United Nations
GENERAL
ASSEMBLY
SIXTEENTH SESSION
Official Records

SIXTH COMMITTEE, 726th MEETING

Thursday, 7 December 1961, at 10.50 a.m.

NEW YORK

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Chairman: Mr. César A. QUINTERO (Panama).

AGENDA ITEM 70

Future work in the field of the codification and progressive development of international law (A/4796 and Add.1-8; A/C.6/L.491 and Corr.1 and 2, A/C.6/L.492 and Corr.1 and Add.1, A/C.6/L.493 and Corr.1) (continued)

1. Mr. CHAMMAS (Lebanon) observed that the item under discussion was important. Law, whether national or international, was not a closed sphere isolated from others. At the national level, the juridical structure was connected with the other structures that made up the whole system, and changes occurring in one of them provoked, in varying degrees, changes in all the others. The degree of change varied from structure to structure depending on its flexibility, the political structure being the most flexible and the juridical the most rigid. Political changes usually provoked economic changes. Thus, new States, having attained political independence, quite naturally aspired to control also their own economic destinies, and economic sovereignty was bound to follow political sovereignty. Conversely, the economic structure, which was also flexible, affected the political structure, and both of them affected the juridical structure. Land reform, for example, necessitated the making of new law or the modification of the existing law, for law was a manifestation of the way of life. However, the way of life was reflected in the law only with some delay, owing precisely to the relative inflexibility of the juridical structure. That delay had to be made good if it was not to prejudice the harmonious development of the different structures; for, if the gap widened, it might create an imbalance that could cause the whole system to break down.

2. The same relation existed in the sphere of international law. That law reflected the realities of international life. Revolutionary changes were now taking place in all the countries of the world, without exception. Changes in one country provoked changes in the others, creating a new pattern of international relations which might necessitate a change in the norms of law. That change could not take place immediately or spontaneously. International contacts, which were the projection of the activities and policies of the different States into the international sphere, took time to crystallize into international practice, which was ultimately reflected in international law. His delegation recognized the influence which the codification and the development of international law could exercise, even before their crystallization into international practice, on the evolution of relations and co-operation among States; but the possibilities of international law must be neither over-emphasized nor underestimated. International law was not and could not be an instrument of national policy, but was and must be an instrument for promoting friendly relations and co-operation between States. That was why it was important to avoid proposing for study subjects which might give rise to controversial issues or which might appear to be merely political notions projecting one of the perennial objectives of the foreign policy of a particular country or group of countries, whatever merit such a policy might possess.

3. His delegation held the International Law Commission in high esteem and appreciated its work, especially that accomplished during its thirteenth session. However, the Commission did not possess exclusive competence in the matter of the codification and development of international law. Its members were experts and did not represent their Governments. The General Assembly could and must, if it saw fit, make recommendations to the International Law Commission, thus helping, along with many other international agencies, to enrich international law and bring it up to date. His delegation was, therefore, happy to note that the joint draft resolution before the Committee (A/C.6/L.492 and Corr.1 and Add.1)—especially operative paragraph 2—was very realistic; in particular, the recommendation that priority should be given to the topic of succession of States and Governments seemed very wise.

4. His delegation would, if necessary, comment later on operative paragraph 3. It noted that Colombia, in its draft resolution (A/C.6/L.493 and Corr.1), had proposed a different wording for that paragraph. It was accordingly to be hoped that the two texts could be reconciled and that the wording adopted would be generally acceptable and in conformity with the spirit of the Charter of the United Nations.

5. Mr. JUSUF (Indonesia) drew the Committee's attention to the substantial task set it by General Assembly resolution 1505 (XV).

