

GENERAL ASSEMBLY

TWENTY-EIGHTH SESSION

SIXTH COMMITTEE

Summary record of the 1394th to the 1459th meetings, held at Headquarters,
New York, from 19 September to 17 December 1973

1394th meeting

Wednesday, 19 September 1973, at 9.20 p.m.

Temporary Chairman: Mr. Leopoldo BENITES (Ecuador).

A/C.6/SR.1394

Election of the Chairman

1. Mr. LONGERSTAEY (Belgium) nominated Mr. Sergio González Gálvez (Mexico) as Chairman.
2. In the absence of further nominations and in accordance with rule 105 of the rules of procedure, the TEMPORARY CHAIRMAN declared Mr. González Gálvez (Mexico) elected Chairman by acclamation.

Mr. González Gálvez (Mexico) was elected Chairman by acclamation.

The meeting rose at 9.25 p.m.

1395th meeting

Tuesday, 25 September 1973, at 11.05 a.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1395

Election of the Vice-Chairmen and the Rapporteur

1. The CHAIRMAN announced the presence of two eminent members of the International Court of Justice: its President, Mr. Lachs, and one of the judges, Mr. Pinto. He also noted that Mr. Castañeda, Chairman of the International Law Commission, and Mr. Aquarone, Registrar of the International Court of Justice, were attending the Committee's proceedings.

2. He drew attention to the problem posed by the election of the Vice-Chairmen and the Rapporteur. He had decided to postpone settlement of the question in the hope that the consultations under way would lead to a satisfactory solution, but the problem would have to be settled without delay because the rules of procedure of the General Assembly provided that the

Committees should elect their Vice-Chairmen and their Rapporteur during the first week of the session.

Tribute to the memory of Mr. Gonzalo Alcívar

3. The CHAIRMAN said it grieved him that his first duty was to pay a tribute to the Committee's most recent South American Chairman, Mr. Gonzalo Alcívar of Ecuador, who had died shortly before.

4. Anyone who had followed the discussions in the Sixth Committee in recent years had been able to appreciate Mr. Alcívar's integrity and fidelity: one could be proud of having been his friend.

On the proposal of the Chairman, the members of the Committee observed a minute of silence in tribute to the memory of Mr. Gonzalo Alcívar.

5. Mr. YASSEEN (Iraq) recalled the bonds of friendship and work that had brought him close to Mr. Gonzalo Alcivar. Everyone had respected him for his sincerity, his attachment to the highest principles and his fidelity to all his duties and to all the ideals that were dear to him. As a jurist, Mr. Gonzalo Alcivar had been an internationalist in the service of the international community, defending with ardour the most lofty principles.

6. Mr. ŠAHOVIĆ (Yugoslavia) recalled the importance of Mr. Alcivar's personal contribution to the work of the United Nations. Mr. Gonzalo Alcivar had seen in international law the basis for better relations between countries, and had always insisted on that humanitarian aspect that was so characteristic of the Latin American concept of international law.

7. Mr. SETTE CAMARA (Brazil) said that he had had the privilege of knowing Mr. Gonzalo Alcivar well for the previous 15 years and had benefited from his help and advice. He had been a great jurist and a remarkable teacher of law; his death would be a great loss to the Committee, to the United Nations and to his country, whose legal tradition he had personified.

8. Mr. ZOTIADES (Greece) said that he had had the great honour of working with Mr. Gonzalo Alcivar and had been able to appreciate his character, knowledge, experience and courage. Mr. Alcivar had been not only a great international jurist but also an internationalist. He expressed his delegation's sympathy to the Government of Ecuador and to Mr. Alcivar's family.

9. Mr. YAÑEZ-BARNUEVO (Spain) said that he had always regarded Mr. Gonzalo Alcivar as more than a colleague or a friend: he had regarded him as a teacher. Wherever he had had the privilege of working with Mr. Alcivar, he had had occasion to admire his qualities as a jurist and as a man, his attachment to the United Nations and his devotion to the international community.

