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**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/L.349, A/C.6/L.350)**

*At the invitation of the Chairman, Mr. Spiropoulos, Chairman of the International Law Commission, took a seat at the Committee table.*

1. The CHAIRMAN observed that chapter I (Introduction) and chapters II and III of the report of the International Law Commission on the work of its seventh session (A/2934) did not call for any decision by the Assembly and were submitted to it only for information. At the Assembly's eleventh session, the Committee would be called upon to consider the régime of the high seas and the régime of the territorial sea, which were discussed in chapters II and III. At its eighth session, in pursuance of General Assembly resolution 899 (IX), the Commission proposed to compile in a single report all the rules which it had adopted with respect to the high seas, the territorial sea, the continental shelf, contiguous zones, fisheries and the conservation of the living resources of the sea, after examining the comments of Governments.
2. Chapter IV of the report, on the other hand, did call for certain decisions by the Sixth Committee. In the first place, the Commission recommended an amendment to article 12 of its Statute, for the purpose of transferring the place of its meetings from New York to Geneva. It also recommended an amendment to article 10 of its Statute, providing that members be elected for five years. Lastly, it recommended that the Assembly examine the question of publication of the Commission's documents.
3. On the proposal to amend article 12 of the Statute, the Committee had before it a joint draft resolution (A/C.6/L.349) submitted by Afghanistan, the Netherlands, Panama, Sweden, Syria and Uruguay.
4. Mr. SPIROPOULOS (Chairman of the International Law Commission) pointed out that the question of where the Commission sat was a purely administrative matter. The proposed amendment did no more than confirm a regular practice of the Commission and was merely designed to bring article 12 of its Statute into line with that practice. The arguments advanced

in support of the proposal were to be found in paragraph 26 of the Commission's report. They were that Geneva afforded much more favourable working conditions, because, among other reasons, of Switzerland's neutrality; that the European Office of the United Nations had an exceptionally well-planned law library; and lastly, that the members of the Commission included several university professors who were normally free only during the university summer vacation, a time when the New York climate was hardly conducive to satisfactory work.

5. Mr. BROKENBURR (United States of America) said that the United States had always followed the Commission's work with interest, and he emphasized the importance of this work in the development of international law.

6. Some United Nations organs met at other places than the Headquarters of the Organization, including the European Office at Geneva. According to its existing Statute, the Commission should sit at Headquarters, and might decide to meet at other places after consultation with the Secretary-General. Practically speaking, it sat at Geneva and in its considered opinion should continue to do so. The United States delegation supported the proposed amendment to article 12 of the Commission's Statute. The amendment clearly did not create a precedent contrary to the general policy, which his Government strongly supported, that the chief meeting place for United Nations organs was at the Headquarters of the Organization in New York. Nor did his delegation consider that the amendment affected the place of work of members of the Secretariat and, in particular, of the Codification Division of the Office of Legal Affairs.

7. Regarding the term of office of members of the Commission, the United States delegation felt that everything possible should be done to ensure continuity in the Commission's work and that a longer term would help to achieve that objective. As a tentative alternative to a simple five-year term the United States suggested a six-year term with one-third of the membership elected every two years. It also suggested as desirable that the General Assembly fill vacancies arising between elections, a task at present performed by the Commission itself under article 11 of the Statute.

8. So far as the publication of the Commission's documents was concerned, his delegation preferred to reserve its position until the Committee had fuller information on such matters as printing costs.

9. The CHAIRMAN observed that it might be better to give separate consideration to the three questions on which the Committee had to take a decision.

10. Mr. MAURTUA (Peru) thought that the General Assembly should also express its views on the general lines of the Commission's work and on how the latter should encourage the progressive development and codification of international law. The mem-

bers of the Committee should be free to make any comments on the subject that they saw fit.

11. Mr. SEN (India) said that his views on the seat of the Commission coincided with those of its Chairman. For many European professors and legal experts, Geneva was the more accessible place. Moreover, hard currencies were not as essential in Geneva as in New York. He therefore supported the amendment proposed in the joint draft resolution.

12. Mr. CARPIO (Philippines) said that he was almost entirely convinced of the wisdom of the step proposed in the joint draft resolution, but that he would welcome information on its financial implications.

13. The CHAIRMAN said that the Secretary-General had prepared a statement regarding the financial implications of the proposal which would be distributed during the meeting (A/C.6/L.350).

14. Mr. HSU (China) observed that there were strong reasons in favour of the joint draft resolution. The adoption of the proposal would no doubt involve additional expenditure amounting to some ten thousand dollars, but that was a small sum in comparison with what the Commission would gain in efficiency if it could always meet at Geneva. Some members of the Commission found it difficult to travel as far as New York. As it was, the Commission could meet at Geneva after consultation with the Secretary-General, but it would be much more practical and simple to decide once and for all, or at least for a certain number of years, that it would sit at the European Office of the United Nations. Such a decision would have the further advantage of avoiding any risk of friction between the Commission and the Advisory Committee on Administrative and Budgetary Questions.

