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Chairman: Prince WAN WAITHAYAKON (Thailand).

Giving priority to the codification of the topic "Diplomatic intercourse and immunities" in accordance with article 18 of the statute of the International Law Commission (A/2144, A/2144/Add.1, A/C.6/L.253) (concluded)
[Item 58]*

1. The CHAIRMAN announced that there were still a few delegations which wished to explain their votes on the resolution adopted at the previous meeting (A/C.6/L.253).

2. Mr. VAVRICKA (Czechoslovakia) explained that he had voted against the resolution because, in its final form, it left the International Law Commission completely free to decide when it should discuss the topic in question and consequently did not in any way alter the situation as established under General Assembly resolution 373 (IV). In addition, the discussion had shown that the real purpose of submitting the item had been to give the delegations of Yugoslavia and the United States an opportunity to carry out hostile propaganda against the USSR and the peoples' democracies. He was glad to note, however, that no other delegation had descended to that level. His delegation had not considered it necessary to reply to the utterly unfounded allegations made by that of Yugoslavia because, if there was to be a reply, it should be addressed to the real authors of the propaganda. It had not replied to the slanderous accusations of the United States delegation because those accusations had been totally irrelevant to the item under discussion. Moreover, there would be ample opportunity to discuss the hostile activity of the United States against Czechoslovakia—of which the subversive actions of United States diplomats in Czechoslovakia were only a part—when the item submitted by his delegation (A/2224/Rev.1) came up for discussion in the First Committee.

* Indicates the item number on the agenda of the General Assembly.

3. Mr. RAJKUMAR (India) said his delegation had voted in favour of the resolution, but its vote should not be interpreted as an endorsement of any of the arguments used in the course of the discussion.

4. Mr. BARTOS (Yugoslavia) pointed out that the representative of Czechoslovakia, while ostensibly explaining his vote, had used the opportunity to make some general remarks, even though the general debate had been closed.

Future programme of work

5. Mr. ROLING (Netherlands) pointed out that the Secretary-General's report on the question of defining aggression had not yet been circulated. By all accounts the report would be a lengthy document and delegations would need some time to study it before the item came up for discussion. He therefore proposed that the order of items 5 and 6 of the Committee's agenda should be reversed.

6. Mr. STAVROPOULOS (Secretary of the Committee) apologized for the delay in distributing the Secretary-General's report on the question of defining aggression. The delay was due to illness and to technical difficulties, but the report was due to be circulated on the following day in English, French and Spanish and the Russian text should also be available shortly. The report was in the nature of a historical survey and in its mimeographed form had consisted of approximately 200 pages; the procedural suggestion made by the Netherlands representative should therefore prove helpful to the Committee.

7. Mr. VALLAT (United Kingdom) said the question of defining aggression was one of immediate importance and should not be left until too late in the session. The question of international criminal jurisdiction was less urgent, since any decision that might be taken could not be put into effect immediately. He

therefore doubted the wisdom of the proposal to reverse the order of items 5 and 6 of the agenda. All delegations were familiar with the question of defining aggression, which had been discussed at length during previous sessions; hence it should not take too long to study the Secretary-General's report, particularly as it was apparently to consist of a historical survey.

8. Mr. DE LACHARRIERE (France) pointed out that the proposal to reverse the order of items 5 and 6 did not involve placing the question of defining aggression at the very end of the agenda. Since the Secretariat had taken the trouble to prepare a report, he felt it should be given detailed study, and he therefore supported the proposal made by the Netherlands representative.

In the absence of any formal objection, the proposal to reverse the order of items 5 and 6 of the agenda was adopted.

9. In reply to a question by Mr. ROBERTS (Union of South Africa), the CHAIRMAN explained that there was no particular urgency in the new item just referred to the Committee entitled "Measures to limit the duration of regular sessions of the General Assembly" (A/C.6/339/Add.1), since it would not be possible to apply any amendments to the rules of procedure during the current session. He therefore suggested that the new item should be placed at the end of the Committee's agenda as item 8 [50].*

It was so agreed.

Ways and means for making the evidence of customary international law more readily available: report of the Secretary-General (A/2170)

[Item 55]*

10. Mr. LIANG (Secretariat) introduced the Secretary-General's report (A/2170). The possible publication of a consolidated index to the *League of Nations Treaty Series* and a list of treaty collections (parts III and IV of the report) had not aroused much discussion at the sixth session of the Assembly; accordingly the report attempted only to clarify the nature of those two proposed publications and to explain the relatively light financial implications. Part V dealt with the proposed repertoire of the practice of the Security Council. The financial implications of that proposal could not as yet be readily estimated, but the cost was not expected to be very high.

11. The most important item dealt with in the report was the proposal in part II for a United Nations juridical yearbook, and he suggested that the Committee might concentrate on that point. After careful study, the Secretariat had come to the conclusion that there might not always be sufficient material to warrant annual publication. It might therefore be wiser to publish the material in the form of separate collections. For example, the Institute of International Law had suggested that a United Nations juridical yearbook could include the decisions of the Administrative Tribunal; but as there might not be sufficient significant material to include under that heading each year it would perhaps be better to collect those decisions into a single document to be published every three years.