6. The United Nations was increasingly aware that many new trends in international relations had an impact on international law. As President Sukarno had told the General Assembly on 30 September 1960 (880th plenary meeting, para. 190), the world had witnessed three great phenomena since the Second World War: the rise of the socialist countries; the wave of national liberation and economic emancipation in the countries of Asia, Africa and Latin America; and the great advance of science. Those three phenomena had influenced international relations and, consequently, international law since 1945. As the Nepalese representative had said (694th meeting, para. 33), if the world wished to move forward on

the road of progress, without bringing about its own destruction, it must build world order on the solid foundations of international law. Those foundations were to be found in the Charter, the broadest and most respected multilateral treaty in the world. In order to establish conditions under which justice and respect for international law could be maintained, in accordance with the Preamble to the Charter, it was necessary to practise tolerance and to live together in peace as good neighbours.

7. The purposes of the United Nations were to maintain international peace and security, to develop friendly relations among nations and to achieve international co-operation. In order to accomplish those purposes and to lay those solid foundations for world order and the rule of law, the first necessity was that States should accept one another as they were. Before the USSR could co-operate with the United States, it had to accept the fact that the United States had a capitalist system. Conversely, the United States had to accept the fact that the USSR, China and Czechoslovakia, for example, had a communist system. Similarly, all those countries must recognize that India, Thailand, Indonesia or Cuba, for instance, had the right to choose whatever political, economic or social system best suited their ideology. Such mutual acceptance was, in his opinion, even more fundamental than friendly relations or co-operation among States, for it was the prerequisite for such relations and such co-operation. That attitude of tolerance, which was required by the Charter, was the very image of peaceful coexistence dissociated from any cold-war concepts. Some were inclined to threat the expression "peaceful coexistence" as a Soviet product. His delegation considered that it could be given a generally acceptable meaning and all its propaganda elements removed. Instead of taking an automatically negative attitude to it, the right course was to seek, through negotiation, a convincing interpretation. The principles of peaceful coexistence were not a Soviet monopoly. They had been recognized all over the world before the advent of communism and stemmed from the Pancha Shila—the philosophy underlying Indonesian civilization—whose principles President Sukarno, at the General Assembly's fifteenth session (880th plenary meeting, para. 141), had proposed for application in international relations.

8. Without peaceful coexistence, war was inevitable. Hence, opposition to peaceful coexistence in its true meaning was opposition to peace and to the very purposes of the Charter. The principles enunciated at the Conference of African and Asian countries at Bandung in 1955 were concerned with nothing else but peaceful coexistence, although that expression had not been used at the time.

9. His Government considered that priority should be given to a discussion of the legal elements of peaceful coexistence, as the very basis of all international law. In that connexion, the sponsors of the joint draft resolution did not ask for study of that subject until the seventeenth session of the General Assembly, hoping that an amicable agreement could be reached by then. The principles to be studied should include the right of each nation to the free determination of the methods of economic, political, social and cultural development, the right of equality among nations, the principle of non-intervention, the sovereign right of nations over their natural resources and the prohibition of war.

10. After dealing with peaceful coexistence, the Committee should examine questions relating to the very existence of States themselves. He would group such questions as follows: sovereignty and responsibility of States (rights and duties of States and succession of States); relations between States (diplomatic and consular relations, recognition of States, economic and trade relations, law of treaties and law of traffic); subjects of States (nationality, aliens, asylum, extradition and statelessness: in other words, the protection of human rights in general); international territories (law of the sea, international rivers and the law of space); pacific settlement of disputes (procedure for investigation, mediation and conciliation, and jurisdiction of international courts); and law of international organizations.

11. The Indonesian delegation agreed with the view of the Austrian Government in its observations (A/4796/Add.6) that the present body of rules of international law resulted mainly from the practice among European and American States and reflected, therefore, the values they had obtained in their respective communities. The new States had not participated in the formation of those norms. Having become members of the international community, it was natural that they should ask that those norms should be reviewed in the light of the new composition of the community. Accordingly, he could not agree with the United Kingdom Government, which had said in its observations (A/4796, section 6, para. 9) that the authority of existing international law must be sustained and supported and which appeared not to recognize the right to review or amend international law. Indonesia rejected those parts of international law which were detrimental to national progress. It was firmly in favour of the rule of law in international relations, but of law which would take into account changes in the world and would be developed and made universal with the active participation of the many new nations. As the representative of Brazil had said (696th meeting, para. 11), jurists should not be the slaves of the past but should breathe the air of their own time, and, although the codification of international law might be an exclusively legal task, its development was certainly political in nature.

