



CONTENTS

Agenda item 89:

Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law: report of the Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law (continued) 115

Chairman: Mr. Abdullah EL-ERIAN
(United Arab Republic).

AGENDA ITEM 89

Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law: report of the Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law (continued) (A/5455 and Add.1-6, A/5744 and Add.1-4, A/5790, A/5791, A/5803, chap. VII, sect. III, para. 346; A/5887; A/C.6/L.565.

1. Miss SEYMOUR (Secretariat), in reply to the questions put to her directly or indirectly by certain delegations (859th meeting), particularly that of Canada, gave details of the technical, financial and procedural implications of the suggestions contained in the report of the Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law (A/5887).

2. Any proposal to undertake technical assistance activities specifically devoted to international law would involve two kinds of expenditures: "Secretariat" costs, for the general administration of the programme, and "project" costs, for direct technical assistance to a Government or group of Governments.

3. The Secretariat costs would consist of the remuneration of the extra staff to be assigned to the Office of Legal Affairs on a permanent basis for the administration of the programme, the remuneration of the temporary staff to be recruited for the preparation of a legal survey, and the cost of publishing such a survey. Those costs would amount to at least \$68,000 in 1967 and \$75,500 in 1968, and no doubt comparable amounts annually thereafter, without counting related costs for office supplies, correspondence and staff travel, which were difficult to estimate. No provision had been made for expenditure in 1966, as the work to be carried out would be purely preparatory and could be done without

additional cost by the present staff of the Office of Legal Affairs.

4. It had been proposed that the Secretariat costs should be financed by the United Nations Institute for Training and Research (UNITAR). It must not be forgotten, however, that that Institute was only just beginning to receive the voluntary contributions on which it was entirely dependent. Its Board of Trustees, which was responsible for deciding on its activities, had already prepared its initial programme. No doubt the General Assembly could put suggestions to the Institute's Board of Trustees, but the Board would have to consider them in the light of its other activities and its anticipated annual resources.

5. A proposal had also been made to include the Secretariat costs in the regular budget of the United Nations. As that would create a financial liability for the United Nations, however, the Committee would have to make a specific recommendation to that effect. That recommendation, accompanied by a statement of financial implications to be prepared by the Secretary-General, would then be submitted to the Fifth Committee, which, in accordance with the rules of procedure of the General Assembly, would then advise the General Assembly on the matter before the Assembly took a decision.

6. As for the project costs for the organization of seminars and training courses, the granting of fellowships and the recruitment of consultants to serve as experts in requesting countries, it had been proposed that they should be financed either under the Expanded Programme of Technical Assistance, under the regular budget of the United Nations, by approaching the United Nations Institute for Training and Research, or by appealing for special donations. The Expanded Programme was wholly financed by voluntary contributions collected centrally under the auspices of the United Nations and distributed through machinery involving the Technical Assistance Committee (TAC), aided by the Technical Assistance Board (TAB) and its Executive Chairman. The Expanded Programme could allocate funds to regional or interregional activities such as seminars only up to a maximum of 16 per cent of its total resources. The programmes were prepared by the countries themselves in consultation with the resident representatives. The requests for assistance submitted by countries were so much in excess of available funds that projects had had to be classified in two categories according to their urgency: thus, category I consisted of projects for which the necessary funds were expected to be available, while category II consisted of projects which would be carried out only if new resources became available. In the opinion of TAC, which had

been asked to examine the possibility of providing technical assistance for international law through the Expanded Programme, the basic rules governing that Programme did not permit any requests for assistance in the general field of international law to be entertained, and there were no grounds for amending those rules; nevertheless, even under existing Expanded Programme legislation Governments could include requests for assistance in the legal field in their applications, as matters of high priority, provided that such assistance had a direct bearing on economic, social and administrative development. Examples of legal questions having such a direct bearing were those connected with international transactions, commercial arbitration, law of the air, the legal régime of waterways, etc. The question had not been re-examined by TAC since 1964.

