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FIFTEENTH SESSION

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## SIXTH COMMITTEE, 656th MEETING

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

### AGENDA ITEM 65

#### Report of the International Law Commission on the work of its twelfth session (A/4425) (continued)

1. Mr. LACHS (Poland) said the draft articles on consular intercourse and immunities submitted by the International Law Commission in chapter II of its report (A/4425, para. 28) did credit to that body. Nevertheless, it would appear that the Commission had encountered certain difficulties in seeking to define the functions of a consul—a situation which would hardly surprise those who, having taken part in the negotiation of consular agreements, knew that each one was generally the result of a compromise between the internal laws of the countries concerned. He did not propose to go into a detailed analysis of the draft at that stage, but wished only to observe that it was for the members of the Committee to decide whether the draft articles were to become a multilateral convention, signed by as many States as possible, or were simply to constitute a set of model rules by which States could be guided when concluding bilateral or multilateral conventions in the future.

2. Turning to the role of the Sixth Committee, he recalled that, at the time of its establishment, it had been intended, like the other Main Committees of the General Assembly, to play a dual role: to consider items referred to it by the Assembly and to prepare draft recommendations and resolutions for submission to the Assembly. It should be recognized, however, that the scope of its work had been gradually reduced from one session to the next. The only explanation would appear to be the decline of the role of law itself in the United Nations. That was a development fraught with danger for the future of an international organization such as the United Nations, which had its roots in international law and whose own organic law, the Charter, was unquestionably an instrument of international law. At the San Francisco Conference in 1945, the founding States of the United Nations had agreed to transfer to the Organization certain functions which until then had come within their own exclusive competence, they had undertaken to act together in many fields, they had accorded the Organization certain powers and rights and they had imposed upon it certain duties. But the role of international law had not terminated on the day when the United Nations had come into being and the Organization could not succeed in its task unless international law was scrupulously upheld.

3. The growth and development of the United Nations depended upon the role accorded to international law and vice-versa. Yet it was obvious that neither international law nor the United Nations were ends in themselves; rather, they were means of solving the vital problems confronting States in their relations with each other. The United Nations dealt with many questions which were economic, social, humanitarian and, above all, political in character and which might appear to have only a remote connexion with law, yet, whenever it worked out new methods of co-operation which would eventually have to receive the sanction of law, it was preparing the international law of the future. While the Committee should not be called upon to deal with everything, it should, nevertheless, like the Office of Legal Affairs, have some part in considering such questions. For example, discussions and negotiations concerning disarmament had been going on for years in the United Nations while the armaments race had continued. It was true that disarmament negotiations were of a political nature, yet surely, jurists were entitled to call for the outlawing of armaments just as they had called for the outlawing of war, for it was obvious that the present situation which might be called pax ballistica could not be regarded as safeguarding peace. Contemporary international law, which was a powerful instrument for the safeguarding of the rights of nations and of men, offered many possibilities for securing peace by means other than resort to armed force.

4. During the past fifteen years, the United Nations had grown far beyond the expectations of its founders, and its success would depend on the extent to which it was able to adapt itself to the requirements of the present and the future and to serve as a link between the law as it stood at present and its material and social content. It should maintain close contact with life and reflect the aspirations and convictions of nations. Only then would States refrain from having recourse to any but peaceful means for the settlement of their differences.

5. The role of the United Nations was the more important in that its Charter constituted the fundamental document of the times and represented what some had called a "higher law". Unlike the League of Nations, the United Nations was a truly world-wide Organization embracing States having different political and economic systems, and it was important that it reflected the great triangle of groups of States. All, including the new States of Asia and Africa with their wealth of tradition and their long history, should participate actively in its work.

6. Law was represented in the United Nations, apart from the International Court of Justice, by the International Law Commission, the Sixth Committee and the Office of Legal Affairs. The International Law Commission, which had done useful work during the twelve years of its existence, had almost completed its

original programme; apart from items which had proved to be unsuitable for codification and items of minor importance, the work of the Commission had been retarded on only one major item, that concerning the responsibility of States. The Commission should therefore be requested to draw up a new programme of work for submission to the General Assembly at its sixteenth session.

