



**CONTENTS**

	<i>Page</i>
Agenda item 50: Report of the International Law Commission on the work of its seventh session ( <i>continued</i> ).....	33

**Chairman: Mr. Manfred LACHS (Poland).**

**AGENDA ITEM 50**

**Report of the International Law Commission on  
the work of its seventh session (A/2934, A/  
C.6/348, A/C.6/L.355, A/C.6/L.356, A/C.6/  
L.357) (*continued*)**

1. Mr. SHAMMAH (Lebanon) noted that the members of the Committee were agreed in principle on the question of publishing the International Law Commission's documents. The debate was not concerned with the principle, but with certain specific aspects of the question, such as the financial aspect. It would undoubtedly be better to publish the Commission's documents in one language rather than not to publish them at all, but it was necessary to publish them in at least two languages, French and English, and preferably in three languages, including Spanish.

2. His delegation would support the eleven-Power draft resolution (A/C.6/L.356), which, in his opinion, was a sound compromise between financial considerations and the need to make the Commission's documents more easily available.

3. Mr. SPIROPOULOS (Chairman of the International Law Commission) pointed out that in the resolution in paragraph 35 of its report (A/2934), the Commission had clearly indicated which documents it thought should be published. Hence, the misgivings which the Israel representative had expressed on that score at the 448th meeting were not completely justified. The special reports were the basis of the Commission's work and should therefore be published. The studies were likewise very important and had great scientific value. The summary records provided a synthesis of all the Commission's work and made for a better understanding of the final texts it adopted. Lastly, it would also be useful to include the observations of Governments, for the Commission examined them very carefully and referred to them during its debates. The final texts were now printed in the Commission's reports to the General Assembly, but that was not a reason for failing to include them in the juridical yearbook. Only by publishing all of the documents would a really useful service be done. It was true, as the Indian representative had said (448th meeting), that most of the texts the Commission examined were not

final. Nevertheless, they all had a scientific character. Most of the texts published by the Institute of International Law were not final either, but their publication was acknowledged to be of scientific value.

4. Mr. TABIBI (Afghanistan) emphasized that delegations were unanimous on the principle of publication. The Commission's work on the progressive development of international law and its codification was remarkable, and the General Assembly was bound by its previous decisions and by the Charter to encourage it.

5. Every aspect of the problem should, however, be carefully considered. The representatives of the smaller Powers in the Fifth Committee had been instructed to keep a very close check on expenditure. The Sixth Committee should be careful not to make their task more difficult by neglecting to give due consideration to the financial aspect. Detailed information should be obtained before a decision was taken. The Secretariat's Office of Legal Affairs could consult universities, libraries and other interested institutions, either directly or through the Member States, about the sales possibilities of a juridical yearbook.

6. In the matter of languages, the Committee could decide that initially the documents should be published in English only, an arrangement which would in no way establish a precedent for the future. That would be a reasonable decision, because English was known throughout the world. Moreover, some publications, such as the *Yearbook of the United Nations* and the *Yearbook on Human Rights*, for example, were published in only one or two languages. In that connexion it would be helpful if the USSR representative did not press for publication of the documents in Russian.

7. If the the Committee were to take a decision at the present session, his delegation would vote for the Egyptian-Swedish draft resolution (A/C.6/L.355), but, if that was rejected, it would not vote against the eleven-Power draft resolution (A/C.6/L.356). It would, however, be premature to take an immediate decision.

8. Mr. ADAMIYAT (Iran) said that up to that point the questions of languages and financial implications had dominated the discussion. It was natural for the Sixth Committee to be concerned about expenses. But it should give first consideration to the usefulness of the proposal. Publication of the Commission's documents would be very helpful in the codification and development of international law.

9. He doubted whether it would be advisable to publish the documents first in a single language, without making any arrangements for the future. The Latin school of law had contributed a great deal to the development of international law, particularly in regard to codification. Accordingly, the documents should be published in Spanish and French also.

10. His delegation was one of the co-sponsors of the draft resolution (A/C.6/L.356), which was a reason-

able compromise and it hoped that a majority of the Committee would support it.

*Mr. Alfonsín (Uruguay), Vice-Chairman, took the Chair.*

11. Mr. PEREZ PEROZO (Venezuela) was gratified to note the way the debate had developed; initial confusion had given way to an attempt to elucidate every facet of the problem. The Commission's resolution, which appeared in paragraph 35 of its report, had itself introduced some elements of uncertainty and confusion by failing clearly to indicate in what form the Commission wanted its documents printed. It had not been clear whether they should be published in a United Nations Juridical Yearbook or separately. The Chairman of the Commission had, it was true, said that in his opinion it would be better for the Commission to have its own yearbook (446th meeting), but that preference should have been expressed in the Commission's recommendation. In addition, the Commission should have stated whether it would like to have the documents published beginning with its first session or only with the next session.

