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SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING
FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES

First Session

SUMMARY RECORD OF THE FORTY-FIRST MEETING

Held at Mexico City,
on Thursday, 1 October 1964, at 4.55 p.m.

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Discussion of conclusions submitted by the Drafting Committee (continued)

PRESENT:

<u>Chairman:</u>	Mr. GARCIA ROBLES	(Mexico)
<u>Rapporteur:</u>	Mr. BLIX	Sweden
<u>Members:</u>	Mr. COLOMBO	Argentina
	Sir Kenneth BAILEY	Australia
	U BA THAUNG	Burma
	Mr. CHARPENTIER	Canada
	Mr. PECHOTA	Czechoslovakia
	Mr. IGNACIO-PINTO	Dahomey
	Mr. MONOD	France
	Mr. DADZIE	Ghana
	Mr. HERRERA IBARGÜEN	Guatemala
	Mr. KRISHNA RAO	India
	Mr. ARANGIO RUIZ	Italy
	Mr. OHTAKA	Japan
	Mr. FATTAL	Lebanon
	Mr. RATSIMBAZAFY	Madagascar
	Mr. CASTAÑEDA	Mexico
	Mr. RIPHAGEN	Netherlands
	Mr. AGORO	Nigeria
	Mr. OLSZOWKA	Poland
	Mr. CRISTESCU	Romania
	Mr. KHLESTOV	Union of Soviet Socialist Republics
	Mr. EL-REEDY	United Arab Republic

PRESENT (continued):

Members (continued):

Mr. SINCLAIR United Kingdom of Great Britain
and Northern Ireland

Mr. SCHWEBEL United States of America

Mr. ALVARADO Venezuela

Mr. SAHOVIC Yugoslavia

Secretariat:

Mr. STAVROPOULOS Representative of the
Secretary-General

Mr. BAGUINIAN Secretary of the Committee

DISCUSSION OF CONCLUSIONS SUBMITTED BY THE DRAFTING COMMITTEE (continued)

The CHAIRMAN recalled the statement made by the Chairman of the Drafting Committee at the 39th meeting to the effect that the United States delegation was still awaiting instructions from the United States Government regarding the formulation of principle A (Drafting Committee Paper No. 10 and Corr.1). He asked if the Chairman of the Drafting Committee had anything further to report in that connexion.

Mr. FATTAL (Lebanon), Chairman of the Drafting Committee, explained that the working groups which had met earlier in the day had been unable to reach any consensus on the scope or content of principle A and had so indicated in Drafting Committee Paper No. 15. However, several members of the Drafting Committee had requested that no decision should be taken on principle A until the following day, in the hope that by that time a consensus could be reached. It was for the Special Committee to decide whether to acceded to that request.

The CHAIRMAN asked whether that meant that the Drafting Committee had complete its work.

Mr. FATTAL (Lebanon), Chairman of the Drafting Committee, replied in the affirmative.

The CHAIRMAN, speaking on behalf of the Special Committee, expressed appreciation of the competence with which the representative of Lebanon had guided the difficult deliberations of the Drafting Committee.

Sir Kenneth BAILEY (Australia) said that although the Drafting Committee's paper on principle A (Drafting Committee Paper No. 15) was identical with its papers on principle B and principle C (Drafting Committee Papers No. 13 and No. 9), his delegation and the others referred to by the Chairman of the Drafting Committee thought

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(Sir Kenneth Dailey, Australia)

that a slightly different course should be followed in the present instance if the representative of the Secretary-General could state that to do so would be practicable within the limits of the Special Committee's time-table. Not all delegations had been in a position to give their definitive views on the alternative texts proposed with regard to one of the points of consensus in Drafting Committee Paper No. 10 and they should be allowed as much time as possible for a last effort to reach agreement. The point in question did not, in the opinion of his delegation, involve a question of substantive law and it would be regrettable if because of that one point the Special Committee should be obliged to report that it had failed to reach any consensus on the scope or content of principle A. He would therefore move, if the Chairman deemed it appropriate, that the meeting should be adjourned until 10.30 the next morning.

Mr. STAVROPOULOS (Representative of the Secretary-General) said that although it had been expected that the Special Committee would have the following morning free to read the draft report, it would be feasible to adopt the course suggested by the Australian representative.

Mr. KRISHNA RAO (India) said that if the Committee deferred a decision on principle A until the next morning, he feared that whatever text it agreed on at that time would not be ready in time for the Committee to adopt its report in the afternoon. He therefore moved that the meeting should be suspended for half an hour.

