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CONTENTS

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 to 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; A/C.6/L.494 and Add.1) (continued)

1. Mr. MORRISSEY (Ireland) noted that there was fairly wide-spread agreement among the members of the Sixth Committee that the International Law Commission should give priority to the completion of its work on the law of treaties and on the responsibility of States and that the Commission's programme should not be overburdened. The Irish delegation shared those views, as a vast amount of work had already been done on those two topics which were of immense importance to States. In that connexion, Ireland had played an important role in the sphere of the conventional liability of the State towards the individual. Following the Irish Government's recognition of the right of individual petition provided for in the European Convention for the Protection of Human Rights and Fundamental Freedoms, an individual citizen had been able to lodge a petition with the European Commission of Human Rights alleging a violation of the Convention by the Irish Government. The Commission had ruled in favour of the Government and, subsequently, the European Court of Human Rights had also decided, unanimously, that the Government had not violated the Convention. The case marked a great advance in the position of the individual under international law.

2. It was important that the International Law Commission should not be burdened with too many items, since the work of codification was necessarily slow and the quality of the results obtained, which enhanced the Commission's prestige, was certainly of more importance than the quantity of work done.

3. The Committee also seemed to be generally agreed that the International Law Commission should be asked for its views on the choice of new topics to be included in its programme of work before any comprehensive suggestions were made by the General Assembly. The Assembly could not appreciate all the difficulties involved in the work of the International Law Commission, and the latter should have a voice as to whether a subject was suitable or ripe for codification.

4. With regard to the distinction between codification and the progressive development of international law, it was not difficult to agree with the opinion expressed by the representative of Mexico (722nd meeting, para. 34) that the demarcation line between the two notions had become increasingly blurred. As early as 1927, the League of Nations had realized that the progressive codification of the law should comprise an element of development, and Mr. Politis had said, on the one hand, that the establishment of a complete system of codes similar to those used in internal law was inconceivable, since international relations had not yet reached an adequate degree of maturity, and, on the other hand, that a simple statement of existing rules would risk rendering international law too stereotyped; he had concluded that the intermediate way was thus to consolidate and reform the existing law. The concept of "progressive development" used in article 15 of the Statute of the International Law Commission underlined the dynamic nature of international law, which had to be adapted to new developments in the international society. The process of reforming old rules and adapting them to new conditions and the elaboration of new rules had to go hand in hand with developments in the world community. That did not mean, however, that all the established rules of international law should be scrapped on the pretext that they were out of date, for many of them were satisfactory and represented an essential factor of stability. The very expression "progressive development" indicated the need for a solid and stable basis upon which to work for the solution of the fresh problems arising from the rapid development of the situation.

5. With regard to the respective functions of the Sixth Committee and the International Law Commission, it would be wrong to blame the latter for the decline in the Sixth Committee's role. The two bodies were complementary: because of its political nature, the Sixth Committee was interested in the political aspects of legal problems, while the International Law Commission, made up of jurists sitting in their individual capacities, concentrated solely on legal aspects. However, in its work of codification, it could not entirely ignore political considerations, since the whole purpose of that work was to draw up statements of law in a form acceptable to all States.

6. In the light of the views expressed during the debate, the International Law Commission might be recommended to complete its work on the law of treaties and on State responsibility and to give priority to the question of success of States and Governments, in which Ireland's experience could be very useful, and to the question of special missions. If necessary, the list might be augmented by adding the question of jurisdictional immunities of States and their property and that of the peaceful settlement of international disputes, the latter put forward in different forms

by Colombia (A/4796, section 3) and Sweden (ibid., section 5).