12. On the question whether the International Law Commission could consider controversial questions, he thought that the eminent jurists composing it, who were also diplomats, were perfectly capable of studying such questions. Referring to an observation made by the United States representative, he pointed out that the Sixth Committee was not only a legal but also a political organ, being one of the Committees through which the General Assembly did its work and in which all States Members of the United Nations were represented. It could therefore deal with matters of either a political or a legal nature.

13. With regard to the preparation of a new list of topics, the Indonesian delegation thought that the International Law Commission should continue its work on the law of treaties and on State responsibility, but that it should also take up the study of the succession of States and of the peaceful settlement of disputes.

14. In that connexion, he wished to point out two very dangerous destructive tendencies, neo-colonialism and great Power rivalry, which made it necessary to emphasize more than ever the important part played by international law. Recalling the statement made by

the representative of Ghana in the General Assembly on 26 September 1961 (1015th plenary meeting, paras. 56 and 57), he drew attention to the dangers of neo-colonialism, which was reflected in various stratagems, such as military alliances, economic and cultural agreements and a certain form of technical assistance that concealed more subtle and more devastating designs of exploitation than colonialism itself. Indonesia had been a victim of neo-colonialism. It had seen how certain States had been used to prevent it from completing its independence. Peoples recently under colonial rule were allying themselves with the colonial Powers to prevent another nation from fighting colonialism. They could not act otherwise, because their independence was bound up with certain treaties. It was not uncommon for treaties to be imposed on former colonies when they became independent that paralysed them politically, economically, socially and culturally. Such treaties, which were unfair from the beginning, should be considered void and immoral, and sovereignty should be transferred without any such conditions or reservations.

15. Indonesia had had that experience. After fighting in several colonial wars imposed upon it by the Netherlands from 1945 to 1949, and losing half a million human lives, it had been militarily and economically weak at the end of 1949. It had been forced to sign a treaty that burdened it economically and financially. It had even had to accept temporarily the military occupation of part of its territory. Fortunately, it had been able to rid itself in two years of all the ties which bound it to the Netherlands, and it hoped to be able, in the not too distant future, to free the rest of its territory from colonialism. The Indonesian delegation hoped that those aspects of the problem would be taken into account when the International Law Commission studied the questions of the law of treaties and of the succession of States.

16. The Indonesian delegation also attached great importance to the question of the peaceful settlement of disputes. Many States, including Indonesia, did not accept the compulsory jurisdiction of the International Court of Justice. One of the many objections to that jurisdiction had been clearly set forth by the Danish Government in its observations (A/4796/Add.1, section 8). Indonesia preferred mediation or negotiation. The Indonesian Government had already given its views on State responsibility in its observations (A/4796/Add.2).

17. In conclusion, he said that, if all forms of colonialism were eliminated and the principles of peaceful coexistence were practised, the fundamental sources of conflicts still existing in the world would be removed.

18. Miss SCHILTHUIS (Netherlands), speaking on a point of order, deplored the fact that the representative of Indonesia had seen fit to refer to the question of New Guinea, which the General Assembly had already discussed at such length. In order not to prolong the discussion unnecessarily, she waived her right of reply.

19. Mr. CRISTESCU (Romania) said that General Assembly resolution 1505 (XV) had given a new lease of life to the legal activities of the United Nations. He emphasized the importance of international law for world peace and said that the United Nations had already achieved important results in the field of codification. The partial codification of the law of the sea and of diplomatic law bore eloquent witness to that fact. Codification, properly understood, promoted co-operation between States, clarified existing international law and unified its rules, thus ensuring its more faithful observance and conditions of stable legality in international relations. But, for the work of codification to be useful, subjects likely to have a practical and positive influence on international relations must be chosen.