10. Mr. ROSENNE (Israel) said he wished only to recall that everyone had been able to appreciate Mr. Gonzalo Alcivar's great qualities when he had been Chairman of the Sixth Committee. He had personified the Latin American legal tradition and his premature death was a great loss to the United Nations. He expressed his delegation's sympathies to the delegation of Ecuador, to the Minister for Foreign Affairs of Ecuador and to the family of the deceased.

11. Mr. NJENGA (Kenya) said that, having often had the opportunity to work with Mr. Gonzalo Alcivar, he was all the more deeply grieved by his sudden death, which would leave a void in the various United Nations bodies to whose efforts he had contributed so much. He asked the delegation of Ecuador to convey the sympathies of the delegation of Kenya to Mr. Alcivar's family and to the Government of Ecuador.

12. Mr. GARCIA ORTIZ (Ecuador), speaking on behalf of the Government of Ecuador, the delegation of Ecuador, Mr. Alcivar's family and himself, expressed his deep gratitude to all those who had paid tributes to the memory of Mr. Gonzalo Alcivar. The delegation

of Ecuador would try to follow the example which Mr. Alcivar had set.

13. The CHAIRMAN, speaking on behalf of the members of the Sixth Committee, asked the delegation of Ecuador to convey the Committee's sympathies to the Government of Ecuador and to the family of Mr. Gonzalo Alcivar.

Organization of work (A/C.6/419, A/C.6/L.899)

14. The CHAIRMAN said he wished to make some comments on the organization of work, based on the list of agenda items allocated to the Sixth Committee (A/C.6/419) and the note by the Secretariat containing a table showing the allocation of meetings among the various agenda items (A/C.6/L.899). The report of the International Law Commission on the work of its twenty-fifth session (agenda item 89) was the most important matter before the Sixth Committee, because it provided an opportunity to review the development and codification of international law. It also gave the General Assembly an opportunity to direct the work of the Commission by laying down pertinent guidelines. In 1973 the Commission was submitting for the first time a set of articles on State responsibility, which were extremely important, although there might be some reservations about the restrictive approach adopted by the Commission in excluding from the scope of the draft certain acts which, without being defined as wrongful by international law, nevertheless created an objective responsibility or one based on risk, as, for example, those connected with the environment, maritime or nuclear activities or the right of development, and in respect of which there might be a responsibility based on the charter of the economic rights and duties of States or on the notion of collective economic security. The Committee would have to consider that problem and would also have to decide the direction of the future work of the Commission. It would also have to take a decision at the current session on the Commission's request to extend the length of its sessions to 14 weeks.

15. The Committee would likewise have to try to complete the drafting of a convention on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons (agenda item 90) based on the preliminary draft prepared by the Commission. The Committee could consider it in first reading with an indicative vote, transmit it subsequently to a small drafting committee and then consider it definitively in plenary meetings.

16. As to agenda item 91 (International conference of plenipotentiaries on the representation of States in their relations with international organizations), the Committee would only have to decide on participation in the conference and to fix the time and place. The matter could be settled very quickly and the delegations concerned could draft a resolution on the item.

17. The report of the United Nations Commission on International Trade Law on the work of its sixth session (agenda item 92) contained *inter alia* the comments of that Commission on multinational corporations.

That was a burning question with regard to which greater co-ordination was required, since it had also been the subject of studies by the Economic and Social Council and the International Labour Organisation.

18. With reference to item 93, the exact date of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods had still to be fixed; the United Nations Commission on International Trade Law had suggested (see A/9017, para. 138) that it could take place from 17 June to 12 July 1974 in New York immediately after its own seventh session.

19. The Committee would examine the report of the *Ad Hoc* Committee on International Terrorism and the report of the Special Committee on the Question of Defining Aggression (items 94 and 95); that would enable it to assess the progress made in those two fields.