7. So far as the Office of Legal Affairs was concerned, it would indeed have been useful if it had taken the initiative in certain matters and acted to ensure that greater space was given to juridical problems in the general publications of the United Nations. The question had been raised of the interpretation of Article 101 of the Charter concerning the way in which staff was recruited. The necessity of securing for the Organization "the highest standards of efficiency, competence and integrity" was obvious, but the Secretariat should, at the same time, be truly international, as provided in the last sentence of that Article which stressed "the importance of recruiting the staff on as wide a geographical basis as possible". Furthermore, Article 100, paragraph 2, also stressed "the exclusively international character of the responsibilities of the Secretary-General and the staff"; it would therefore be contrary to both the letter and the spirit of the Charter if the various services of the Secretariat were composed only of nationals of certain States or groups of States. He therefore disagreed fundamentally with the interpretation which the Legal Counsel (651st meeting, para. 13) had placed on Article 101, paragraph 3, according to which the second sentence of that paragraph was of secondary importance. He cited in support of his argument the Statute of the International Court of Justice, which, having set forth in Article 2 the qualifications required for election to the Court, stipulated in Article 9 not only that the persons to be elected should possess the qualifications required, but also that in the body as a whole "the representation of the main forms of civilization and of the principal legal systems of the world should be assured". In both cases, the requirements, far from being in conflict with each other, were interdependent: the securing of the highest standards of "efficiency" and "competence" was directly linked to the geographical aspects of recruitment; candidates not only should have university degrees and experience but also should represent the various areas of the world, which differed from each other politically and socially. In many cases, a candidate, if he was to be useful to the Secretariat, must come from a certain area with whose problems, legislation and economic conditions he was familiar. Unless the Office of Legal Affairs was composed of representatives of all the principal legal systems of the world, it would not be in conformity with the provisions of Article 101.

8. With regard to the Sixth Committee, if its authority was to be strengthened, General Assembly resolution 684 (VII), which now constituted annex II to the rules of procedure, should be fully implemented.

9. Mr. ASSELIN (Canada) recalled that the Canadian Prime Minister had said in 1959 that the rule of law in international relations was the first basis and best assurance of peace. But it was not for the Sixth Committee alone to ensure that that principle was universally applied; it depended primarily on the conduct of individual States. Each of the Committees of the General Assembly had its part to play in dealing with

the international problems of today, and care should be taken that none of them went outside its limits.

10. If most members considered that the items on its agenda were too few, the Committee could, as had been suggested, draw up a working programme for the coming years, taking as its starting point the chapter "Legal Questions" in the annual reports of the Secretary-General, or it could consider the question of the compulsory jurisdiction of the International Court of Justice mentioned by the representative of the United Kingdom (652nd meeting, para. 2), which was a matter of great interest to the Canadian Government. The International Court could indeed do much to promote the rule of law as the fundamental principle in relations between States, since it was in a position to formulate, on the basis of the customs and rules of different legal systems, the general principles of law to which the international community could best adhere.

11. Turning to the report of the International Law Commission on the work of its twelfth session, he expressed the opinion that it was very satisfactory; he referred to the difficulties involved in codifying international law, and stressed the value of the International Law Commission's work in that field. Several drafts prepared by the Commission, although not yet ratified in the form of conventions or agreements binding on the contracting parties, were already voluntarily being applied by the Chancelleries. As to the draft articles on consular intercourse and immunities, he felt that detailed study must await the expression of the views of Governments, and he agreed with the representative of Ireland (652nd meeting, para. 9) that Member States should be asked to defer their comments until the results of the United Nations Conference on Diplomatic Intercourse and Immunities to be held at Vienna in 1961 were known. The Canadian Government could hardly accept the draft in its present form, as it contained no federal clause or other reserve clause, such as was found in several international conventions. It was logical to refer the draft articles on special missions (A/4425, para. 38) to the Vienna Conference; he was glad to note that the Commission would be represented by an observer at the fourth session of the Asian-African Legal Consultative Committee to be held at Tokyo in March 1961 (*ibid.*, para. 43).

12. Mr. MONACO (Italy) said he would refer only briefly to the question of the policy that should be pursued by the Sixth Committee, especially as some delegations had placed the problem in an entirely false perspective. The General Assembly and the Secretariat were organs of one institution, and as such should be working together and not oppose each other in a manner which rendered a disservice to the United Nations as a whole. If certain defects were found to exist, it would be better to try to eradicate them, rather than to indulge in systematic criticism of certain departments and officials of the Secretariat.