20. Only six of the fourteen topics on the list drawn up in 1949 (A/925, para. 16) had been codified. The work of the International Law Commission thus seemed to be proceeding slowly in relation to the imperious needs of international life. Moreover, important changes had taken place in the world since 1949. Socialism had become a world system and had an important influence on international life and on international law. The socialist States, in their relations with one another, observed the principles of self-determination, equality of rights, sovereignty, non-intervention, territorial integrity and mutual assistance. The present age was also marked by the collapse of colonialism and by the establishment of many new States, which would now be able to contribute to the codification and development of international law.

21. The work of codification should be so oriented as to take into account the new situation in international relations and the increasing part played by international law. The most important subject was peaceful coexistence between States with different social systems. That was the overriding principle of contemporary international law. The principle of peaceful coexistence had been confirmed in the Charter, which was itself an expression of peaceful coexistence. The United Nations had been established and the Charter prepared by States with different social systems in order to ensure peaceful coexistence. That principle had also been confirmed in many bilateral and multilateral international instruments. Ensuring peaceful coexistence meant respecting the territorial integrity and sovereignty of States, renouncing the use of force, not intervening in the domestic affairs of States, strengthening relations based on friendship, equality and the exchange of reciprocal advantages in international relations: in other words, establishing conditions of lasting equality in relations between States. Although the principle of peaceful coexistence was recognized in many international documents, it was sometimes interpreted in different ways and, therefore, needed to be defined in international legal instruments. If the principles of international law relating to peaceful coexistence were clearly defined, the basis would be established for the work which could profitably be undertaken in the future in the field of codification and progressive development. Some Governments, in their observations (A/4796 and Add.1-8), had mentioned that subject as being one of the most important, and the majority of the members of the International Law Commission had asked that priority should be given to topics directly relating to the maintenance of international peace and security. Lastly, since many international juridical organizations and associations had already considered the legal principles of peaceful coexistence, their work could be used as the basis for codification in that field. The Romanian delegation, therefore, thought that that topic should be considered by the Sixth Committee. A debate on the question would enhance the Committee's prestige. The Committee had undoubtedly an active part to play in the codification and progressive development

of international law, in addition to discussing the work of the International Law Commission. Since the Sixth Committee was composed of representatives of Governments, who could take decisions on both the political and the legal aspects of a question, it was fully competent to take up the study of important matters.

22. The Romanian delegation considered that the other topics which should be included in the programme of work of the International Law Commission were the law of treaties and State responsibility. Study of the latter topic should embrace its widest scope, including flagrant violations of the international legal order, such as aggression, colonialism and infraction of State sovereignty, and should not be confined to the matters referred to in the six reports which had so far been drafted.

23. For all those reasons, the Romanian delegation had associated itself with the other sponsors of the joint draft resolution under consideration. It hoped that, at the end of the debate, the Sixth Committee's decision would enable it to make a specific and effective contribution to the future evolution of international law.

24. Mr. ULLOA (Peru) stressed how important the debate was, not only because of the questions considered, but also because it marked a turning-point in the evolution of international law. There had never before been such a strong affirmation of the three criteria on which the formulation of international law rested: its universality, its human foundation and the quality of States. The triumph of universality could be seen in the present number of Members of the United Nations and the fact that they represented all the legal systems, all forms of civilization and all large geographical areas of the world. Less than a century previously, Lorimer had expounded his "theory of concentric circles", the first circle comprising States for which international law was fully in force; the second, States whose relations with one another and with the first group were governed only by part of international law or by rules of their own; and the third circle comprising groups with a particular internal constitution whose relations with other States were governed only by a narrow criterion of humanity. In modern times, Lorimer's circles had become one, and the concept and application of international law had become universal. Having thus attained universality, international law should now develop in depth.

25. The second criterion of international law was its human foundation. The idea of humanity had formerly been linked chiefly to the idea of the physical sufferings of subjects of States. The laws of war had first attempted to make war less cruel, and then to mitigate or avert the physical suffering of the combatants and the population, and the moral suffering of prisoners and defeated soldiers. At present, the idea of humanity, while preserving its moral character of assistance to human beings, had become identified with the international situation of man himself, who had become the primary and principal subject of international law. In the past, man had only been an indirect and secondary subject of international law. How, however, that the State existed for the well-being of man, the whole philosophical, conceptual and formal structure of international law should be based on the human factor. That concept had been enshrined in the proclamation of principles like the right of peoples to self-determination and anti-colonialism, and the establishment of large international organizations with social and humanitarian aims.