Mr. SCHEFFEL (United States of America), speaking on a point of order, said that as he understood it, the Australian representative had moved the adjournment of the meeting; the motion should, therefore, under rule 119 of the rules of procedure, be immediately put to the vote. If that understanding was correct, the subsequent remarks made by other speakers, including the Indian representative's motion, were out of order.

The CHAIRMAN said it had been his understanding that the Australian representative had meant to propose adjournment of the debate, in which case, under rule 117, two other representatives could speak in favour of, and two against, the motion. Moreover, the Australian representative had indicated that he would actually move the adjournment only if the Chair deemed it appropriate. In view of that qualification, and in the light of the situation which had emerged in the course of the day, the Chair had felt that all who wished to express their opinions on the procedure to be followed should have an opportunity to do so before the Australian representative's motion was put to the vote.

Mr. OHTAKA (Japan) agreed with the Australian representative's view that it would be useful to postpone a decision on principle A until the following morning's meeting.

Sir Kenneth BAILEY (Australia) said that it was true that in his previous statement he had qualified his motion for the adjournment of the meeting in order to hear the views of the Representative of the Secretary-General and to allow the Chairman to consult the Committee if he so desired. He wished now formally to propose the adjournment of the meeting under rule 119 of the rules of procedure.

Mr. EL-REEDY (United Arab Republic), speaking on a point of order, said that rule 119 could not apply since debate had been allowed and in particular since the Japanese representative had been permitted to speak in favour of the motion. Therefore, the proposal could come only under rule 117, and the Indian motion should have priority.

Mr. SCHWEBEL (United States of America) said that debate had been allowed because there had been some lack of clarity as to the rule under which the motion for adjournment had been made. Now that the Australian representative had made it clear that he had moved the adjournment of the meeting under rule 119, that rule should be strictly applied.

After some further discussion on the procedural point, the CHAIRMAN said that under rule 120 of the rules of procedure the Indian motion for the suspension of the meeting had priority over the Australian motion for adjournment. If there was no objection on the part of the proposers of the motions, he would not enforce the rule prohibiting debate on such motions; agreement might then be reached amicably on the procedure to be adopted.

It was so agreed.

Mr. BLIX (Sweden) considered that every effort should be made to attain unanimous agreement on principle A. It might well be impossible to achieve that end within half an hour, and he therefore favoured the motion for adjournment.

Mr. AGORO (Nigeria) felt that a decision should be taken on principle A at the present meeting. Considerable efforts had already been made to reach agreement, and, contrary to what had been suggested, the remaining points at issue were very substantial.

Mr. SAHOVIC (Yugoslavia) said that the best course would be to suspend the meeting; upon its resumption, the Committee could reconsider the situation.

Mr. SCHNEBEL (United States of America) thought that it would be a mistake to surrender the possibility of achieving a consensus on principle A. He did not think that the differences were as serious as the Nigerian representative believed; agreement had almost been reached on the one remaining amendment proposed to the text. He therefore favoured the motion for the adjournment, which would allow time for full agreement to be reached.

Mr. KRISHNA RAO (India) contested the United States representative's suggestion that agreement was near on the amendment which had been proposed, at least nine delegations had expressed opposition to the amendment during the informal meeting which had been held.

Mr. KHESTOV (Union of Soviet Socialist Republics) supported the Indian motion, and regretted that valuable time had been wasted in the discussion of the question of procedure.

The CHAIRMAN put to the vote the Indian motion for the suspension of the meeting for half an hour.

The motion was adopted by 12 votes to 11, with 3 abstentions.

The meeting was suspended at 6.10 p.m. and resumed at 6.45 p.m.

Mr. DADZIE (Ghana) said that the present position was that if the United States delegation accepted the compromise draft set out in Drafting Committee Paper No. 10 as Corr.1, that draft could be considered and voted upon by the Special Committee; otherwise the draft would cease to represent a valid compromise and the Special Committee would have to vote on Drafting Committee Paper No. 15, which reported that no consensus had been achieved on principle A. He therefore asked the United States representative

Mr. SCHWEBEL (United States of America) said that his delegation could not accept the draft unamended. However, whether that meant that Drafting Committee Paper No. 10 and Corr.1 was not before the Special Committee was a matter for the Special Committee itself to decide.

Sir Kenneth BAILEY (Australia) reintroduced his motion for the adjournment of the meeting.

At the request of the United States representative, a vote was taken by roll-call. Poland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Argentina, Australia, Canada, France, Guatemala, Italy, Japan, Mexico, Netherlands.

Against: Poland, Romania, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia, Burma, Czechoslovakia, Ghana, India, Lebanon, Madagascar, Nigeria.

Abstaining: Dahomey.

The motion for adjournment was carried by 13 votes to 12, with 1 abstention.

The meeting rose at 7 p.m.