7. With regard to the joint draft resolution (A/C.6/L.492 and Corr.1 and Add.1), the only thing which seemed in any way controversial was operative paragraph 3, which in its proposed agenda item for the seventeenth session of the General Assembly, referred to "peaceful coexistence". His delegation was uncertain regarding the precise meaning of the phrase "principles of international law relating to peaceful coexistence" and its suitability for codification. The idea of peaceful coexistence was political in nature; it undoubtedly contained elements of a legal character, but those were difficult to define with any precision. It could rightly be said that the entire work of the International Law Commission, the Sixth Committee and the General Assembly, and all bilateral and multilateral treaties, were accomplishments in the field of peaceful coexistence in the simplest sense of the term, but the definitions of it which had been given during the debate did not seem to his delegation to have divested it of its essentially political character. For example, the idea had been linked with that of the sovereignty of States and what might be called international free will; but that interpretation was incompatible with the concept of peaceful coexistence as a form of co-operation. International co-operation implied that States must give up the idea of acting just as they liked, and the representative of the United States had been right in saying (722nd meeting, para. 10) that the emphasis should be laid on the obligations rather than on the rights of States. Furthermore, even if agreement could be reached on what constituted the juridical elements of peaceful coexistence, the question would inevitably arise how such rules could be applied, whether arbitration machinery would be established, and whether States would admit the equality of other States and submit to the compulsory arbitration or judicial settlement of disputes regarding matters which affected their vital interests. The expression "peaceful coexistence" was harmless in itself, but the political colouring which tended to be given to it might jeopardize the success of the Sixth Committee's work at the seventeenth session. It would be better to replace the words "peaceful coexistence of States" by the words "friendly relations and co-operation among States in accordance with the Charter of the United Nations", as proposed in the eight-Power amendment (A/C.6/L.494 and Add.1) of which Ireland was a co-sponsor.

8. His delegation would comment on the draft resolution submitted by Colombia (A/C.6/L.493 and Corr.1) after it had been introduced by its sponsor.

9. Mr. REYES (Colombia) remarked upon the high standard and great interest of the Sixth Committee's discussion of the present state of international law. The evident desire to conduct that study with due deliberation, proved by the lucid statements which had been made and the interesting suggestions which had been submitted, raised hope of the successful completion of a task the magnitude and urgency of which no one doubted. The discussion had, moreover, produced a fruitful exchange of views on the diverse civilizations, legal systems and political concepts of the modern world. His delegation was speaking late because it had already sent in its observations (A/4796, section 3) and had wished first to hear the views of other delegations.

10. General Assembly resolution 1505 (XV) showed that the United Nations had become aware of the part which international law should play in the maintenance of peace and in the Organization's progress. It appeared to mark a resumption of the legal activities of the United Nations, the decline of which had so often been pointed out, especially by the representative of Afghanistan (713th meeting, para. 19 and 714th meeting, para. 24). The resolution stressed not merely the importance of the role of international law in the world today as a means of strengthening international peace and promoting friendly relations and co-operation among nations in accordance with the principles of the Charter, but also the need for all Governments to apply and scrupulously respect the rules of international law. A declaratory statement of principles was indeed useless unless States were sincerely prepared to act on them. At the same time, the resolution asked the United Nations to study thoroughly the whole field of international law with a view to adapting it to the new factors in the modern world; it was surprising that that had never been done, though reference was constantly made to the progressive development of international law. In other words, it was important to decide which principles of international law ought to be retained, which amended and which clarified, in the light of the features of the present age and the anxious desire of all peoples for peace.

11. Unfortunately, men needed world conflicts to make them realize the need for the rule of law and justice. The new concept of international law had emerged during and after the Second World War. A number of documents had promised a new world knowing neither aggression nor violence; for instance, the declaration made by fourteen Powers in London on 12 June 1941, the Atlantic Charter and the Teheran and Yalta declarations. That period had culminated in the signing of the United Nations Charter, which had given final form to the principles of the new law of nations, such as exclusion of the use of force, the peaceful settlement of international disputes, non-intervention, respect for human rights and the right to self-determination.

12. Those principles had transformed the world: new peoples had entered the political life, and co-operation for the remedying of economic under-development had increased. They had given rise to the International Law Commission, the membership of which had twice been enlarged so that all civilizations and legal and political systems of the contemporary world might be represented in it. However, a closer examination of recent developments revealed negative factors tempering the optimism aroused by those transformations. In spite of the provisions of the Charter, the times were marked by fear and insecurity. The old colonialism had barely died before a new ideological or political colonialism had begun to succeed it. The disguised neo-imperialism of today did not shrink from the use of force against attempts at autonomy nor from veiled threats against neighbouring countries and infringed the principles of non-intervention, the sovereign equality of States and the self-determination of peoples. Advances had no doubt been made in international economic co-operation; but millions of human beings still lived in poverty, sickness, ignorance and hunger.

