



Tuesday, 8 November 1960,
at 10.55 a.m.

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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; A/C.6/L.467) (*continued*)

1. The CHAIRMAN asked the Committee to consider the two draft resolutions before it, one (A/C.6/L.467) submitted jointly by Afghanistan, Ceylon, Ghana, Iraq, Mexico, the United Arab Republic, Venezuela and Yugoslavia, and the other (A/C.6/L.468) by Bolivia and Mexico.

2. Mr. VASCONSELLOS (Paraguay) thought that priority should be given to the two-Power draft resolution (A/C.6/L.468), because it reflected the result of the debate in the Committee.

3. At the suggestion of Mr. NINCIC (Yugoslavia), the CHAIRMAN invited the Committee to consider the two draft resolutions at the same time, as they were not contradictory, and then to vote on them separately.

It was so decided.

4. Mr. CORONA (Cuba) fully endorsed the spirit of the eight-Power draft resolution (A/C.6/L.467), because it highlighted the crisis in international law and the slow pace of its development.

5. The question of peace and the peaceful coexistence of States, to which the draft referred, was a basic one. The Charter was continually being violated, and when a country like Cuba, with a Government striving for peace and fraternal relations between nations, sought to assert its right to self-determination, it became the victim of unjustifiable acts of economic and political aggression. The Sixth Committee should therefore endeavour to enhance the prestige of international law by ensuring the strict application of the principles of the Charter and, in particular, the principle of the sovereignty of States.

6. On the other hand, the Cuban delegation wondered whether the establishment of another committee, as proposed in the draft resolution, would not have the effect of slowing down the pace of development of international law still further rather than accelerating it.

7. At the request of Mr. NISOT (Belgium) and Mr. CORONA (Cuba), the CHAIRMAN suggested that the Committee should first complete its consideration of the two-Power draft resolution.

It was so decided.

8. Mr. LACHS (Poland) proposed to make the text of that draft clearer by inserting the words "at its twelfth session" after "International Law Commission" in operative paragraph 2. It was the usual practice for the Sixth Committee to thank the International Law Commission for the work accomplished at its last session.

9. Mr. TABIBI (Afghanistan) supported the Polish amendment. Without that amendment, there would be a contradiction between that text in which the General Assembly expressed its appreciation to the International Law Commission for the whole of its work, and the eight-Power draft resolution, which reflected the concern of the majority of the members of the Sixth Committee regarding the Commission's methods of work.

10. Mr. VALLAT (United Kingdom) thought that the Polish amendment should be adopted without debate, but pointed out to the Afghan representative that the amendment should not be interpreted as a criticism of the work of the International Law Commission.

11. Mr. TABIBI (Afghanistan) replied that it had not been his intention to indicate a lack of confidence in the International Law Commission, and that his delegation had always recognized the value of the Commission's work. That did not alter the fact that many delegations, including that of the United Kingdom, had stressed the need for the Commission to improve its methods of work and that the Committee should therefore guard against giving it a blank cheque for the future.

12. Mr. NISOT (Belgium) suggested deletion of the words "of the work accomplished by" in operative paragraph 2 of the two-Power draft resolution (A/C.6/L.468) and substitution of that phrase by the word "to".

13. Mr. EL-ERIAN (United Arab Republic) supported the Polish amendment. Moreover, he suggested deletion of the whole of the second part of operative paragraph 2, because there was good reason to believe that the draft on consular intercourse and immunities would be completed in time for the sixteenth session of the General Assembly.

14. Since he had not mentioned the matter during the general debate, he wished to point out that he supported in principle the decision to refer the draft articles on special missions to the United Nations Conference on Diplomatic Intercourse and Immunities to be held at Vienna, as an exceptional measure, although Governments had not yet had an opportunity to examine them. With regard to paragraph 32 of the report of the International Law Commission (A/4425), relating to diplomatic conferences, he noted that such bodies as conciliation or arbitration committees or commissions of inquiry might be entirely independent of any international organization. His delegation therefore reserved its position on the question and on whether or not the matter should be dealt with by the Vienna Conference.

15. Mr. LUTEM (Turkey), Mr. MUSTAFA (Pakistan) and Mr. KUMA (Ghana) supported the Polish amendment and stated that it could not be construed as a direct or indirect criticism of the International Law Commission.

16. Mr. MAURTUA (Peru) said that, in so far as the debate implied criticism of the International Law Commission, it appeared to jeopardize the understanding which had always existed between that body and the Sixth Committee. The Belgian proposal would have the effect of withdrawing the confidence which the General Assembly had always placed in the International Law Commission. His delegation therefore wished to make it clear that, by supporting the Polish amendment, it was merely reaffirming the confidence expressed every year in the International Law Commission.