15. For all those reasons the Chinese delegation would support the joint draft resolution.

16. Mr. TAMMES (Netherlands) said that his delegation supported the proposed amendment to article 12 of the Statute of the Commission as being fully justified for the reasons mentioned by its Chairman. The remarkable work already done by the Commission left the Assembly little choice but to accede to the unanimous desire of the members and to permit the Commission to continue that work under the most favourable conditions possible.

17. Mr. MEMON (Pakistan) thought that the proposed amendment to article 12 of the Statute was a wise step, to which there was no valid objection. Due regard should be paid both to the personal convenience of the Commission's members and to their right to meet in the atmosphere they considered most conducive to progress in their work. Since, after all, it was merely a question of confirming an established practice, the financial implications could not be of very great importance and the additional expense would be more than offset by its undeniable advantages.

18. Naturally, as the United States representative had already made clear, the change affected only the Commission and not any part of the Secretariat.

19. Mr. SEPULVEDA (Chile) said that he approved the principle of the proposed amendment, which was justified, among other things, by the fact that it would satisfy all the members of the Commission and enable them to profit by the presence of an exceptionally well-planned law library at Geneva.

20. Mr. NISOT (Belgium) thought that the reasons given in paragraph 26 of the Commission's report

(A/2934) carried conviction. The Belgian delegation would accordingly support the amendment.

21. Mr. TABIBI (Afghanistan), after complimenting the Commission on its work, said that the Assembly should defer to the unanimous wish of the Commission's members and give its sanction to the already established practice of holding meetings at Geneva.

22. Mr. VALLAT (United Kingdom) welcomed the International Law Commission's report, which showed that, at its last session, the Commission had made substantial progress.

23. As to the proposed amendment to article 12 of the Commission's Statute, the suggestion was simply that the Commission's meeting-place should be presumed to be Geneva rather than New York. That modification was unanimously recommended by the members of the Commission. The United Kingdom Government had studied the question with the greatest care, taking special note of the opinion submitted by the Advisory Committee on Administrative and Budgetary Questions. In the special case of the International Law Commission, which was *sui generis* and entrusted with exceptionally important work, the arguments adduced in support of the amendment fully justified the contemplated step and should prevail over the financial considerations. However, it should be clearly understood that this was a special case, which did not establish a precedent.

24. It would be impossible, in practice, to follow the suggested procedure of borrowing the textbooks which the International Law Commission might need during its session from the library of the European Office and shipping them to New York every year. It would never be possible to anticipate all of the Commission's requirements and the system would lead to the periodic mutilation of a remarkable collection.

25. In conclusion, he stressed that the draft amendment (A/C.6/L.349) stated that the Commission "shall sit" at the European Office, but that this by no means implied that it would sit there permanently.

26. Mr. COATON (Union of South Africa) could not accept the reasons invoked in support of the proposed amendment. In his opinion, there was no conclusive evidence that Geneva offered all the advantages listed, or that those advantages were sufficiently weighty to justify a change in the Statute. The International Law Commission had met only once in the United States. It might be advisable to hold another session in New York before reaching a final decision, in order to compare the working conditions on the basis of a full knowledge of the facts.

27. The South African delegation opposed the suggested amendment, because it considered that, in principle, all United Nations organs should meet at Headquarters—which enabled them to organize their work more efficiently—and because of the financial implications of the step.

28. As to the wording of the draft resolution (A/C.6/L.349), he asked why, if Geneva was the ideal place for the International Law Commission's meetings, it was considered necessary to provide that it might hold meetings at other places.

29. Mr. MOROZOV (Union of Soviet Socialist Republics) said that the suggested amendment was designed only to bring the Commission's Statute into line with the established practice. The members of the Commission unanimously preferred that it should meet at Geneva. That preference was perhaps partly dictated

by considerations of personal convenience, but such a factor could not be disregarded when the persons concerned were eminent jurists with other time-consuming duties.

30. Mr. ALFONSIN (Uruguay) felt that many important factors justified the draft amendment, of which his delegation was a sponsor. If there was a conflict between budgetary considerations and the need to provide favourable working conditions for the Committee, that need should prevail.

31. Mr. NISOT (Belgium) pointed out that there was a discrepancy, in the French text, between the amendment proposed by the International Law Commission in paragraph 25 of its report (A/2934) and the joint draft resolution (A/C.6/L.349). The former stated "*La Commission a son siège à l'Office européen . . .*" while the latter read: "*La Commission se réunira à l'Office européen . . .*". He wondered whether the change had been intentional. Both wordings were acceptable, although the text proposed by the International Law Commission might appear better.

32. Mr. TARAZI (Syria) said that he would willingly accept the phrase "*la Commission a son siège . . .*".

33. Mr. STAVROPOULOS (The Legal Counsel) explained that the intention had been to correct a drafting error dating back to the original formulation of the International Law Commission's Statute. The original text, prepared in English, had stated: "The Commission shall sit at . . .". The French translation had wrongly read: "*La Commission a son siège . . .*". It was wrong to speak of the Commission's seat (*siège*). The point to determine was where it should meet.

