, the Sixth Committee would merely be postponing the question and that nothing would be accomplished in the interval before the seventeenth session. He would consequently support the amendment.

21. The Philippine representative had also suggested that the question might be placed on the provisional agenda of the sixteenth session. While his delegation wanted to see the yearbook launched as quickly as possible, there was a practical reason why it might be better to leave the matter to the seventeenth session. The Committee had recently adopted a draft resolution (A/C.6/L.467/Rev.2) inviting Governments to submit in writing to the Secretary-General, before 1 July 1961, any views or suggestions they might have on the important matter of the progressive development of international law and its codification; it would be difficult for Governments to consider the two matters concurrently. He therefore asked the Philippine representative not to press his suggestion.

22. He saw no incompatibility between the Canadian representative's suggestion that the Chairman should appoint a committee and the Philippine amendment. If the suggestion were presented as an amendment, he would support it.

23. Mr. RODRIGUEZ (Philippines) observed that, if the Committee decided to discuss the matter at the sixteenth session, he would alter the date mentioned in his amendment to 1 July 1961.

24. Mr. GONZALEZ GALVEZ (Mexico) said that he, too, had been surprised that the sponsors of the revised draft resolution had withdrawn the idea of establishing a committee despite the wide support that existed for it. The main difficulty was, of course, the

composition of the committee; in that regard, he considered the Canadian representative's suggestion a sound one.

25. Mr. WEEKS (Liberia) felt that, if the question were postponed, as the revised draft resolution proposed, the Committee would be in the same position in two years' time as it was now. Some positive measure would have to be taken; a committee in some form should be established so that the Sixth Committee would have something concrete to work on at the sixteenth or seventeenth session. He hoped the Canadian representative would submit his suggestion as a formal amendment.

26. Mr. ASSELIN (Canada) proposed that the third paragraph of the preamble of the revised draft resolution should be replaced by an operative paragraph requesting the Chairman of the Sixth Committee to appoint a working group consisting of nine representatives to undertake, in consultation with the Secretary-General, a further study on the nature, form and contents of the proposed yearbook and the financial implications of its publication and to report thereon to the General Assembly at its seventeenth session.

27. Mr. SHIELDS (Ireland) supported the Canadian representative's amendment, which would enable work on the yearbook to progress. The words "further study" necessarily implied that something positive should be accomplished in the interval before the seventeenth session.

28. The CHAIRMAN, in reply to a question by Mr. NISOT (Belgium), agreed to undertake the task proposed by the Canadian representative if the amendment were adopted.

29. Mr. EL-ERIAN (United Arab Republic) wished to explain, in response to the expressions of surprise on the part of some delegations at the revised text of the draft resolution, that its sponsors had felt that, in view of the difficulties which had arisen regarding the composition of the proposed committee, they ought not to insist upon its establishment. What they had had in mind had not been in any sense a formal committee but essentially a working group of interested delegations. Those delegations could still meet informally in a working group, without any action by the Sixth Committee, and try to prepare a working paper for submission to the Committee at a later stage. That was one way of dealing with the problem; the Rapporteur might even mention it in his report to the General Assembly. Another measure which might be taken to give the Committee's present action more substance was to include in the draft resolution a request to Governments to submit comments on the matter in writing in time for the seventeenth session.

30. Mr. PERERA (Ceylon) did not think that the surprise expressed by some representatives was altogether warranted; the sponsors had merely tried to accommodate their draft resolution to the views expressed at the previous meeting. It had been clear then that the question of the composition of the proposed committee gave rise to such difficulties that there was no point in pursuing the matter further. The representative of Canada himself had stated categorically (679th meeting) that he would not be able to agree to any reduction in the number of members of the committee mentioned in the original text. He appeared now to have changed his mind, but the sponsors had acted in accordance with his earlier statement. The committee

had not been envisaged in any way as a political body. Questions of geographical representation were totally irrelevant, yet, delegations had persisted in bringing them up. The sponsors had been left with no alternative, therefore, but to withdraw the proposal. He did not think that the situation would be improved, if, as the representative of Canada was now suggesting, the responsibility for selecting a committee were placed in the hands of the Chairman. Of course, the whole discussion of the subject had been vitiated from the start by the deliberately discouraging attitude of the Secretariat. In such a matter, the active participation of the Secretariat was essential, or nothing could be achieved. Intrinsically, there was no reason why a constructive decision should not have been taken at the present session. But the attitude of the Committee on the one hand, and the attitude of the Secretariat on the other had rendered that impossible. The sponsors of the draft resolution had therefore come reluctantly to the conclusion that the whole matter must once again be postponed.

31. Mr. MOROZOV (Union of Soviet Socialist Republics) was of the opinion that the sponsors had acted correctly in view of what had happened in the Committee and that, in submitting their revised text, they had done the best they could to bring the Committee to a decision of some kind. It would seem to his delegation very wise to give the originators of the idea of a juridical yearbook an opportunity to prepare some specific proposals, and he would endorse the suggestion of the representative of the United Arab Republic to include that point in the Rapporteur's report. The Committee could safely leave the matter in the hands of those delegations, knowing that it would not be allowed to die, but that, when the item next appeared on the Committee's agenda, members would have something more positive and constructive to consider. A formal committee, on the other hand, might well happen to include delegations as cool to the basic idea as the Secretariat, in which case little would be gained from its work. He would therefore urge the representative of Canada not to insist on his amendment, since it could again lead to endless difficulty about the membership of the committee, and there was still no guarantee that the committee, once established, would be able to make a constructive contribution. He was sure that, if the delegation of Canada, or indeed any other delegation, wished to co-operate with the sponsors in their informal work, they would be very welcome. His delegation, for its part, would vote for the revised draft resolution.

32. Mr. ASSELIN (Canada), referring to the remarks of the representative of Ceylon, recalled that his delegation's position at the previous meeting had been simply that it did not feel able to participate in a committee consisting only of Canada in addition to the sponsors of the draft resolution ^{1/} which later became resolution 1291 (XIII); it had been perfectly prepared to join a working group composed of the delegations listed in operative paragraph 1 of the original draft resolution (A/C.6/L.477). His delegation's sole concern in making the present proposal was that the Committee should be able to be satisfied that it had done something positive and practical. The committee of nine he was proposing was not intended as a formal body of a political kind, but simply as a working group which would keep alive

^{1/} Official Records of the General Assembly, Thirteenth Session, Annexes, agenda item 56, document A/C.6/L.432.

the idea of a United Nations juridical yearbook, to which his delegation, for one, attached great importance, and put something definite before the Assembly at its seventeenth session. He regretted, therefore, that he could not respond to the appeal of the representative of the Union of Soviet Socialist Republics, but must maintain his proposal for an amendment to the operative part of the revised draft resolution.

33. Mr. MOROZOV (Union of Soviet Socialist Republics) said that, since the representative of Canada felt unable to respond to his appeal, he would like to propose a sub-amendment to that representative's amendment, to the effect that the committee in question should consist of the following five members: Ceylon, Ethiopia, Ghana, Iraq and the United Arab Republic.

The meeting rose at 1.25 p.m.