13. It was in the field of human rights that the situation caused the greatest concern. It had been said that man was now the subject rather than the object of international law; but that was a purely theoretical concession. In spite of the importance attributed by

the Charter to human rights in international life, progress had been small owing to the excessive caution of the United Nations. No system existed for permanently and effectively protecting human rights, violations of which were frequent. Instead of searching for new subjects to study, efforts should be concentrated on developing the principles of the Charter.

14. The Colombian delegation wished to make three suggestions. First, the International Law Commission, in its future work, must not evade any question as being of a political or controversial nature. The sole criterion in the selection of topics for codification or development should be their importance for the solution of the problems affecting humanity and world peace. Problems having political aspects could not be brushed aside, for they were the most important; law obviously contained a political element, because everything concerning man, the community and States was political. Secondly, the Commission could not refuse to consider questions on the pretext that other United Nations bodies were already examining them. The Commission had a co-ordinating function, and its competence could not be restricted solely to questions of international law. Its work would have all the more unity if it included the results attained by other bodies. With regard to the priority of subjects for study, his delegation believed that the first place should be allotted to matters that concerned fundamental human rights and the strengthening of peace.

15. In the first category of subjects should be placed the principles embodied in the following provisions of the Charter: the second paragraph of the Preamble, Article 1, paragraph 3, Articles 55, 56 and 62 and Article 76b, c and d. Specific recommendations should be made in order to ensure effective protection of human rights. The establishment of an international tribunal for that purpose was a step which would one day have to be taken. The vital issue of human dignity and the basic rights of the human personality could no longer be left to the discretion of domestic legislatures. Nor could United Nations interventions suffice, since the Organization had no permanent system of safeguards. The idea of such a tribunal was not new and had long been discussed in America and Europe. In 1936, Mirkine-Guetzévitch had advocated the adoption of a convention for the international protection of fundamental rights, saying that in the hierarchy of political values human rights were supreme, and that such a convention would be the international affirmation of freedom.

16. Moreover, there were important precedents, such as the Central American Court of Justice, founded in 1907, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, concluded between fifteen European countries in 1950.

17. The United Nations, however, had made little progress in that field. The Declaration of Washington of 1 January 1942 had recognized the need to protect human rights and justice both internally and internationally. Nevertheless, the United Nations had confined itself to making the recommendations contained in the Charter and to adopting the Universal Declaration of Human Rights (General Assembly resolution 217 A (III)). The preamble of the latter Declaration stated that it was essential, if man was not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression, that human rights should be protected by the rule of law. So far, however, all that the United Nations had done was to adopt, in 1948, a Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 (III), annex). As one writer had pointed out, that Convention was useless where it could be applied and inapplicable where it might be useful, since a number of countries had refused to accept the jurisdiction of the International Court of Justice in any dispute relating to its interpretation or application. Human Rights Day was about to be celebrated once again before those rights were effectively safeguarded.

18. Questions relating to the consolidation of international peace were intimately connected with human rights. In that connexion, the new international law was based on the principles of the Charter, and a survey should be made of all the principles relating to the prohibition of the use or threat of force, the pacific settlement of international disputes, non-intervention, the sovereign equality of States, the self-determination of peoples, economic and social co-operation in the under-developed countries—a question directly related to human rights—and general and complete disarmament. The sum total was a general study of the rights and duties of States.

19. Third came important but less urgent questions referring to normal relations between States for which practice and custom were more or less established and frequently embodied in institutions.

20. Some delegations had proposed the codification of peaceful coexistence. The subject was, of course, interesting, but difficult to define. It appeared to contain two conceptions and even two practices. The first had been defined by Mr. Khrushchev, on 6 January 1961, as part of the economic, political and ideological struggle of the proletariat against aggressive and imperialist forces. That was hardly a peaceful conception. No doubt, it had inspired the intervention in Hungary, denounced by the United Nations in 1956. It was probably also the authority for the attempt to "export the socialist revolution" through an international network of organizations working to undermine every political system except the one to be imposed.