12. The Committee unanimously supported the principle of publication, and the two draft resolutions before it recognized that principle. Yet, aside from some references to languages and the date from which the documents should be published, the two draft resolutions gave the Secretary-General no specific instructions. There were other problems involved and they had not been given sufficient consideration. For example, should the Secretary-General print all of the documents or only a part of them? Who would be responsible for selecting and editing the documents? The Assembly could not reach a well-reasoned decision until it had received all the necessary information. Most members of the Committee felt that the financial implications of the recommendation should be taken into account and his delegation shared that view. But the most important thing was the usefulness of the measure under consideration. Granting its importance, there must be some assurance that the documents would be published in the best possible way. A hasty decision should, therefore, be avoided and the question deferred to another session, in order to enable the Commission to submit fuller and more precise recommendations to the Assembly. To adopt either of the two draft resolutions without first considering the possibility of publishing the documents in a United Nations Juridical Yearbook, as the Commission suggested, would be going too fast. Later, when the General Assembly studied the question of the juridical yearbook, it might regret that a decision had already been made about the publication of documents. In any case, the instructions to the Secretary-General in the two draft resolutions were not sufficiently complete. They did not even indicate the title of the proposed publication.

13. If, in spite of the objections he had raised, a majority of the Committee saw fit to make a decision on publication immediately, his delegation would not oppose it. But it would vote against any draft resolution which did not assume on principle that the documents should be published in the three working languages and that publication should be retroactive to the Commission's first session.

*Mr. Lachs (Poland) resumed the chair.*

14. Mr. HSU (China) said that he would support any proposal designed to ensure publication of the Commission's documents. The General Assembly had

entrusted the Commission with the task of promoting the progressive development of international law and its codification and the Commission could not do that unless its documents were published. If it knew that public opinion would be able to follow its work, and if necessary provide assistance, its work would be easier. The world still resorted to force only too often, and it was important that nations should become familiar with the principles and rules governing international relations.

15. The best course would be to publish the Commission's documents, starting with its first session, in the five official languages. If that course had to be abandoned for lack of money, they might be published in one language only, and cover at first the work of the seventh session. In subsequent years it would doubtless be possible to publish the documents of the first six sessions little by little.

16. The words "in the three working languages of the General Assembly", in paragraph 2 of the operative part of the eleven-Power draft resolution (A/C.6/L.356), might be changed to "in English, French and Spanish". The rules applying to General Assembly documents did not necessarily apply to those of the International Law Commission, and it was to be hoped that the documents might some day be published in Chinese and Russian, and later in still other languages.

17. Mr. MIRANDE (Argentina) thought that the debate had greatly clarified the situation and would make it possible to take a decision by a large majority. Argentina was in favour of publishing the Commission's documents. The Commission's past achievements and the scope of its future work fully justified publication, which would promote the progressive development of international law and its codification, and only if that were achieved could the United Nations continue its work.

18. As the principle of publication seemed to have been accepted, the only remaining difficulties were of a practical nature. He thought that the Commission itself should choose the texts to be published, and he thanked the Chairman of the Commission for the explanations he had given. Moreover, it would be a pity not to publish the Commission's documents from its first session. Any juridical work presupposed a certain continuity and the Assembly could not make an arbitrary decision to publish the documents of some sessions and not of others.

19. As for expense, the Sixth Committee must not infringe upon the jurisdiction of other Committees, but it obviously could not take any decision without considering the financial implications. Publication must, therefore, be undertaken with scrupulous regard for the Organization's financial capacity.

20. With respect to languages, Argentina had long championed the adoption of Spanish as a working language and it could not change its attitude. The Commission's documents should be published in the three working languages at least. However, he would agree to their initial publication in English only on condition that the documents were later published in all three working languages.

21. His delegation would support the eleven-Power draft resolution in document A/C.6/L.356, but would like to make two suggestions. First, there should be some indication in paragraph 1 of the operative part as to who was to select the documents to be published; he himself thought that the decision should rest with the

members of the International Law Commission. Secondly, it should also be made clear when publication of the documents was to begin: for that purpose the words "starting next year", might be inserted in paragraph 2 after the phrase "to arrange for the printing each year".

22. Mr. MOROZOV (Union of Soviet Socialist Republics) said that the arguments put forward had not convinced him that the Committee should be in any haste to reach a decision. It should continue to be careful of its responsibilities; if it took a decision without going into the details and weighing the consequences, the Secretariat would be faced with an enormous task which it would be very difficult to discharge successfully.