13. For instance, the present division of work between the various committees left something to be desired. The Sixth Committee should be requested to deal with every legal question on the Assembly's agenda; that was not always the case, however, the cause being not a deliberate intention but some lack of co-ordination. The question of the right of asylum, for example, of which the Sixth Committee, at the fourteenth session of the General Assembly, had asked the International Law Commission to undertake the codification—a recommendation which the General Assembly had sub-

sequently adopted in its resolution 1400 (XIV)—had been placed on the agenda of the Third Committee of the current session. The International Law Commission might later find its task complicated by the existence of a declaration formulated by a non-legal committee.

14. It had been said that jurists should adapt themselves to the circumstances of the world of today, and not confine themselves within the narrow limits of outworn technical conceptions; in other words, that certain political doctrines should have a decisive influence on international legal theory and practice. But in fact, one of the greatest advances of legal science had been the establishment of a system of public law on purely technical bases, and it would be putting the clock back by at least a century to make politics and public law strictly interdependent again.

15. Turning to the report of the International Law Commission (A/4425), he congratulated the Commission on its valuable contribution to the codification and development of international law. Paragraph 20 and the following paragraphs of its report showed how complex were the sources of consular law, which was based primarily on customary international law, but also on specific conventional law inspired by customary law and subordinate to it, and, to a lesser degree, on the practice of States. Only customary and conventional law were genuine sources of international law; the practice of States should be taken into consideration in codifying consular law only in so far as it conformed with international law.

16. For this reason, the Italian delegation preferred the first text of article 65 of the Commission's draft articles. Indeed, the second text, which would apply the codified rules only to questions not regulated by bilateral conventions, would entirely nullify the purpose of codifications. He therefore agreed with those members of the International Law Commission who held that that article should state that the draft convention contained fundamental principles of consular law, which should prevail over pre-existing bilateral agreements and from which no subsequent bilateral agreement might derogate (*ibid.*, para. 2 of commentary to article 65.).

17. The International Law Commission should intensify its co-operation with other international institutions and should take particular note of the drafts produced by various regional legal organizations, for example, the draft European consular convention being prepared by the Council of Europe.

18. Finally, on the question of *ad hoc* diplomacy, the Italian delegation supported the recommendation of the International Law Commission that the draft articles on special missions should be referred to the forthcoming Vienna Conference. He suggested that the Sixth Committee should form a small working party to study the preliminary draft at the current session and to formulate whatever recommendations it thought fit.

19. Mr. LUTEM (Turkey) referred first to the services rendered by the Office of Legal Affairs of the Secretariat and by the Legal Counsel, and expressed an assurance that they had the full confidence of the Turkish delegation.

20. The International Law Commission also deserved praise for its work. It was indeed regrettable, as the representative of Bolivia had said (652nd meeting,

para.13), that its work progressed so slowly, but it was working according to a procedure established in its earliest days, and which it was bound to follow in the case of the draft articles on consular intercourse and immunities. It had to await the comments of Governments, after which, at the sixteenth session, the Sixth Committee might be able to study the draft and make concrete recommendations to the General Assembly.

21. He would confine himself for the moment to general remarks on the subject. The nature of the international instrument in which the draft articles would be incorporated could only be decided by a future diplomatic conference; but the adoption of a convention, as recommended by the International Law Commission (A/4425, para. 24), seemed necessary and desirable in order to reconcile the provisions of municipal laws and bilateral agreements.

22. At present, the privileges and immunities accorded to consuls were based on reciprocity and were of a customary nature; they were not regarded as legal rights, and there was a tendency to restrict them. It was desirable that, for the future, the legal nature of those privileges should be established by a convention, so that consuls might be given sufficient rights to enable them to carry out their functions in an independent manner; such rights should not, however, be excessive, as that might put the receiving State in a difficult position. The necessary balance had been achieved in most of the draft articles prepared by the International Law Commission, but some others required amendment.

23. Finally, the Turkish delegation considered the draft articles on special missions acceptable and thought that, subject to some slight amendments and additions, they might be incorporated in the instrument to be adopted at the coming Vienna Conference.