7. Part V—Technical programmes—of the United Nations regular budget grouped together the funds earmarked for economic, social and public administration projects as a whole and for advisory services in the two special fields of human rights and narcotic drugs control. The TAC was responsible for reviewing the use made of those credits and recommending what their annual level should be. For several years past, it had recommended that the ceiling of the total budgetary funds should be kept at \$6.4 million and that each new programme proposed by a committee or commission should be brought to the attention of recipient countries so that they could take it into account in establishing their own priorities. It was on the basis of those priorities that the programme of the utilization of the credits under part V which the Secretary-General presented each year to TAC was drawn up. Out of the \$6.4 million mentioned, \$220,000 had been specifically allocated to the human rights field and \$75,000 to activities concerning narcotic drugs: those sums were fixed each year according to the proposals made by the Commission on Human Rights and the Commission on Narcotic Drugs, and were used largely for seminars and fellowships. About half of the balance of \$6,105,000 was used to meet the requests of individual countries for the services of experts (as advisers or under the programme for operational, executive and administrative personnel (OPEX)), fellowships and demonstration equipment. The remainder was used for carrying out, at the collective request of the Governments of the countries concerned or on the proposal of the functional committees of the Economic and Social Council, of regional and interregional projects in such high-priority fields as those of industry, housing, demography, statistics, economic projections, planning, etc. As in the case of the Expanded Programme, applicant Governments set their own priorities when they made their requests, and except for human rights and narcotic drugs there was no field for which specific allocations were made.

8. The projects concerning international law which had been submitted to the Sixth Committee could only be financed under part V by taking funds away from development activities to which the Economic and Social Council, the General Assembly and the Governments concerned had already given high priority. Consequently, the Secretary-General had informed

the Special Committee that in view of the present ceiling part V funds could not be used to finance activities of the type or magnitude recommended. As the Secretary-General had pointed out to the Special Committee, any new programme of that type would necessitate the appropriation of additional budgetary funds which would have to be earmarked specifically for the new purpose. The estimated cost would be \$151,000 for 1967 and over \$200,000 per year from 1968 onwards. If the Assembly so decided, the necessary additional funds could form a separate section of part V and would have to be specifically earmarked and kept separate from the existing appropriations for economic and social development. Alternatively, they could form a new section of the part of the budget devoted to special expenses. In either event, the General Assembly, which was the only body authorized to raise the level of the regular budget, would have to authorize the appropriation of additional budgetary funds.

9. As far as UNITAR was concerned, its Board of Trustees, which was an independent body, would be responsible for seeing what aid it could give from the purely voluntary contributions through which the activities of UNITAR were financed; at present, however, it did not seem to have any surplus resources at its disposal.

10. Finally, there remained the possibility of appealing for special voluntary donations. Under General Assembly resolution 1968 C (XVIII), the Secretary-General was already authorized to accept contributions made specifically for technical assistance in the field of international law. The Secretary-General had sent a written appeal to Governments and, through them, to institutions and possible private donors, but had not so far received any replies.

11. Mr. COOMARASWAMY (Secretariat) explained that requests from Governments for assistance with respect to international law could be accepted under the Expanded Programme of Technical Assistance provided that the projects were directly linked to the economic, social and administrative development of the country concerned. Technical assistance had already been provided in several cases, in the form of fellowships or advisory services, in connexion with legal questions relating to trade arbitration, law of the air, labour legislation, the development of water resources, copyright, etc.

12. Mr. SINCLAIR (United Kingdom) asked Mr. Coomaraswamy whether he could say which of the projects referred to in part IV of the Special Committee's report (A/5887) could, at the request of the countries concerned, be financed under the Expanded Programme.

13. Mr. MONTERO (Costa Rica) asked whether some projects could be financed out of the funds that would be saved if economy class travel were adopted for Secretariat staff and members of delegations.

14. Mr. WERSHOF (Canada) asked whether procedures had already been envisaged for the utilization of any funds that might be forthcoming from voluntary contributions received in response to the Secretary-General's appeal, or whether their utilization would

be left to the initiative of the Secretary-General, possibly assisted by the advisory committee whose establishment had been recommended by the Special Committee. He wished to know whether there were any precedents for the establishment of a voluntary contribution fund for technical assistance programmes falling outside the scope of the Expanded Programme. He also wished to know whether, if necessary, the recipient countries could ask the Secretary-General to employ part of the funds to provide educational institutions with a set of United Nations publications or to organize a regional training or refresher course.

15. Mr. SEATON (United Republic of Tanzania) pointed out that it was incorrect to say that no voluntary contributions had been offered pursuant to General Assembly resolution 1968 (XVIII): the United Republic of Tanzania had in fact made an offer to the Secretariat (A/5744/Add.4). He would be grateful if the Secretariat would indicate the sum needed to establish an institute of international law for post-graduate students, according to the recommendation made in the Special Committee's report (A/5887, para. 89).