21. There was another conception of peaceful coexistence which was based on the Charter provision that the peoples of the world should "live together in peace with one another as good neighbours". That expression was a happy one. The difference between life and mere existence was that man lived rationally and politically; in his political life, he formed part of a community, of a State and of the universal community. He also lived historically. Men had lived before they had established States; it was impossible to conceive of a State without a people as an essential element. The notion of existence implied a certain passivity, and so the interpreters of peaceful coexistence, aware that the term lacked precision, sometimes added an adjective and said that peaceful coexistence should be "active". On the other hand, the notion of life, which was expressed in the Charter, was complete, since living was in itself profoundly dynamic. If it were added that men must live "in a spirit of good-neighbourliness", the idea was yet clearer, since good neighbours helped one another. If the peoples could live thus, they would write history together and would endeavour to advance further and further.

22. That notion of peaceful coexistence, taken from the Charter, marked the transition from the rights and duties of men to the rights and duties of States. In the opinion of the Colombian delegation, it implied

the right to independence, since men must live before they could live together; the equality among States in the concert of nations; the liberty to choose the political and social structure which best corresponded to tradition, but not liberty so absolute as to include the right to destroy peace or human dignity; the obligation to live together peacefully and not to resort to force or threat in order to settle disputes; and the right to receive and the duty to provide cultural, technical, economic and social assistance.

23. Those remarks removed the need for any further explanation of his delegation's draft resolution (A/C.6/L.493 and Corr.1). Its purpose was to develop and supplement the principles of the Charter. That was why it stressed the protection of human rights and the codification of the right of asylum, an American institution linked with human rights. His delegation had endeavoured, in operative paragraph 3, to clarify a notion which had become unnecessarily confused.

24. Mr. ALCIVAR (Ecuador) said that his delegation attached the greatest importance to the question under consideration, not only because it embodied one of the purposes of the Charter but also because Ecuador was firmly convinced that justice could be protected only by law.

25. Of the various events which had revolutionized the world during the twentieth century, the two world wars had inevitably brought about a radical transformation of the whole social structure. Moreover, the atomic age raised the serious problem of the survival of humanity. Law could not remain outside those upheavals, and must needs keep pace with the general development. Ecuador did not share the opinion that common law was dynamic and positive law static. The representative of Argentina had brilliantly expounded the characteristics of nineteenth-century law, contrasted them with those of modern international law and pointed out the causes of that development (720th meeting, para. 3). Today, the classic concept of the absolute sovereignty of States had given way to the principle of the international community, and man himself was becoming international as his fate was worked out on a world scale.

26. The question under discussion was linked with all those phenomena; hence, the General Assembly, in its resolution 1505 (XV), had expressed the view that the International Law Commission's programme of work drawn up in 1949 (A/925, para. 16) should be reconsidered.

27. In response to the Secretary-General's request, a number of Governments had submitted very valuable observations (A/4796 and Add.1-8). Colombia had pointed out in its observations (A/4796, section 3, para. 8) that, of the fourteen topics selected by the Commission, a number had already been codified on an American regional basis or were being studied or codified. It was particularly satisfactory to note that, at least in theory, the American continent had made great progress in that field. Ecuador was particularly happy to see that the doctrine of the illustrious Ecuadorian jurist Tobar was quoted in connexion with the question of the recognition of States and Governments. Ecuador could only hope that those American theories would shortly be translated into world-wide reality.

28. The delegation of Ecuador had also listened with great satisfaction to the observation made by the representative of Ghana on the compulsory jurisdiction of the International Court of Justice (723rd meeting, para. 35). As a result of the increasing interdependence of States, the world was getting further and further away from the classic concept of honour and good faith between States in compliance with their international obligations. Ecuador had no confidence in arbitration, which necessitated the good will of all parties to a dispute. In internal law, arbitration was voluntary, but above it was the normal procedure of recourse to the courts. The same situation must be reached internationally if a well-balanced world in which right was stronger than might was to be built.

29. The representative of Israel had made some cogent remarks concerning the decrease in the amount of work entrusted to the Sixth Committee (726th meeting, paras. 38 and 39). The representative of Ecuador agreed that certain questions which were considered by the Economic and Social Council were essentially legal and should be referred to the Sixth and not the Third Committee. It was true that social phenomena were closely interconnected and also possessed other characteristics. The representative of Spain had rightly said (725th meeting, para. 27) how difficult it was to dissociate legal problems from other factors, especially from political factors. Hence, when the work of the General Assembly was being allocated to the various Committees, the most outstanding features of each question had to be taken into account.