26. The equality of States, which had always been proclaimed as one of the fundamental objectives of international coexistence, had admittedly often been contradicted, particularly by the Charter of the United Nations. In fact, while asserting that all States were equal, the Charter nevertheless established a distinction between the great Powers, which enjoyed certain privileges and were equal among themselves, and the other States which were equal among themselves, but only in theory equal to the great Powers. Thus, the equality of States existed so long as political interests did not prevail. It was shown essentially in the formulation and application of international law. Equality in the formulation was relatively wide-spread. Equality in application, which could take two forms, equality before the law and equality of right to demand respect for the law and the punishment of its violation, had been expressly guaranteed by the Charter. It could be said in general that international law had formerly been systematically imposed by a few States and that it was to that ready-made international law that new States acceded as they entered the international community. A typical example was the consular institution which had, for more than half a century, been a source of international inequality and dispute for Latin America. It was to be hoped that the mistakes of the past would not be repeated and that international law would no longer be imposed by a minority, but that its application would result from the free consent of States, that it would ensure a balance between the economic, social and spiritual interests of States and that the moral forces, which varied in their form of expression but were a constant in the evolution of society, would also be a factor making for international equilibrium and the source of a just and effective law. Care should be taken that, in the future, international law should no longer be based on fear and, to that end, its development should be imbued with the sociological and moral concept expressed in the proclamation of respect for human rights as an international obligation.

27. Those were the ideas by which the Sixth Committee should guide the work of the International Law Commission. The Commission had not been created to define ideological concepts or to formulate principles or doctrines. Its function was to record existing international law and to guide the development of positive law according to the custom and practice of States; that corresponded to the codification and progressive development of law. The "development" related to questions which had not yet been regulated or which were not sufficiently widely practised among States. The "codification" related to questions which were already regulated, but needed clarifying or systematizing; it implied a well-established practice. Codification was, therefore, a stage in progressive development, because, in order to be codifiable, topics ought already to have undergone some development. The difference between codification and development was not very precise, partly because the use of the term "codification" in international law did not correspond to the legal meaning it had in municipal law, involving the idea of unity. Although some of the writings of eminent jurists on international law had been entitled "codes", their value was only doctrinal, not legislative. However, reference could be made to the work of two sources which had contributed much to the creation and development of international legal

standards: the Institute of International Law and the American International System, that crucible of positive law from which had come forth, over more than a century, legal and moral concepts, ideas of democracy and freedom and aspirations towards a better international legal life—all being the fruit of suffering caused by injustice, colonialism, coercion and intervention.

28. The international law of the future should be based on human brotherhood. It shoud be unified, but should not be applied so uniformly and blindly as to create unjust situations. It should not be imposed by force under the various forms of imperialism. The important thing was to define and delimit the fundamental rights of States, namely, preservation, independence and equality. The right to preservation was the right to life of the human group or groups forming the State and flowed from their freedom to constitute legal and political international entities. The right to independence, which also was bound up with the principle of self-determination, implied non-intervention of one State in the external or internal affairs of another. The right to equality should subject the inevitable inequalities to a balance of interests.

29. The unity of international law, which was one of the purposes of its development and codification, was a unity in the process of creation and not the result of a continuous evolution. The difference between the international law of the past and that of the future was one of substance rather than of form. Where in some spheres of international life international relations remained the same, the law of the past could be maintained and perfected, but new types of relations should be governed by new rules. It would be absurd to disregard political factors in contemporary international law, because they were derived from the economic interests and social ideas of States; both should be regulated for the good of mankind.