16. Mr. COOMARASWAMY (Secretariat), said in reply to the United Kingdom representative's question, that the regulations governing the Expanded Programme provided only for carrying out economic and social projects. Consequently, activities relating to the principles of the United Nations Charter and to diplomatic relations and immunities (A/5887, para. 98 (a)) could not be financed under the Programme, although it might be possible to finance activities relating to the law of treaties. As for fellowships (*ibid.*, para. 98 (b)), the exact nature of the proposed studies would have to be known before a reply could be furnished; the same was true of advisory services and legal publications.

17. Mr. SINCLAIR (United Kingdom) thanked Mr. Coomaraswamy for his explanation. He asked to what extent economic and social development projects could include legal matters. The types of assistance which had been mentioned—in the matter of trade arbitration, for example—were certainly related to administrative development, for they were intended to train personnel in administrative techniques. Surely other types of assistance in the international law field would qualify if they helped to develop administrative techniques.

18. Mr. COOMARASWAMY (Secretariat) replied that everything connected with the development of administrative techniques in government machinery was related to the sectors mentioned.

19. Mr. ROSENNE (Israel) asked, with reference to a possible amendment of the rules and regulations governing the Expanded Programme of Technical Assistance (A/5791, para. 55), who had adopted those rules and regulations and who would be empowered to amend them.

20. Miss SEYMOUR (Secretariat) stated in reply to a question by the Costa Rican representative that total appropriation assessments for 1966 exceeded authorized expenditure for 1965 by several million dollars and that the savings on delegations' travel

expenses, which would be very small in comparison, could not constitute a source of financing.

21. Replying to the Canadian representative's question concerning requests relating to administrative development, she explained, after having consulted the Legal Counsel, that such requests appeared to be acceptable. With regard to the management of any voluntary contributions that might be received, she said that the Secretary-General was no doubt empowered to administer those funds and that an administrative procedure already existed for questions such as the choice of premises which might be necessary, recruitment of staff, granting of fellowships, etc. In that connexion she drew attention to part V of the Special Committee's report.

22. For the benefit of the representative of the United Republic of Tanzania, she explained that in her previous statement she had referred only to the absence of financial contributions to a fund that would be used to finance the proposed activities. The programme to which that representative had referred would undoubtedly be very expensive, but she could not for the moment give an exact figure.

23. Mr. STAVROPOULOS (Legal Counsel) expressed regret that the offer of the United Republic of Tanzania had not been mentioned and confirmed that no financial contribution had so far been received.

24. Mr. COOMARASWAMY (Secretariat) said in reply to the Israel representative that the scope of programmes to be carried out under technical assistance had been defined by the Economic and Social Council in resolution 222 A (IX), which had been approved by the General Assembly. Any proposed amendment would have to be submitted to TAC, which would then transmit a recommendation on that subject to the Economic and Social Council, which would refer the matter to the General Assembly through the usual channels.

25. Mr. DEJARDIN (Belgium) noted that according to Miss Seymour's statement certain activities connected with administration development could be financed under part V of the regular budget. Did training courses come under that category to the extent to which they contributed to the administration development of a country? He had on a former occasion requested the Secretariat to provide information concerning the proposed programmes which dealt with matters within the purview of the Sixth Committee.

26. Miss SEYMOUR (Secretariat) said that according to the procedure for financing programmes under part V of the budget Governments which considered that priority should be given to regional seminars, or short training courses such as those contemplated by the Belgian representative, could always submit their requests to the technical assistance resident representative.

27. Mr. SPERDUTI (Italy) read out a passage from the Annual Report of the Secretary-General on the Work of the Organization for 1964-1965 (A/6001, chap. X, A.2, third paragraph) which dealt with the possibility of utilizing such savings as might become available under part V of the United Nations regular

budget for the organization of one or more regional training courses in human rights. He wished to know if it was intended to effect savings under part V of the budget and, if so, if there existed an order of priority applicable to the various programmes and finally whether it would be possible to have recourse to the same procedure for organizing training courses in international law, subject of course to the same reservations as in the case of the training courses in human rights.