30. The two draft resolutions before the Committee recommended the International Law Commission to continue its work in the field of the law of treaties and of State responsibility. Those two questions were vitally important. Treaties were one of the principal sources of international law, and precise rules must be established to govern their conclusion. The first requirement was the free consent of the parties; any treaty concluded under a threat was null and void. The responsibility of States towards the international community became clearer every day. The world was becoming increasingly interdependent, and the members of the international community must realize that they were responsible to one another and had not only rights to claim but also duties to carry out.

31. The two draft resolutions also recommended that priority should be given to the topic of succession of States and Governments. The Colombian draft resolution also called for priority of the topic of the right of asylum. The delegation of Ecuador supported the Colombian proposal, which was in accordance with the noble traditions of Latin America.

32. The greatest divergency between the two texts occurred in the respective operative paragraph 3. Obviously, peaceful coexistence embodied political rather than legal ideas; but that was not why the delegation of Ecuador was opposed to operative paragraph 3 of the joint draft resolution. On the contrary, it considered, like the representative of Spain (ibid., para. 25), that where there was a danger to the maintenance of international peace and security, the United Nations should be concerned and should not evade controversial questions on the pretext that they were political.

33. Nevertheless, it considered the term "peaceful coexistence" too vague to form the subject of a legal study. Throughout its history, international law had been concerned with nothing else but bringing about peaceful coexistence among States. The three cornerstones of coexistence, accepted today at least in theory as incontestable principles, were self-determination, non-intervention and the legal equality of States. They were the product of historic evolution. In fact, how-

ever, those principles were interpreted variously according to political necessity. Consideration must also be given to the longitudinal division of the world into two camps, East and West, and its horizontal division, as the representative of Brazil had described it (721st meeting, para. 5), between the industrialized and militarily powerful States, usually called the great Powers, and the agricultural countries, producers of raw materials, poor and largely populated by illiterates, which were known as underdeveloped. He wondered from which angle the legal study of peaceful coexistence should be approached.

34. The delegation of Ecuador preferred the Colombian draft resolution, paragraph 3 of which clearly stated which items were proposed for inclusion in the agenda of the seventeenth session of the General Assembly.

35. He hoped that the world would make right and justice its ideal and its aim.

36. Mr. KINGSTONE (Canada) proposed to comment only on the joint draft resolution, since he had not had time to study the Colombian draft resolution.

37. The Canadian delegation agreed generally with the joint draft resolution, except its operative paragraph 3 which dealt with peaceful coexistence. In particular, it endorsed operative paragraph 2, which recommended that the International Law Commission should continue its work in the field of the law of treaties and of State responsibility and include on its priority list the topic of succession of States and Governments. That paragraph apparently reflected the consensus of opinion in the Sixth Committee, in view of the work already done by the International Law Commission on the first two topics. However, whereas there were no two opinions about the topic of the law of treaties, there seemed to be a division of opinion on how State responsibility should be treated, some States taking the view that it should be handled in the narrow sense of treatment of aliens, while others expressed a preference for a much broader approach. A cursory reference to the reports submitted to the International Law Commission by Mr. García Amador, its Special Rapporteur,[1] showed that it would be too difficult or even impossible to treat the subject in all its aspects, and that there should be a gradual approach, dealing first with the branch most ripe for codification; namely, the responsibility of a State for injuries caused in its territory to the person and property of aliens. In the view of the Canadian delegation, it would be wrong to recommend that the International Law Commission should begin to study any other aspect of the question until its work on that particular aspect had been completed. Once that had been done, it should undertake the study of other aspects which appeared to it ripe for codification, after informing the General Assembly of its views.

38. From the wording of the joint draft resolution, and of paragraph 2 in particular, it was clear that no new topics should be referred to the International Law Commission at the present time. That also seemed to represent the consensus of opinion of the Sixth Committee. The reasoning behind that position seemed unassailable; the Commission would certainly take some time to complete its work on the law of treaties and on State responsibility, and, even after those tasks had been completed, it would still be faced with a heavy load according to its present agenda. There seemed to be no reason to alter the agenda, since its items were strictly legal and had reached a stage of development which made them ripe for codification. With regard to the succession of States and Governments, his delegation considered that the Commission's work might be greatly facilitated if it divided that topic into two.