12. It had been suggested that significant legislation of the States relating to problems of international law should form part of the material to be included in the United Nations juridical yearbook. However, the Secretariat was already publishing a series of separate collections dealing with specific topics, such as the régime of the high seas. As regards decisions of national courts on questions of international law, the field was adequately covered by the *Annual Digest and Reports of Public International Law Cases*. It would therefore be difficult to avoid duplication if the United Nations were also to undertake a similar task. Those were some of the reasons why the Secretariat had recommended that the proposal for a United Nations juridical yearbook should be approached with caution.

13. Mr. NISOT (Belgium) asked whether the Secretariat had not considered the possibility of preparing and keeping up to date a repertoire of the Articles of the Charter in which each Article would be followed by a statement of the recommendations, decisions and resolutions to which the Article might have given rise in the various United Nations bodies. That would be a most valuable working aid for delegations; a similar repertoire had been prepared for the League of Nations by Ray¹ and had been constantly consulted at Geneva.

14. Mr. LIANG (Secretariat) replied that the Secretariat had been engaged for some years upon an annotation to the Articles of the Charter, upon roughly the lines indicated by the Belgian representative. It was a colossal task, for what was planned was not simply a running commentary but an exhaustive presentation of material dating back to the drafting of the Charter. The work was the more arduous in that during the past six years many decisions had been taken by United Nations organs without any explicit reference to specific Articles of the Charter, so that much research was necessary. The final results would not be produced until the Secretariat was convinced that it had achieved a competent and scholarly piece of work.

15. The proposed repertoire of the practice of the Security Council would, of course, cover only a limited part of the work of the United Nations. If the General Assembly decided that that part was required first, the efforts of the Secretariat could be concentrated upon it without prejudice to the other work, but the combined results would in due course be made available to the General Assembly.

16. In undertaking its work of annotation, the Secretariat had consulted the repertoire by Schiffer,² but it had found that work to contain only classified quotations, many of them out of context. Scattered and fragmentary statements made by delegations in League of Nations bodies were given, but the information provided was unsatisfactory, since it did not show how the particular points had been settled by the bodies in question. That type of report would be comparatively easy to compile, but it was far more difficult to produce one that did not rely upon individual statements but reflected United Nations practice in terms of the decisions or actions of its organs.

¹ See *Commentaire du Pacte de la Société des Nations selon la politique et la jurisprudence des organes de la Société*, Recueil Sirey, Paris, 1930.

² See *Repertoire of questions of general international law before the League of Nations, 1920-1940*, published under the direction of A. C. Breycha-Vauthier, Geneva, 1942.

17. Mr. ROBERTS (Union of South Africa) suggested that the Committee should take the Secretary-General's report as the basis for its discussion, noting with satisfaction the general statement in part I and taking up the remainder of the report section by section.

18. The CHAIRMAN thought it better for the Committee to hold a general discussion on the whole report to begin with.

19. Mr. TOUS (Ecuador) felt that in view of the many and varied suggestions contained in the report, it should first be referred to a small sub-committee to study the suggestions in relation to their budgetary implications. The Secretary-General's recommendations on some points were vague, and it would be the sub-committee's function to examine them and to report back with specific recommendations.

20. In the report, the budgetary implications had apparently been based on the assumption that the proposed publications would appear either in English or in English and French; but, he pointed out, it would be conducive to the development of international law in the Latin-American countries if the publications could be produced in the Spanish language also. Accordingly, he felt that the Secretary-General should be asked to submit supplementary estimates showing what would be the extra cost of having the publications translated and produced in Spanish.

21. Mr. GUERREIRO (Brazil) thought that the discussion might profitably centre on the proposal for a United Nations juridical yearbook; the Committee would in that way be narrowing down the area of choice, as suggested in paragraph 15 of the Secretary-General's report, and could proceed to study paragraph 61, which outlined the proposed contents of the yearbook. His delegation had an open mind on the subject: while it would welcome a juridical yearbook if it served a useful purpose, it was not unmindful of the financial difficulties.

22. Mr. DE LACHARRIERE (France) pointed out that the United Nations inevitably faced greater difficulties in preparing publications of the type described in the report than did private individuals, for whereas the latter could make a choice on their own responsibility, any work prepared by the Organization had to be complete and absolutely objective. Its work was also more costly, for whereas private publishers employed private persons, who were more or less adequately remunerated, a United Nations publication involved the time of many officials. The Committee should be careful, therefore, to limit itself to certain specific subjects and not attempt to recommend too much. Moreover, it should not be swayed by purely scientific considerations, for the United Nations was not an academic body.