30. It remained to be decided which body was best qualified to select the topics to be included in the International Law Commission's programme of work. On that point, technical and not political criteria should prevail; in other words, the Commission itself, and not Government representatives at the General Assembly or the Sixth Committee, should make that selection. If the International Law Commission drew up its programme of work and submitted it to the Assembly for approval, both technical and political criteria would thus be observed. It must not be forgotten, moreover, that Governments had to take the final decision on the projects prepared by the Committee.

31. With regard to the topics to be codified which had already been mentioned, his delegation, like others, thought that the study of the law of treaties and of State responsibility should be completed. It also thought the principle should be clearly stated that the rights and duties of States were the framework and guide of any international legal action. On the other hand, it did not believe that the succession of States was a topic of primordial interest, since it only arose in exceptional cases. If, moreover, the hypothesis were accepted that one State could properly be substituted for another as an international legal entity, the situation would be serious for the United Nations and the Charter, for that would amount to regarding the disappearance of existing States as a normal feature of international law. Besides, when new States were created, strictly speaking, no question of succession arose, since no State had existed before. Some States had enjoyed a certain administrative autonomy before their independence and had thus already established an internal legal system which could not be deemed to succeed the institutional system of which they had become independent. In other circumstances, the new States acquired with their sovereignty the right to legislate on all problems relating to their organization.

32. His delegation had examined the joint draft resolution. It approved the preamble and operative paragraph 1, but not operative paragraph 2, since it did not feel that priority should be given to the study of the question of succession of States. As to operative paragraph 3, it did not feel that there existed any clearly-defined principles of international law relating to the peaceful coexistence of States. The fact was that peaceful coexistence itself constituted the foundation, the subject and the content of international law.

33. Mr. ROSENNE (Israel) stressed the importance of General Assembly resolution 1505 (XV), which reflected in particular two ideas expressed in the report of the Sixth Committee to the Assembly at its fifteenth session, to the effect that there was a need, first, for "a study of the legal questions connected with the peaceful coexistence of States with different régimes and of the legal aspects of the problems created by disarmament and the final abolition of colonialism and its consequences"[1] and, secondly, to recognize that "new trends in the field of international relations had an impact on the development of international law—whose role had consequently increased in importance".[2] Those ideas revealed a certain disquiet on the part of all the jurists of the world who were wondering if they had really done everything in their power to meet the responsibilities confronting the world community and to "save succeeding generations from the scourge of war". His delegation was convinced that the members of the Committee were fully aware of the gravity of the problem. The work of codification and progressive development of international law, far from being purely academic, was an integral part of contemporary international politics and must therefore be related to the immediate demands of the general international situation.

34. Today disarmament occupied a central place in that situation, and the Sixth Committee had a part to play in the search for a solution to that problem. He was particularly encouraged in that conviction by paragraphs 1 and 7 of the joint statement of agreed principles for disarmament negotiations contained in a letter dated 20 September 1961 and signed by the representative of the Soviet Union, Mr. Zorin, and the representative of the United States, Mr. Stevenson (A/4879). According to that statement, the goal of negotiations was to achieve agreement on a programme which would ensure that disarmament was general and complete and war was no longer an instrument for settling international problems, and that such disarmament was accompanied by the establishment of reliable procedures for the peaceful settlement of disputes and effective arrangements for the maintenance of peace in accordance with the principles of the Charter. It was also stated that progress in disarmament should be accompanied by measures to strengthen

[1] Official Records of the General Assembly, Fifteenth Session, Annexes, agenda item 65, document A/4605, para. 43.

[2] Ibid., para. 45.

institutions designed to achieve that goal. In that regard, it was appropriate to recall the comparable provisions of Article 1 of the Charter, from which it appeared that the principal objective of the United Nations was to establish the rule of law in all aspects of international life. That was the direction in which the jurists should bend their efforts. In the same spirit, the Israel representative had emphasized in the First Committee (1205th meeting, para. 8) that all Member States should renew their pledge to settle their differences by peaceful means; that, in order to promote the rule of law, the International Law Commission must be encouraged in its work of codification; that it might perhaps be worth while to appoint a special committee to re-examine all the established United Nations machinery for ensuring the maintenance of peace and the peaceful settlement of disputes; that Members clearly could not content themselves with a precarious state of coexistence; and that no effort must be spared to achieve peaceful co-operation. Reliable procedures must therefore be found for the peaceful settlement of disputes and the maintenance of peace, and that problem consisted of three closely linked elements; disarmament, the development of general rules of international law and the modernization of international procedures for the peaceful settlement of disputes.