24. Mr. STAVROPOULOS (Legal Counsel) wished to reply to the statement made at the 655th meeting by the representative of Czechoslovakia concerning the manner in which a revised text of the draft Convention on State Responsibility prepared by the Harvard Law School in 1929<sup>1/</sup> had been presented to the International Law Commission.

25. The Secretary of the Commission Mr. Liang, had stated in 1956<sup>2/</sup> that the Harvard Law School had kindly agreed, at the suggestion of the Secretariat, to undertake the revision of that draft, which had been entrusted to Professor Katz and Professor Sohn. Mr. Liang had expressed the belief that that revised version could be of great service both to the Commission and to the public. The Secretariat had been solely responsible for the arrangements, and had not taken part in the drafting of the revised text. Mr. Liang had added that, at the Secretariat's suggestion, the Chairman of the International Law Commission had invited Professor Katz and Professor Sohn to be present at the Commission's debate on the item.

26. At the same time, the Chairman of the Commission had said "that a revision of the Harvard draft convention, and more particularly of the commentary on it, would undoubtedly be of great assistance to the Commission"<sup>3/</sup> and that "if there were no comments,

<sup>1/</sup> Harvard Law School, *Research in International Law, II, Responsibility of States* (Cambridge, Mass., Harvard Law School, 1929).

<sup>2/</sup> *Yearbook of the International Law Commission, 1956, vol. I* (United Nations publication, Sales No.: 56.V.3, Vol. I), 370th meeting, para. 16.

<sup>3/</sup> *Ibid.*, para. 17.

he would assume that the Commission had no objection to the arrangements made with the Harvard Law School or to the presence of two members of its staff".<sup>4/</sup>

27. The members of the Commission had raised no objection to those arrangements and the Chairman had invited Professor Katz to make a statement concerning the study which had been entrusted to him. The latter had said on that occasion: "The work would be the sole responsibility of the Harvard Law School and it was hoped that it would be accepted as a contribution to a general understanding of the subject. If, also, the study were to prove of use to the Commission, that would be a source of particular gratification to him and his colleagues."<sup>5/</sup>

28. The new Harvard draft<sup>6/</sup> had been submitted to the International Law Commission in 1959 and discussed in the presence of Professors Richard R. Baxter and Louis B. Sohn. It should be stressed, in that connexion, that the draft had been printed at the expense of the Harvard Law School and that it had been circulated as a Commission document but that Professors Baxter and Sohn had made a certain number of copies available to the members of the Commission. The draft had been the object of mixed praise and criticism. It was interesting to note, in that connexion, that the representative of Czechoslovakia, Mr. Zourek, had considered it, on the whole, useful for the work of the Commission and had believed that that kind of consultation with scientific circles should continue and be expanded to other legal systems.<sup>7/</sup>

29. As a matter of fact, such an expansion had already begun, since the Commission indicated in its report (A/4425, paras. 43 and 44) that it had heard, in addition to Professor Sohn, Mr. Gómez Robledo, observer for the Inter-American Juridical Committee, and that it was to send its Special Rapporteur on State responsibility, Mr. García Amador, as an observer at the fourth session of the Asian-African Legal Consultative Committee. The Commission would surely also welcome consultation with scientific institutions in Eastern European countries. The Commission was, furthermore, still at the beginning of its work on the question and, in the absence of any draft, even a preliminary one, it was premature to speculate about the principles that it would follow.

30. The consultations which had taken place between the Commission and the Harvard Law School had nothing secret about them and were in full conformity with the Statute of the Commission, which stated in article 26, paragraph 1: "The Commission may consult with any international or national organizations, official or non-official, on any subject entrusted to it if it believes that such a procedure might aid it in the performance of its functions." (See General Assembly resolution 174 (II).)

31. Furthermore, how could the fact that the Secretary of the Commission, Mr. Liang, had helped to arrange those consultations, which were both legal and useful,

be used as a pretext to attack his integrity as an international civil servant? Mr. Liang had not sought nor received instructions from any Government or from any other authority external to the Organization: he had simply endeavoured to inform the International Law Commission in order to assist it in its task of codification, a fact which the Commission's members themselves, including Mr. Zourek, had acknowledged.

