

STATEMENT BY THE REPRESENTATIVE OF CHINA BEFORE THE THIRD MEETING
OF THE COMMITTEE ON PROGRESSIVE DEVELOPMENT AND CODIFICATION
OF INTERNATIONAL LAW, 14 MAY 1947

The Committee owes a great debt to the Secretariat and the United States and United Kingdom Delegations for documents A/AC.10/7, 10/14 and 10/16. We gather here for the purpose of finding methods for the General Assembly to implement the provisions of the Charter regarding encouragement of progressive development of international law and its codification. The documents I have mentioned help us not a little in clarifying our thought on the subject and formulating our own idea on the methods we are after.

The Secretariat memorandum contains an analysis of the problem with suggested possibilities to meet it. It is extremely useful.

Each of the United States and United Kingdom memoranda give us a concrete plan. The central point suggested by both is the creation of an expert body by a process of selection that will insure its competence. But the similarity of the two plans ends there. To start with, while the United States plan suggests selection of the expert body by the General Assembly and the Security Council through a procedure comparable to that now provided for the election of judges of the International Court of Justice, the United Kingdom plan proposes to entrust the job to the members of the said Court, if it accepts an invitation to undertake it. Next, the United States plan entrusts to the expert body the double tasks of the development of the law and its codification. In addition it provides a procedure for its work that will lead to a definite end, and contemplates certain permanency for the body in order that it, or some substitute, can continue the work into the future. The United Kingdom plan, on the other hand, entrusts to the expert body with only restatement of the law, and then leaves the result of

/its work

RECEIVED

21 MAY 1947

UNITED NATIONS
ARCHIVES

its work to its own merits and let the body terminate with its task.

Mr. Chairman, the United Kingdom plan has logic on its side. One would be persuaded to accept it, if he were convinced that the only alternative to it is the discredited method of codification by Convention which characterizes the futile efforts of the League of Nations. Codification by Convention was the only method open to the nations in the past. It would seem that, under the majority rule in the General Assembly of the United Nations codification could be effected by Resolution. I have, however, to admit that if the United Nations is not yet united in its desire to implement the provision of the Charter regarding codification, the United Kingdom plan is perhaps the only method that can hope for acceptance.

Assuming that the nations are ready to go forward, I feel that the United States plan is preferable. It provides a procedure for the selection of the expert body that will, to judge by the practice of the bodies to do the work, i.e., the General Assembly and the Security Council, insure equitable geographical representation, while aiming primarily at securing personal competence. On this point the United Kingdom plan, if selected as basis of discussion instead, can, of course, be improved by a special provision. The more important features of the United States plan are undoubtedly the performance of the two tasks by one body, the looking towards a definite end for those tasks, and the contemplation of permanent attempt at them. Progressive development and codification, though two distinct tasks, are closely related, have influence one upon the other and often overlap. It is more desirable to entrust them to one body. International law is sufficiently developed and the world is eagerly waiting for the rule of law. These phenomena justify us looking forward to definite results in the further development of the law and its codification. They also justify us working for the results continuously.

Mr. Chairman, the development of international law, of which codification is in a sense an incidental part, owes much to the courage of

the early masters of the science, no less than to their efforts. Perhaps they had reason to be bold as well as industrious, for they lived in an age when the need of the rule of law was keenly felt. But, it seems, we have entered an age in which the same feeling is no less keen, and evidently something must be done about it. We sit here as government representatives. But don't forget that practically all of us are by profession or interest expected to carry forward the torch handed to us by the said masters. Let us match our efforts with courage, and within the realm of practical politics boldly forge ahead.