35. The United Nations Charter had outlawed war, but experience had shown that that was not sufficient to prevent war. That was the precise purpose for which disarmament negotiations were being pursued. But even when that objective was attained, the international problems and conflicts of interest which had given rise to war and violence in the past would remain, and new ones would arise as well. The codification and progressive development of international law must help all the nations of the world to attain and observe agreed standards of international conduct which would enable statesmen and qualified third parties to determine, with a reasonable degree of assurance, where the justice lay in a given case.

36. It was right that the work of codification and progressive development should hitherto have referred to general international law. There appeared to be general agreement among the members of the Commission on the need to finish the codification of the law of treaties and of some aspects at least of the law of State responsibility. The criterion proposed particularly by the New Zealand representative at the 719th meeting, who had recommended that emphasis be placed on the practical and immediate requirements of the international community, had the merit of being sufficiently flexible to enable the programme of work to be kept constantly up to date as new needs made their presence felt. The work of codification and development, however, did not cease when the Commission finished its labours. Today's new needs called for a modification of the over-all programme of the United Nations organs concerned with international law, notably the General Assembly and the International Law Commission.

37. The Assembly's task was not completed when a conference of plenipotentiaries had successfully drafted a new convention. Its subsequent history must be kept under review, and it must be re-examined from time to time and revitalized. Bearing in mind the number of States which were now parties to conventions drawn up by the General Assembly or under its auspices, it might be wondered if the Assembly had fully discharged its obligation under Article 13 of the Charter. His delegation therefore proposed that the agenda of the Sixth Committee should include an examination of the question of the state of ratifications of and accessions to multilateral conventions concluded under United Nations auspices or in respect of which the Secretary-General acted as depositary. That review might also cover the question of acceptance of the compulsory jurisdiction of the International Court of Justice, which had been mentioned by several delegations, including that of Ghana (723rd meeting, para. 35).

38. Turning to the third part of what might be called an integrated programme of disarmament, law-making and peaceful settlement of disputes, he stated that, in his delegation's opinion, the time had come for the General Assembly to pass under review all the established machinery for the peaceful settlement of international disputes. Furthermore, several other delegations had called for an examination of similar questions. The legal rules on the subject were scattered over a considerable number of documents, ranging from the first Hague Convention for the Pacific Settlement of International Disputes of 1907 to the revised General Act for the Pacific Settlement of International Disputes of 1949 (General Assembly resolution 268 A (III)). Those instruments dealt with most of the procedures envisaged in Article 33 of the Charter. However, there was no assurance that the existing procedures for settlement were really reliable procedures for the peaceful settlement of disputes, and their overhaul and adaptation to the contemporary patterns and conceptions of international intercourse were long overdue. There might well be a connexion between the lack of interest in the revised General Act of 1949 and the relative decline in the business of the International Court of Justice, the reluctance of States to accept its compulsory jurisdiction, the nature of certain reservations to that jurisdiction made by those States which had accepted it and the attitude of reserve which the Sixth Committee had shown some years earlier in the Model Rules on Arbitral Procedure adopted by the International Law Commission (A/3859, para. 22). The Israel delegation considered that, if complete and fully integrated machinery for the peaceful settlement of international disputes was to be established, it would be worth instructing the Sixth Committee to undertake a legal study to parallel the work being undertaken at the political level by the First Committee in the field of disarmament.