32. It was natural to think that the Harvard draft of 1929, whose importance was acknowledged by specialists in international law, would be of use to the Commission; likewise, a revision of that draft seemed justified in view of the lapse of time since its preparation. It was Mr. Liang's duty to see to it that the Commission had at its disposal the necessary reference material, and, in 1956, the date on which it had taken up the subject of State responsibility, there was no other draft in existence prepared by a scientific body. Nor was there any evidence that Mr. Liang had intended to influence the Commission: the Harvard draft had been only one piece of information submitted for the criticism of the distinguished jurists who made up that Commission. Furthermore, the Commission had on several other occasions used drafts prepared by the Harvard Law School, for instance, in its work on the law of the sea and on diplomatic and consular intercourse and immunities.

33. Regarding Mr. Liang's participation in the work of the Harvard Law School, he recalled that, in accordance with their constant practice, the members of the Secretariat had always collaborated with scientific institutions concerned with the work of the United Nations, without engaging the responsibility of the Organization. In that connexion, Mr. Liang had himself reiterated at the eleventh session of the International Law Commission: "There had been no responsibility on the part of the United Nations Secretariat so far as the financing and the substance of the draft were concerned". He had also expressed the hope that "similar efforts would be made in States where a different legal concept of general international law prevailed and that before long the Commission would have available similar works for the purposes of comparison".<sup>8/</sup>

34. He hoped that he had thus made it clear that the criticism directed by the representative of Czechoslovakia against a member of the Secretariat was without foundation and was no doubt due to some misunderstanding.

35. Mr. CERNIK (Czechoslovakia), exercising his right of reply, said that the statement of the Legal Counsel did not answer the remarks that he had made at the previous meeting with a view to proving that the action taken by Mr. Liang was incompatible with his position as an international official in the sense of Article 100, paragraph 1, of the Charter.

36. He recalled that, under the terms of article 26, paragraph 1, of the Statute of the International Law Commission (General Assembly resolution 174 (II)), "the Commission may consult with any international or national organizations, official or non-official, on any subject entrusted to it if it believes that such a procedure might aid it in the performance of its functions". Thus, the Commission had sole authority to select the subjects for consultation and the body it would consult in discharging the functions entrusted to it by the

<sup>4/</sup> Ibid., para. 18.

<sup>5/</sup> Ibid., 373rd meeting, para. 27.

<sup>6/</sup> Harvard Law School, *Convention on the International Responsibility of States for Injuries to Aliens* (Preliminary Draft with Explanatory Notes), Harvard Law School, 1959.

<sup>7/</sup> *Yearbook of the International Law Commission*, 1959, vol. I (United Nations publication, Sales No.: 59.V.I, Vol. I), 513th meeting, para. 2.

<sup>8/</sup> Ibid., 512th meeting, paras. 42 and 43.



Charter. Yet, there was no statement by the International Law Commission in any of its documents that it had decided to consult the Harvard Law School on the question of the convention under discussion and on matters of law relating to the responsibility of States. On the other hand, the following statement appeared in the summary records of the discussions of the International Law Commission at its eleventh session: "Mr. Liang, Secretary to the Commission, recalled that during the discussion on State responsibility at its eighth session (1956), he had informed the Commission about the collaboration between the United Nations Secretariat and the Harvard Law School in the preliminary work on that topic. As he had indicated at the time, he had largely been responsible for initiating the co-operation inasmuch as he had suggested that the Harvard draft of 1929... might be revised and that a new draft would be of great service to the Commission."<sup>9/</sup> It was clear from that quotation that the United Nations Secretariat had established collaboration with the Harvard Law School on the question of the responsibility of States, that the initiative had been taken by Mr. Liang, and that the purpose of the collaboration between the Secretariat and the Harvard Law School had been to influence the work of the International Law Commission on that topic. Furthermore, Mr. Liang had merely informed the Commission of such collaboration which had been established without its knowledge and without its authorization.