39. The question of new topics for codification should not, however, be shelved. On the contrary, it should be kept constantly under review by both the Sixth Committee and the International Law Commission, so that any new topic which arose should be dealt with by one or the other. He did not mean to imply that the International Law Commission should change its important work programme; but the existence of that programme should not prevent it from making suggestions. As far as the Sixth Committee was concerned, that would be an effective way of ensuring that international law should keep pace with the rapid changes in international affairs; by recognizing that that should constitute one of its major functions, it would help to develop the important role which it should play in the affairs of the United Nations. At the same time, the Sixth Committee should consider only topics which were primarily legal and did not come within the competence of any other international body. Items assigned to the Sixth Committee should not, of course, be automatically referred to the Commission; otherwise, the Committee would be made a mere intermediary. In his delegation's view, the major role of the Committee was to make policy decisions on essentially legal matters with a view to determining whether a subject should be referred to the Commission or not. For example, if the Committee were studying the question of pacific settlement of international disputes, as proposed by the Government of Colombia (A/4796, section 3), the discussion might reveal either that one or more of its aspects should be the subject of a convention or of draft articles, which should be drawn up by the Commission, or that it was not ripe for codification.

40. With regard to operative paragraph 3 of the joint draft resolution, he understood that the sponsors proposed in effect that the Sixth Committee should make a general survey of the whole field of international law and, in particular, of the developments that had taken place over the last fifty years. The Canadian delegation was prepared to support that proposal, but doubted whether the form in which the item was cast was the best means of ensuring that such a study should be carried out. The great changes that had taken place in the world since the end of the Second World War called for a new approach to the rules governing the relations between States, as the representatives of Brazil (721st meeting, para. 11) and Mexico (722nd meeting, para. 30) had rightly pointed out. Nevertheless, if the work of the Sixth Committee was to bear fruit, its purpose should be defined with the highest clarity and precision so as to avoid any possible confusion about the exact nature of the subject to be studied. For that purpose, it must first be inquired whether the subject had been considered before by the United Nations and, if so, in what context.

[1] Yearbook of the International Law Commission, 1956, vol. II (United Nations publication, Sales No.: 56.V.3., Vol. II), document A/CN.4/96; ibid., 1957, vol. II (United Nations publication, Sales No.: 57.V.5, Vol. II), document A/CN.4/106; ibid., 1958, vol. II (United Nations publication, Sales No: 58.V.1, Vol. II), document A/CN.4/111; ibid., 1959, vol. II (United Nations publication, Sales No.: 59.V.1, Vol. II), document A/CN.4/119; ibid., 1960, vol. II (United Nations publication, Sales No.: 60.V.1, Vol. II), document A/CN.4/125.

41. The reply to those two questions had been given by the United States representative (722nd meeting, para. 17), who had pointed out that although peaceful coexistence had at least a superficially clear meaning, it had become vague and ambiguous because of its association with the cold war, which made it inappropriate for discussion by the Sixth Committee. The United States representative had recalled that it had been discussed in the General Assembly in 1957 and 1958, and that, on both occasions, the attempts to introduce it as a specific concept for consideration had been rejected. On 20 September 1957, the USSR had asked by letter[2] that an item entitled "Declaration concerning the peaceful coexistence of States" should be placed on the agenda of the twelfth session of the General Assembly. The request had been accompanied by a draft resolution in which the General Assembly called upon States to be guided in their relations by the principle of peaceful coexistence. It had been referred to the First Committee, which had also had before it another draft resolution submitted by India, Sweden and Yugoslavia dealing with the peaceful and neighbourly relations among States.[3] A highly political debate had followed, chiefly on the term "peaceful coexistence" in the USSR draft resolution. The essence of the debate had been summed up in a statement by the United Kingdom representative,[4] who had pointed out that the principles laid down in the USSR draft resolution were already embodied in the Charter and that Soviet policy since the war had shown that the expression "peaceful coexistence" meant the opposite to the Soviet Union of what it meant to countries desiring to practise tolerance and to live together as good neighbours. In addition, the USSR proposal had been incomplete, since it did not mention the principles of justice and respect for international law contained in Article 1 of the Charter, nor the idea of tolerance. Those principles, however, had been included in the three-Power draft resolution, which had the additional advantage of leaving no doubt about the meaning attributed by the sponsors to the words they used. The First Committee had adopted that draft resolution by 75 votes to none, with 1 abstention,[5] and the USSR had not pressed for a vote on its draft resolution. The subject of peaceful coexistence had again been raised in 1958 by Czechoslovakia, which, on 10 July, had requested that an item entitled "Measures aimed at implementation and promotion of principles of peaceful coexistence among States" should be placed on the agenda of the thirteenth session of the General Assembly.[6] The Assembly, however, clearly reluctant to deal again with that topic, had included it in its agenda, at the proposal of the United States, under the title "Measures aimed at the implementation and promotion of peaceful and neighbourly relations among States".[7]