28. Miss SEYMOUR (Secretariat), in reply to the Italian representative, recalled the primary purpose of part V of the regular budget. There had never been any question of using any possible savings for international law programmes. Special measures were taken to allocate a part of the credits under that part of the budget to specified programmes connected with human rights and narcotics control. Further, although the credits allotted to the three other sectors, the financing of which had been included under that part (economic development, social activities, public administration), were grouped together in the same account, the assignment of any money which might become available owing to any savings under part V was nevertheless subject to budget regulations. If any derogation therefrom was desired it would be necessary to resort to a procedure similar to that required in the case of the Expanded Programme. An order of priority had already been established and as no provision had been made for allotting any part of the credits opened under part V of the budget to an international law programme, the Sixth Committee would have to request a supplementary credit if it wished to finance the work in view out of the ordinary budget.

29. Mr. O'HARA (United States of America) noted that in the report on certain activities of UNESCO (A/C.6/L.565), UNESCO planned to hold an advanced training course in international law in 1967-1968 under the Regional Technical Assistance Programme for Africa and asked whether UNESCO could not itself supply the necessary funds.

30. Mr. GAGLIOTTI (United Nations Educational, Scientific and Cultural Organization) replied that as stated in document A/C.6/L.565 the course was being organized under the Regional Technical Assistance Programme for Africa and was subject to the approval of TAB.

31. Mr. DEJARDIN (Belgium) asked if it was true that the Board of Trustees of UNITAR contemplated including in that body's programme of work certain activities connected with the dissemination and teaching of international law.

32. Mr. D'ARBOUSSIER (Executive Director of the United Nations Institute for Training and Research) replied in the affirmative. The Board of Trustees of UNITAR during its recent session had examined the initial programme of work which that body might undertake in 1966. The programme was divided into two parts, namely, training and research. With regard to research the Board of Trustees had examined the possibility of undertaking a study of the methods and techniques of interest to those bodies of the United Nations which dealt with the promotion and

protection of human rights and also the impact of those activities on the methods and techniques, such as seminars or fellowships which might be forthcoming. Nevertheless, the Board of Trustees had not decided on any specific programme as it was waiting to see if the discussions in the Sixth Committee would lead to any directives of a general nature that might be of use to UNITAR when called upon to undertake any studies in the matter. The Board of Trustees had not considered financing a seminar on questions of international law, but that possibility was not excluded. Although an autonomous body, UNITAR was nevertheless at the service of the United Nations, its Secretariat and other organs and would in every case give careful consideration to any request that might be submitted, bearing in mind the means at its disposal.

33. Mr. YANKOV (Bulgaria) wished to submit a question to the Executive Director of the Institute concerning the training and research programme, in view of the Secretary-General's report on UNITAR (A/6027), in particular paragraph 9 which stated: "Some representatives proposed that UNITAR should offer guidance to other organizations and institutes engaged in training and research connected with the objectives of the United Nations." If during the discussion of the Special Committee (A/5887) and in particular of those subjects which might possibly form part of the programme to promote the teaching and dissemination of international law, questions came up connected with the legal situation or functioning of an international institute, would those questions come within the programme of training and research contemplated by UNITAR? Moreover, the Secretary-General's report (A/6027) and the statement made by the Executive Director of UNITAR at the closure of the second session of its Board of Trustees (UNITAR/BT/12) indicated that the Institute's initial work programme of research would include the possibility of undertaking operational evaluation of the World Food Programme projects, a survey of existing studies on the instrumentalities of United Nations peace-keeping and a feasibility study of technological and scientific resources released by disarmament. As all those questions were partly of a legal nature he hoped that the Executive Director of UNITAR would state if, in his opinion, the programme for the teaching and diffusion of international law under consideration by the Sixth Committee could find a place in these projects, since UNITAR must give attention above all to the practical side of those questions and take care to obviate any duplication.

34. Mr. D'ARBOUSSIER (Executive Director of the United Nations Institute for Training and Research) said that it was a principle of UNITAR that its activities with respect to training and research were completely inseparable. Division in instruction could be avoided to a certain extent by making a less absolute distinction between theoretical and practical work. The first programme of UNITAR had provided for questions of training in which research would have a prominent place as well as concrete research designed to aid various United Nations programmes. What interested UNITAR in its study of programme evaluation, however, was the extent to which it could

work out a kind of evaluation methodology which could be used by the entire United Nations.

35. With regard to the Bulgarian representative's second observation, there was in fact a legal aspect to all of the different projects of UNITAR, and it would therefore be useful to determine what common elements they possessed in that regard. UNITAR was prepared to conduct research along those lines if the Committee wished. As the newest establishment of its kind, it could not, of course, seek to be the main source of guidance for other institutes. Nevertheless, it would seem admirably suited, by virtue of its central position, to the task of integrating and co-ordinating various activities which sometimes competed unnecessarily.