37. The results of the collaboration between the Secretariat and the Harvard Law School had been considered in 1959 at the 512th and 513th meetings of the International Law Commission. The record of the 512th meeting stated:<sup>10/</sup> Mr. Liang "was glad to have persuaded the Harvard Law School to have taken up the work and he was certain that the Commission would welcome the opportunity of availing itself of that type of outside collaboration". There were no provisions in the Statute of the International Law Commission authorizing the Secretary of the Commission to take such action. But Mr. Liang had gone further; he had personally taken part in the revision of the draft, as was shown in the introduction to the revised draft.<sup>11/</sup> Who had authorized Mr. Liang to do so? The provisions of the Staff Regulations did not authorize a member of the Secretariat to give orders to an organ of the United Nations. The provisions of regulation 1.4 of the Staff Regulations stated that: "Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants... They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status." Furthermore, regulation 1.6 provided that "no staff member shall accept any honour, decoration, favour, gift or remuneration from any source external to the Organization, without first obtaining the approval of the Secretary-General". He next read out regulation 1.9 of the Staff Regulations, setting forth the text of the oath or declaration to which Mr. Liang, as a member of the Secretariat, had had to subscribe: "I solemnly swear (undertake, affirm, promise) to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations,

to discharge these functions and regulate my conduct with the interests of the United Nations only in view...". The Czechoslovak delegation considered that the actions of Mr. Liang were altogether incompatible with that oath and that he had thereby grossly violated it. The Secretariat would no doubt draw the necessary conclusions.

38. Mr. STAVROPOULOS (Legal Counsel) stated that it was correct that Mr. Liang had taken the initiative, that the action had been entirely legitimate, and that the International Law Commission had approved it.

39. Mr. GLASER (Romania) considered that the Legal Counsel's reply to the remarks of the representative of Czechoslovakia raised important questions of principle which must be cleared up. He asked that the following meeting begin with the continuation of discussion of that point.

40. Mr. MONACO (Italy) asked that the text of the Legal Counsel's reply would be distributed as a document or appear in full in the record.

41. Mr. MOLINA LANDAETA (Venezuela) believed that the problem under discussion was unrelated to the agenda of the Sixth Committee. It was a very grave accusation to cast doubt on the integrity of members of the International Law Commission. He proposed that the Committee should first conclude discussion of the agenda item it was considering and then return to the explanations given by the Secretariat.

42. Mr. GLASER (Romania) thought that, in view of the importance of the question raised, the discussion already begun should not be interrupted or even delayed. There were not two questions, but only one. To be able to consider the Commission's report with full knowledge of the facts, the Sixth Committee ought to know how it was working, how its work was organized, what were its means of information, and what method it was following in order to codify the existing rules of law and to develop those that were inadequate. Those members of the Sixth Committee who asked questions were entitled to receive answers and to explain their viewpoints to those who did not share their opinion.

43. Mr. MAURTUA (Peru) said that the question raised by the representative of Czechoslovakia and the question of State responsibility were no doubt linked, but the Sixth Committee was not supposed to deal with State responsibility at the present session. He proposed, therefore, that, after hearing at the following meeting those representatives who wished to speak on the subject, the Committee should consider the incident closed.

44. Mr. MOROZOV (Union of Soviet Socialist Republics) considered the argument presented by the representatives of Peru and Venezuela to be unfounded. The matter raised was not merely procedural, and there was no question of putting a member of the Secretariat on trial. It was the very organization of the International Law Commission's work which was at stake. The Commission must bear in mind the various legal systems that existed in the world. In the specific instance of State responsibility, its work had been poorly organized, giving rise to a draft of reactionary nature directed against the interests of the new independent States. The question of State responsibility appeared on the agenda of the Commission, which had already published five reports on the subject. Furthermore, the programme of work for its thirteenth session

<sup>9/</sup> Ibid., para. 2.

<sup>10/</sup> Ibid., para. 3.

<sup>11/</sup> See footnote 6.

was known to the Sixth Committee; the latter was, therefore, within its rights in advising the Commission on the direction to be given its work.

45. After an exchange of views between the CHAIRMAN and Mr. MOLINA LANDAETA (Venezuela), the CHAIRMAN asked the Committee if it were willing to conclude first the discussion of the first agenda item and then to resume discussion on the point in dispute.

46. Mr. MOROZOV (Union of Soviet Socialist Republics), moved the adjournment of the meeting and requested that the motion be immediately put to a vote, in accordance with rule 119 of the rules of procedure.

*The motion was carried by 45 votes to 3, with 4 abstentions.*

The meeting rose at 1.35 p.m.