20. Item 96 (Respect for human rights in armed conflicts) was particularly important in view of the fact that the Swiss Government planned to convene a conference at Geneva of States parties to the Geneva Conventions of 1949, from 20 February to 21 March 1974, to complete those instruments and bring them up to date. The Committee would have to examine the report and the study that the Secretary-General had been asked to prepare in General Assembly resolution 3032 (XXVII).

21. While the Review of the role of the International Court of Justice (item 97) had proved useful in previous years, it was not certain that the Committee could make much headway at the current session, for it seemed clear that the attitude of States towards the Court was the basic problem. At the current session, the Committee might again consider the possibility of setting up a special committee or of adopting a draft resolution containing clear-cut recommendations to States and dealing with the functions of the Court, particularly the possibility of speeding up procedure.

22. Items 98 and 99 called for no special comments. The General Committee had left pending the question of the inclusion in the agenda of item 100 (Declaration on Universal Participation in the Vienna Convention on the Law of Treaties), item 101 (Question of issuing special invitations to States which are not Members of the United Nations or members of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice to become parties to the Convention on Special Missions) and item 102 (Amendment to Article 22 of the Statute of the International Court of Justice (Seat of the Court) and consequential amendments to Articles 23 and 28) of the provisional agenda (A/9100), and delegations should inform the Chairman of their views in that regard.

23. He concluded by welcoming the three new Members of the United Nations—the German Democratic Republic, the Federal Republic of Germany and the Commonwealth of the Bahamas—whose presence demonstrated that the United Nations was drawing ever closer to universality.

24. Mr. NJENGA (Kenya) said that his delegation had already observed at the preceding session that delegations did not receive the important report of the

International Law Commission in time to give it serious consideration and comment on it in full. It would therefore be desirable to postpone the discussion of that topic, which was the first of the agenda items referred to the Committee.

25. As to item 96, its consideration should be brought forward so that the International Conference of the Red Cross, which was to be held at the beginning of November, 1973, might have the benefit of the Committee's views on the subject. Item 99, Report of the Committee on Relations with the Host Country, should also be considered earlier in the session, for it was an important topic which could be taken up without further delay.

26. The topics inscribed in the provisional agenda under items 100 and 101 had long received the Committee's attention and, in view of the close relationship between those items and items 91 and 94, it would be advisable to consider them fairly soon.

27. Mr. STAVROPOULOS (Legal Counsel) said that while he sympathized with the views of the representative of Kenya, the Sixth Committee traditionally began its work with the consideration of the International Law Commission's report. The Chairman of the Commission had come from Geneva specially to introduce that report and postponement of its consideration would be awkward. However, the Committee could decide whether it wished in future to continue to take up the Commission's report as the first substantive item each year or whether it would prefer to consider it at a later stage. Turning to item 96, he said that the date indicated in the note by the Secretariat had been chosen precisely because of the international conference of experts, the findings of which would be of the greatest interest to the Committee. The Committee's comments on the item would in turn be helpful to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts which was to be held in February and March 1974. Item 99 could be considered first, but discussion of it might well take more time than was anticipated. The time-table proposed by the Secretariat was as balanced as possible and it would be desirable to adopt it without changes.

28. Mr. GOERNER (German Democratic Republic) thanked the Chairman for his expression of welcome. His country, which had in the past followed the proceedings of the Sixth Committee with the greatest interest and had transmitted comments on several topics relative to the development of international law, was pleased that it would now be able to participate directly in the work of codification and development of international law.

29. Mr. BRACKLO (Federal Republic of Germany) thanked the Chairman for his words of welcome. His country, which attached the greatest importance to the work of the Committee and appreciated the progress made in the development of international law, was happy that it would now be able to co-operate in the Committee's work.