23. That being so, he wondered whether the very title of the item under consideration was altogether appropriate. The United Nations was concerned not so much with research into customary international law as with facilitating and accelerating the progress of its work. Hence the Committee should concentrate on practical schemes having a direct bearing on the work of the United Nations, such as, for example, the annotation of the Articles of the Charter, the reper-

toire of the practice of the Security Council and the list of treaty collections.

24. Mr. VALLAT (United Kingdom), outlining his delegation's general attitude towards the Secretary-General's report, agreed with the South African representative that as far as part I was concerned, the Committee need do no more than take note of it.

25. The four publications which formed the subjects of parts II to V would all be of considerable value. The Secretariat had made a most painstaking survey and had produced a valuable report. If there had been no other considerations involved, his delegation would have wished to see all the proposed projects carried out. As it was, however, it found it necessary to consider the relative value of each item as compared with the estimated cost. It was with that consideration in mind that he would comment upon parts II to V.

26. With regard to part II, he found the report on the proposal for a juridical yearbook not so encouraging as it might have been; it spoke of the danger of overlapping and duplication of work and of the yearbook becoming a mere miscellany. The United Kingdom delegation had not been altogether convinced by those arguments; nevertheless, such a danger could not be disregarded and accordingly, as well as on account of the probable cost of the yearbook, it felt that the proposal should perhaps not be pressed at the present stage. It could be kept under review and perhaps entertained later, when more funds might be available to the United Nations. The suggestion in paragraph 70 was most useful; it might be well to recommend that the Secretary-General should examine it more closely, together with the outline of the proposed yearbook and any suggestions that might be made by the Sixth Committee, and report to the eighth session of the General Assembly.

27. The consolidated index to the *League of Nations Treaty Series*, proposed in part III, would be useful but since it required only a little more effort to use the existing nine volumes of index, the idea of a consolidated index, with the very heavy estimated cost, seemed a luxury. That, too, might well be left aside for the time being.

28. Part IV dealt with the proposal for a list of treaty collections. No list had been compiled since 1922; such a publication would therefore be of great value, not only as evidence of customary international law but also as likely to assist the work of the United Nations—the test applied by the French representative. As the cost would be comparatively low, the Committee might give the proposal its support in principle.

29. The proposed repertoire of the practice of the Security Council (part V) had always been regarded as a desideratum by the United Kingdom. The outline appearing in annex I of the report was not, perhaps, the outline all delegations would have produced; nevertheless it represented the results of most careful work by the Secretariat, and he hoped that the Committee would be able to approve the proposal without spending too much time on detailed criticism.

30. Mr. BARTOS (Yugoslavia) recalled that three years earlier his delegation had opposed the suggestion of the French and United Kingdom delegations that publications of the type referred to in the report

before the Committee should be left to the initiative of private firms. Private authors had their own bias and, in the case of small countries without the means to produce their own digests, it became necessary to study all the different publications in order to obtain a balanced view. It had always been the opinion of the Yugoslav delegation that within the limits of the budget, the proposed publications should be prepared by the United Nations, in keeping with Article 13 of the Charter. It was undoubtedly part of the duty of the United Nations to make the sources of customary international law accessible.

31. The Secretariat had produced a valuable and objective report, which fulfilled the requirements of General Assembly resolution 602 (VI). His delegation gave its general support to the proposals in the report, while reserving its position on points of detail.

32. Mr. CORTINA (Cuba) said that access to the sources of customary international law was vital to the development of international law. The Secretary-General's report described a number of possible compilations of varying importance and urgency. In his view, the proposal for a United Nations juridical yearbook was the most important and should be given careful consideration. He suggested that perhaps the services of honorary correspondents in different countries could be used—as was the practice of some specialized agencies—as a means of reducing expenditure.

33. Mrs. SAMPSON (United States of America) said that the United States was opposed to the prepar-

ation of a consolidated index to the *League of Nations Treaty Series* for the reasons it had stated at the sixth session of the General Assembly. As the United Kingdom representative had pointed out, separate indices to the *Series* were already in existence, and, although they were not perfect, the advantages of consolidating them would not compensate for the high cost and the effort involved. In general her delegation supported the conclusions reached in the Secretary-General's report, particularly as regards a list of treaty collections and a repertoire of the practice of the Security Council, subject to the findings of the Advisory Committee on Administrative and Budgetary Questions and of the Fifth Committee concerning the financial implications involved.

34. Mr. NISOT (Belgium) supported the Secretary-General's proposal relating to the publication of a repertoire of the practice of the Security Council. The repertoire ought to include an index to the Articles of the Charter and to the rules of procedure of the Security Council; each Article and each rule would be followed by a reference to the pages of the volume where the relevant passages appeared. The repertoire should cover the entire practice of the Security Council and not merely the matters mentioned in the Secretary-General's tentative outline.

After some discussion of the suggestion of the delegation of Ecuador to appoint a sub-committee to study the report in detail, it was decided to continue the general debate.

The meeting rose at 12.55 p.m.