42. That brief review of the history of the topic demonstrated only too vividly that it had been considered to have too many different meanings to serve as a basis for a fruitful discussion on good relations between States. In fact, political rather than legal reasons were largely the cause for the difficulty of defining peaceful coexistence. Thus, it would be inappropriate for the Sixth Committee to study it.

43. The assertion had been made that peaceful coexistence could be identified with the body of new theories and doctrines of international law that had emerged over the past fifty years. That was not the view of the majority. The new doctrines of international law were not the prerogative of any single State or group of States. It was sufficient to remember that the international crises which had preceded and followed the Second World War, and the inability of organized international society to prevent breaches of the law of nations, had given rise to violent criticisms of international law and to attempts to remedy that situation. On what basis was that evolution attributed to the notion of peaceful coexistence? "Peaceful coexistence" could mean anything, though it would be extremely difficult to say exactly what it was; but it would be easy to say what it was not: it was not the orderly and progressive development of international law based on the new concepts.

44. The so-called new principles enshrined in the concept of peaceful coexistence were not clear. Friendly co-operation among States was nothing new; in fact, it was one of the fundamental principles of international law since its beginning. International law was based not on force, but on custom and on the consent of States, which constituted both its strength and its weakness, depending on the will of States. Many principles of international law were enshrined in the Charter, and the Soviet Union, as one of the founder Members of the United Nations, had given them solemn recognition in 1945. Its rules belonged to the international community as a whole; they had been developed over the centuries and constituted one of the few instruments to avert chaos. To assert that, among those rules, there were old ones which could in certain cases be repudiated unilaterally, as opposed to new ones which had been especially formulated by certain States alone, was at best to misrepresent the nature of international law and at worst to challenge its very existence. One of the main problems in international law was that of creating new rules and adapting old ones in the light of the rapidly changing circumstances in the world, while ensuring respect for the large body of existing rules tested by experience and proved to be conducive to international co-operation and friendly relations. Progress did not mean the unilateral repudiation of existing rules, but rather the encouragement of the progressive expansion and development of rules, which were the result of patient labour and which were the heritage of all mankind. In so far as international law was concerned, therefore, peaceful coexistence was only a new label for an ancient topic which, after all, represented common practice. Hence, if the Sixth Committee wished to maintain the objectivity in its debates, it must clearly define the subject of the study it was seeking to undertake, so as not to lose sight of its principal objective, which was to review the whole field of international law.

45. Those observations had been based on the hypothesis that the envisaged study should embrace the development of international law during the past fifty years. Suggestions had been made, however, that the Sixth Committee should study the question of peaceful coexistence as a specific topic of international law. In the Canadian delegation's view, a debate of that kind would be both unprofitable and frustrating. It was not

2/ Official Records of the General Assembly, Twelfth Session, Annexes, agenda item 66, document A/3673.

3/ Ibid., document A/3802, para. 5.

4/ Ibid., Twelfth Session, First Committee, 938th meeting.

5/ Ibid., Twelfth Session, Annexes, agenda item 66, document A/3802, para. 7.

6/ Ibid., Thirteenth Session, Annexes, agenda item 61, documents A/3847 and Add.1.

7/ Ibid., document A/4044, para. 2.

the function of the Sixth Committee to decide the value of a concept based on pure theory rather than on the usual norms of international law, when there was such a vast amount of work for it to do in the broad and generally recognized fields of international law. The task might be more suitably carried out by, for example, the International Law Association. The role of the Sixth Committee had been admirably defined by the representatives of Israel, Sweden and Mexico. The Canadian delegation appealed to all delegations to support the plan drawn up for the Sixth Committee, so that it could make a significant contribution towards giving a new meaning of hope and peaceful strength to the whole concept of international law.

The meeting rose at 12.40 p.m.

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