30. Mr. RYDBECK (Sweden), noting his country's interest in item 96, said that he fully shared the opinion

of the Legal Counsel and considered that the item should not be taken up until after the International Conference of the Red Cross, to be held in the first half of November, 1973, when the Sixth Committee would have been apprised of its findings. While an adequate number of meetings had been allowed for the consideration of some items—such as item 97, which was at a fairly advanced stage, and item 99—he was of the opinion, although he was not making a formal proposal, that it would be desirable to set aside one or two extra meetings for the consideration of item 96.

31. Mr. NJENGA (Kenya) said that he would not insist on delaying consideration of the report of the International Law Commission. In the light of the Swedish representative's comments, which he had found convincing, he would agree to consider item 96 on the dates suggested and, if necessary, assigning one or two additional meetings to it.

32. Mr. ROSENSTOCK (United States of America) agreed with the representative of Kenya that it would not be easy to study the report of the International Law Commission in the short time before the item was due to be taken up. However, it would be advisable for the Committee to continue to examine that item at the start of its proceedings, and the Secretariat should be requested to arrange for the Commission's future reports to be issued not later than the third week of August.

33. Mr. YASSEEN (Iraq) said he was of the same opinion as the Chairman, namely that the consideration of the Commission's report was not a routine matter but a very important activity which kept the Committee in touch with the task of the codification and development of international law and made it possible in turn for the Commission to re-examine its work in the light of the Committee's comments. In view of the importance of the topics expounded in the report, the number of meetings set aside for the consideration of the item was quite inadequate and the possibility of allocating additional meetings should be considered. Moreover, the representative of Kenya had been perfectly right to point out that delegations did not have sufficient time to study the Commission's report, and in the future it would be desirable to issue that document earlier.

34. Mr. FEDOROV (Union of Soviet Socialist Republics) welcomed as a victory for the socialist countries, peace-loving and opposed to any form of discrimination as they were, the admission of the German Democratic Republic, the Federal Republic of Germany and the

Commonwealth of the Bahamas to membership in the United Nations. He wished to join in the congratulations which had been addressed to the new Members, whose contribution would be extremely helpful to the Committee in its work.

35. With regard to the organization of work, he felt that the Committee should continue to consider the report of the International Law Commission at the beginning of each session. As to the order in which the Secretariat had proposed that the various items should be taken up, however, he thought it would be desirable to consider items 95 and 99 in fifth and sixth place respectively. Item 97, on the other hand, could be taken up last. Like the Legal Counsel and the Swedish representative, he felt that there was good reason for considering item 96 on the date indicated and after the International Conference of the Red Cross.

36. Mr. SAM (Ghana) said that his delegation had no definite views on the suggestion of the USSR representative. Moreover, since experience had shown that the essential factor to take into account was time, it considered that items 91 and 93, which were not controversial, should be put towards the end of the list, immediately before item 98. It was also of the opinion that it might be necessary to consider devoting more than three meetings to the consideration of item 97.

37. The CHAIRMAN said that there were several questions which should not give rise to controversy: the two items mentioned by the delegation of Ghana—differences concerning which could be settled through negotiation by the delegations concerned—and the report of the United Nations Commission on International Trade Law. He therefore suggested that the Committee should approve the order proposed in the note by the Secretariat, unless there were compelling reasons to justify a change.

38. Mr. STAVROPOULOS (Legal Counsel) observed that it would be preferable not to change the order of items 92 and 93, since after the consideration of item 93 invitations would have to be sent to the Conference in question.

39. Mr. STEEL (United Kingdom) said that he thought the time-table of work suggested by the Secretariat was rational and balanced and that the Committee should approve it.

40. The CHAIRMAN asked delegations with suggestions concerning the organization of work to communicate with him so that it would be possible to draw up a definitive time-table.

The meeting rose at 12.50 p.m.

1396th meeting

Tuesday, 25 September 1973, at 3.25 p.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1396

Organization of work (A/C.6/419, A/C.6/L.899)

1. The CHAIRMAN suggested that, in the light of

comments made at the preceding meeting, a minimum number of meetings should be allocated for consideration of each item on the Committee's agenda for the