23. He did not agree with the Venezuelan representative that the Commission should have facilitated the Committee's task by making a more detailed recommendation. There was no question of negligence or forgetfulness on the part of the members of the Commission, because it was clear from the summary records of its seventh session that the Commission only wanted to know whether the Assembly would be able to publish its documents. It had, therefore, wanted a reply on that very specific point, and intended to examine the mode of publication later.

24. The bulk of the documents would be summary records. When the members of the International Law Commission had first considered publication, Mr. Sandström had made it clear that there must be some assurance that the summary records would faithfully reproduce the opinions expressed at meetings,<sup>1</sup> and all the members of the Commission had agreed on that point. He himself wished to pay a tribute to the conscientiousness of the Secretariat, but a summary record could not be as accurate and faithful a reflection of the proceedings as a verbatim record. While it was true that the members of the Commission could send in corrections to the summary records, they did not always have time to revise them thoroughly. As Sir Gerald Fitzmaurice had emphasized at the Commission's 322nd meeting,<sup>2</sup> the members would not have expressed themselves so freely if they had known that their opinions would one day be published. Their reputation as jurists might be shaken by ill-considered publication. The Commission had not considered the matter, because, as its Chairman had stated at the beginning of the debate, it had never expected the General Assembly to be able to take a decision at the present session. The Chairman's view might have changed subsequently as a result of the enthusiasm of some representatives, but it would be doing an ill service to the Commission to adopt a resolution which did not meet the wishes of its members. They should in any event be consulted beforehand.

25. The two draft resolutions before the Committee (A/C.6/L.355 and A/C.6/L.356) recommended the publication of the documents of all the sessions of the Commission. However, among those documents were special reports which had already become outdated, because the codification of international law had progressed, although slowly, since the reports had been drafted. As the Commission itself had not considered which of the documents should be published, it was not for the Committee to take any action in the matter.

26. As for the languages in which the documents should be published, he thought that discussion on that point was premature.

27. He concluded therefore, that there was no point in acting hastily. Moreover, it was possible to find other solutions than those which had been suggested. For example, the Commission's reports might be amplified to include a selection of documents and the dissenting opinions in an annex. The advantage of that system would be that it would keep the reports up to date. Too hasty a decision might be harmful to the Commission.

28. Mr. COATON (Union of South Africa) asked the Secretary of the Committee whether the members of the International Law Commission could send in corrections to the summary records in the same way as the members of Committees of the General Assembly.

29. Mr. LIANG (Secretary of the Committee) replied that they could. The summary records came out first in provisional form and members' corrections were incorporated in the final draft.

30. Mr. ROBINSON (Israel) shared the views of the representatives of Ecuador and the USSR that the Committee should make haste slowly and not improvise a decision when neither the Commission nor the Secretariat had considered the matter in detail.

31. The Sixth Committee might come into conflict with some of the former or present members of the Commission if the necessary precautions were not taken before publishing their speeches and writings. He had always agreed with the Chairman of the Commission on the type of documents which should be published, but he did not believe that all of them were equally worth reproducing. For example, certain special rapporteurs of the Commission would certainly not like to have their reports included in the proposed publication. Similarly, certain Secretariat reports would have to be omitted. The question, therefore, was who was to select the documents to be published.

32. The question of languages had already been settled in the United Nations and did not have to be reopened. He was surprised that some representatives from Spanish-speaking countries had so readily given up the idea of the documents of the Commission's first seven sessions appearing in Spanish, and he protested strongly against the way some representatives disregarded the importance of French as a language of international law. Twice as many international law reviews appeared in French as in English. There were eight French-language reviews published in Europe and French was preponderant in the publications of the Hague Academy of International Law and in the Yearbook of the Institute of International Law. Many articles on international law were published in French in the specialized reviews of the Scandinavian countries, of Greece and of the Netherlands. In Asia and Africa, French was not less predominant as the language of reviews of international law. It was also very important in Latin America. A decision which would disregard more than three centuries of French influence in international law taken in the absence of the representative of France could not be reconciled with any basic moral convictions. Moreover, many reports submitted to the International Law Commission were written in French and it would therefore be surprising to print them only in English in the proposed publication.

33. With regard to the procedure for publishing the documents, he did not think it should be based on the Yearbook of the Institute of International Law which was not easy for lawyers to use, but rather on the system adopted by the Harvard Research in International Law.

<sup>1</sup> See document A/CN.4/SR.322, para. 18.

<sup>2</sup> *Ibid.*, para. 34.

Instead of following chronological order, that publication devoted one or more volumes to the same question. The International Law Commission might have one volume, for example, dealing with the Commission's methods of work and Statute, one volume devoted to declaration of the rights and duties of States, one volume on the code

of offences against the peace and security of mankind, etc. The Commission and the Secretariat would have carefully to examine the problem as a whole before the Sixth Committee could take an informed decision.

The meeting rose at 1.5 p.m.