39. With regard to the codification of the general legal principles governing the peaceful coexistence of States, the Sixth Committee appeared to recognize the need for further discussion of the subject. For some delegations, the only problem was the peaceful coexistence of States having different political and social systems. In the opinion of the Israel delegation, however, it was necessary to define the legal rules which should govern the relations among all States, old and new, regardless of any differences or similarities in their régimes. Mere coexistence, which was a static concept, was not enough; nations had to combine their efforts and co-operate more actively in order to attain the Organization's purposes in the political, social, economic, cultural and humanitarian fields. Recognition by the political organs of the need for such co-operation, particularly in General Assembly resolutions 1236 (XII), 1301 (XIII) and 1495 (XV), in no way prevented the Sixth Committee and the appropriate legal organs from taking up the subject and evolving its essential legal basis and framework. The General

Assembly's decisions on the matter could, in fact, be taken as a challenge to the Sixth Committee by the political organs, which were becoming impatient at the way in which international law and procedures had fallen out of step with the currents and needs of the world community.

40. It was impossible not to be impressed by the impact on the work of the United Nations of the fundamental changes which had taken place since the Charter was signed. The preponderant role in the maintenance of world peace and security assigned to the great Powers had gradually been replaced by a more precarious balance between States and groups of States with different political and social régimes. Any programme for revision of the concrete rules of international law would be more comprehensive and satisfactory if it were based on co-operation among all States, whether or not Members of the United Nations, and not merely among groups of States with differing political and social régimes. The Israel delegation failed to understand the reoluctance to examine the substance of the question; for, unlike some, it did not believe that the task would merely be to codify "political slogans". The two formulas proposed by the Soviet delegation and by the United States delegation seemed to have certain points in common, but had the disadvantage of introducing an element of political discord into the deliberations of the Sixth Committee. The Israel delegation, for its part, was ready to support any proposal for a detailed study of the relevant issues provided that the purpose was to give a concrete legal form to the abstract notion of friendly relations and peaceful co-operation between States, in accordance with the Charter, and provided that irrelevant political factors were kept out of the discussions.

41. His delegation had a few suggestions to make for the organization of the work on the codification and progressive development of international law. First, in view of the number of topics to be codified, the International Law Commission should be allowed to pursue its activities with the least possible interference by the General Assembly. However, the Commission should be invited to re-examine the whole of its general programme and the question of priorities and to report to the General Assembly at its seventeenth session. Further discussion by the Sixth Committee would then enable the foundations to be laid for the next stage in the codification and progressive development of international law.

42. Secondly, the Sixth Committee itself had certain tasks to perform, including a comprehensive review of the state of ratifications of multilateral conventions.

43. Thirdly, if the Sixth Committee felt that a thorough examination of the basic principles of law governing contemporary international relations was desirable, it was itself the appropriate body to undertake that task. Some of the detailed aspects could be taken up later by the International Law Commission; others could be entrusted to competent subsidiary organs. It was to be hoped that controversy regarding the title of the item would be avoided and that an effort would be made to reach a unanimous decision. He also appealed to the delegations which had initiated the discussion to furnish the Committee with concrete proposals for further discussion.

44. Lastly, the Sixth Committee should study, at the seventeenth or a later session, the question of machinery for the pacific settlement of international disputes, with specific reference to Article 33 of the Charter. In due course that work would probably have to be done by a special body attached in some way to the organs dealing with disarmament and to the Sixth Committee; for, it had to be remembered that Article 13 of the Charter established a connexion between international co-operation in the political field and the progressive development of international law and its codification.

45. The Israel delegation was prepared to give general support to the joint draft resolution before the Committee, though that did not go far enough, and it took some exception to the wording of opeative paragraph 3. It also reserved its position on paragraph 39 of the report of the International Law Commission (A/4843), which seemed to imply a reversal of the Commission's previous attitude towards the final form of its work of codification of the law of treaties, and on whether the topic, or topics, of the succession of States and Governments was ripe for codification and whether its codification met a real present-day need.

46. He supported the suggestion of the representative of Sweden (724th meeting, para. 22) that the Secretariat should produce a new and revised edition of the publication Laws and Practices concerning the Conclusion of Treaties,[3] which should also include information relating to the treaty practice of the United Nations and the specialized agencies.

The meeting rose at 12.50 p.m.

[3] United Nations publication, Sales No.: 52.V.4.

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