17. As to the second part of operative paragraph 2 of the draft resolution, he believed that it was never superfluous to express a hope.

18. Mr. GONZALEZ GALVEZ (Mexico), as co-sponsor of the draft resolution, accepted the Polish amendment, but did not agree with the Afghan representative regarding its implications.

19. At the suggestion of Mr. EL-ERIAN (United Arab Republic), supported by Mr. GONZALEZ GALVEZ (Mexico), Mr. BARNES (Liberia) and Mr. PERERA (Ceylon), the CHAIRMAN suggested, as a matter of courtesy, that the Committee should wait for the representative of Bolivia, the other co-sponsor of the draft resolution, before putting it to the vote.

It was so decided.

20. Mr. MOVCHAN (Union of Soviet Socialist Republics) supported the Polish amendment; he found it perfectly logical, since the whole of the two-Power draft resolution (A/C.6/L.468) dealt only with the work accomplished by the International Law Commission at its twelfth session. As the Afghan representative had pointed out, the general question of the future activities of the International Law Commission was dealt with in the eight-Power draft resolution (A/C.6/L.467).

21. Mr. PERERA (Ceylon) shared that view.

22. With the concurrence of Mr. EL-ERIAN (United Arab Republic) and Mr. GONZALEZ GALVEZ (Mexico), Mr. NUÑEZ (Ecuador), supported by Mr. BUCETA (Argentina) and Mr. MAURTUA (Peru), requested that the two-Power draft resolution should be put to the vote immediately.

23. Mr. CERNIK (Czechoslovakia) and Mr. NEDBAILLO (Ukrainian Soviet Socialist Republic) said that the Polish amendment should not raise any difficulty, because it was nothing more than a clarification which did not alter the substance of the draft resolution.

24. Mr. PERERA (Ceylon), speaking on a point of order, requested that the vote be taken at once.

25. Mr. CHAIRMAN acknowledged that the majority of the Committee members appeared to want an immediate vote on the draft resolution; he hoped that the delegation of Bolivia would not interpret it as a discourtesy.

26. Mr. BARNES (Liberia), supported by Mr. EL-ERIAN (United Arab Republic), proposed that operative paragraph 1 should be redrafted to read: "Takes note

of the report of the International Law Commission;"—that would bring it into line with the wording used in previous years.

27. Mr. PERERA (Ceylon) agreed with the substance of the Liberian amendment, but thought that it would be better, to avoid repetition of the first paragraph of the preamble which already mentioned the "report of the International Law Commission", to say: "Takes note of the said report;"—deleting the words "of the contents".

28. Mr. BARNES (Liberia) accepted that suggestion.

29. At the request of Mr. USTOR (Hungary), and following an exchange of views in which Mr. MAURTUA (Peru), Mr. EL-ERIAN (United Arab Republic), Mr. PERERA (Ceylon), Mr. ROSENNE (Israel), Mr. GIASER (Romania) and Mr. LACHS (Poland) took part, the CHAIRMAN requested the Rapporteur to state in his report that the decision to refer the draft articles on special missions to the Vienna Conference without prior consultation of Governments was an exceptional measure and should not constitute a precedent.

30. The CHAIRMAN invited the Committee to vote on the Polish amendment to insert the words "at its twelfth session" after "International Law Commission" in operative paragraph 2 of the joint draft resolution (A/C.6/L.468).

The amendment was adopted unanimously.

31. The CHAIRMAN invited the Committee to vote on the Liberian amendment to delete the words "of the contents" in operative paragraph 1.

The amendment was adopted by 50 votes to 1, with 7 abstentions.

32. The CHAIRMAN put to the vote the draft resolution (A/C.6/L.468) as a whole, as amended.

The draft resolution (A/C.6/L.468) as a whole, as amended, was adopted unanimously.

33. Mr. ITURRALDE CHINEL (Bolivia) apologized for having been unable to be present at the beginning of the meeting, as he had had to make a statement in the Special Political Committee. He was highly gratified by the unanimous adoption of the draft resolution he had co-sponsored.

34. Mr. MOLINA LANDAETA (Venezuela) said that he had voted for the Polish amendment because he wished to express appreciation of the value of the work accomplished by the International Law Commission at its twelfth session.

35. Mr. HAREGOT (Ethiopia), referring to operative paragraph 3, recalled that his delegation had suggested at the previous session (635th meeting, para. 2) that the question should be settled by the Sixth Committee and not referred to an international conference in order to avoid unnecessary expenditure; however, he stated that his Government, animated by the desire to conform to the wishes of the majority of the Committee and in a spirit of co-operation, had accepted the invitation of the Secretary-General to attend the Vienna Conference, and, in that same spirit, he agreed that the draft articles on special missions should be referred to that Conference.

The meeting rose at 1 p.m.