34. Mr. AMADO (Brazil) felt that the question was merely one of form. The English text was the same in both cases; the Committee should decide only whether it would vote on the words "*se réunira*" or on the words "*à son siège*", depending on which text it regarded as the better translation of the English wording of draft resolution A/C.6/L.349.

35. Mr. CARPIO (Philippines) said that the sole purpose of the amendment to article 12 was to enable the International Law Commission to hold its meetings at Geneva, while maintaining its seat in New York. The differences of opinion were due to a misunderstanding: if the International Law Commission had wished to transfer its seat to Geneva, it would have drafted the English text of article 12 differently. The members of the Committee should therefore consider only the English text of the draft resolution before them.

36. Mr. MAURTUA (Peru) thought that there were two different concepts involved. The concept of a "seat" presupposed a degree of stability, including permanent offices, staff and a secretariat, while the concept of "meeting" had a provisional character.

37. Furthermore, the concept of a "seat" would conflict with the second sentence of article 12, which stated that the Commission could "hold meetings at other places"; the Sixth Committee could not authorize the International Law Commission to establish a permanent seat at some place other than that specified in its Statute.

38. Mr. CORTINA (Cuba) agreed with the Peruvian representative's opinion; the texts had to be more or less uniform. The Secretary-General's representative had recalled that an error had crept into the French text of the original article of the Statute and there was

no doubt that the concept of a "seat" was very different from that of a "meeting".

39. Delegations should decide whether they were voting for the word "*réunion*" or for the word "*siège*".

40. Mr. NISOT (Belgium) agreed with the Brazilian representative that the question was merely one of form. The English and French texts could be made to conform by using the word "*siégera*".

41. Mr. TABIBI (Afghanistan) felt that it would be sufficient, as the Secretary-General's representative had suggested, to rectify the mistake made in the French text in 1947.

42. The CHAIRMAN said that the French text would be altered to correspond exactly with the English text.

43. Mr. SPIROPOULOS (Chairman of the International Law Commission) said that the International Law Commission's proposal was that it should normally meet at Geneva, while maintaining the right to hold meetings "at other places", as article 12 of its Statute provided. In 1954, the Commission had been unable to meet at Geneva owing to the Conference on the problem of restoring peace in Indo-China and had decided to meet in Paris. As such a case might arise again, it was advisable to provide that the Commission should have the right to hold its meetings at some other place than Geneva.

44. Mr. MOROZOV (Union of Soviet Socialist Republics) asked the Secretary-General's representative for further explanation of the Secretary-General's statement on financial implications (A/C.6/L.350). The document seemed to exaggerate the financial implications and did not mention certain savings: if the Commission met at Geneva, only five of its members, instead of eight, would have to cross the Atlantic; travel costs and subsistence allowances would thus be correspondingly reduced.

45. Mr. STAVROPOULOS (The Legal Counsel) replied that document A/C.6/L.350 was based on the practice followed for six years. Each budget was prepared as if the session were to be held in New York and supplementary funds were appropriated when it took place at Geneva. The figures given in document A/C.6/L.350, therefore, corresponded to a normal situation.

46. Mr. MOROZOV (Union of Soviet Socialist Republics) said that the figures seemed higher than the actual expenditure; certain savings could therefore be expected.

47. Mr. LOPEZ VILLAMIL (Honduras) felt that it was useless to go back to the mistake in translation. The Committee could ask for a better translation and vote on the texts submitted. The Spanish wording "*tendrá su sede*" conveyed an idea of permanence.

48. The Honduran delegation would support the joint draft resolution, as it accepted the reasons invoked by the International Law Commission and its Chairman. The Commission enjoyed such prestige and did work of such importance that it deserved the most favourable working conditions possible.

49. Mr. EL ERIAN (Egypt) paid a tribute to the remarkable work of the Commission and its Chairman, as well as of the Secretariat.

50. His delegation considered that the arguments adduced by the Commission in its report, and by its Chairman, were sound, and it would support the joint draft resolution.

51. Mr. SERRANO GARCIA (El Salvador) complimented the Commission and its Chairman; they had discharged their duty with great skill and had prepared an excellent report.

52. The Salvadorian delegation would support the joint draft resolution. It wished, however, to avoid any misunderstanding regarding the second sentence of the proposed article 12. That sentence, which seemed to contradict the first, could be made clearer by the addition of the words "where circumstances so require"

or "in case of need". The wording of the article would thus be more explicit.

53. Mr. CANAL RIVAS (Colombia) said that the Committee could vote on the original English text, as the French text would certainly be changed.

54. Mr. SERRANO GARCIA (El Salvador) suggested that the debate should be adjourned, pending the circulation of the amended texts.

The meeting rose at 1 p.m.