36. Mr. EL-REEDY (United Arab Republic) asked whether the Committee or the General Assembly could request the Secretary-General to earmark certain funds for the purpose of financing some of the activities proposed in the report of the Special Committee. If so, he would like to know what steps the Secretary-General would have to take for that purpose.

37. Miss SEYMOUR (Secretariat) said that if to "earmark funds" meant simply to establish a new claim for the general field of international law under the existing provisions of the regular budget, it would appear that that could be accomplished only under part V—Technical programmes. From a purely technical standpoint, however, she did not think it desirable for such a step to be proposed by the Committee or taken by the General Assembly. The Secretariat was, of course, well aware that the General Assembly had absolute authority in the matter. In such a case, the normal procedure for reviewing the level of expenditure under part V should come into play, i.e. the General Assembly should obtain the views of TAC before taking a decision.

38. She thought, however, that she should recall the statement which the Secretary-General had made early in the year (see A/5887, annex, para. 3), as well as in 1964 and 1963, to the effect that the funds now available under part V were not sufficient to accommodate international law as a new and identifiable activity.

39. If to "earmark funds" meant to obtain a new appropriation, the proper procedure would be the following: the Sixth Committee would have to adopt a draft resolution proposing that the General Assembly should authorize the Secretary-General to request a suitable budgetary appropriation for the programme in question. The resolution would be transmitted to the Fifth Committee together with a statement on the financial implications prepared by the Secretary-General. The resolution, accompanied by the Fifth Committee's comments on its financial aspects, would then be submitted to the General Assembly for adoption.

40. Mr. ALCIVAR (Ecuador) said that he was making a statement at the present stage of the general debate, although as Rapporteur of the Sixth Committee he should have spoken last, because his country had been one of the six members of the Special Committee

on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law. Mr. Bal, the Rapporteur of the Special Committee, had clearly explained the difficulties encountered by the members of the Committee in preparing a far-reaching programme of work at a time when the United Nations was passing through a grave financial crisis. That was why the programme for the first two years was on a relatively modest scale.

41. That effort to reconcile the irreconcilable was being made for an important reason: in order to stress the part which law—in particular, international law—must play in rebuilding a world community whose foundations had been undermined as a result of many different circumstances. He had been struck by an observation which a representative of an Asian country had made in the Committee at the sixteenth session to the effect that man had learned how to destroy mankind and must now learn how to save it. The truth of that remark was apparent from the events of the past twenty years. Almost before the embers of the Second World War had ceased to glow, a legal instrument had been signed at San Francisco, in the hope that it would serve as an ultimate guide for the future of men and nations. At the same time, however, new instruments of war had appeared which were destined to change the course of history. The subsequent advances in increasing the destructive power of nuclear energy made it clear what the consequences might be for the entire world. Man had to face other difficulties as well. He needed enough food to satisfy his hunger, and, in the matter of decolonization, although a great deal had been accomplished, there was still much to be done in order to ensure that the old forms of colonialism did not make way for the new methods of domination.

42. The United Nations Charter was more than a mere multilateral treaty. It enunciated purposes and principles which created rights to be exercised by all the peoples of the world. Far from being a static instrument, it possessed the dynamism lent by an evolving society, and there was an appropriate part for all to play in that regard. General Assembly resolutions 1816 (XVII) and 1968 (XVIII) had been drafted in that spirit, and that was also the spirit in which the members of the Special Committee had carried out the task assigned to them. The Sixth Committee had never failed to state its satisfaction with the work accomplished by the International Law Commission, and it had shown great interest in the Hungarian Government's proposal (A/5933) concerning steps to be taken for progressive development in the field of private international law, which would be considered in due course. It was essential, however, to give world-wide publicity to the rights acquired by peoples under the United Nations Charter. In spite of its size, the world was becoming more and more interdependent. The recommendations made by the Special Committee were merely a first step in an undertaking which must be given broad scope and lasting form in the future. The idea of establishing an institute of international law where young people with legal training could study the development of international law under the auspices of an international body thus deserved every consideration.

43. In conclusion, he wished to pay a tribute to all those, whether members of the Special Committee or representatives of the Secretariat, who had made it possible for the Committee to carry out its task successfully. He hoped that mankind, which had

employed so much of its material resources for destructive purposes, could make a small sacrifice in order to ensure its survival.

The meeting rose at 5.10 p.m.