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Chairman : Mr. Manfred LACHS (Poland).

Report of the International Law Commission covering the work of its third session (A/1858), including : (c) Review of the Statute of the International Law Commission with the object of recommending revisions thereof to the General Assembly (chapter V) (continued)

[Item 49 (c)] *

1. The CHAIRMAN invited the Committee to continue consideration of chapter V of the report of the International Law Commission (A/1858).¹

2. Mr. HSU (China) said that his Government would be the first to support the proposal to make the International Law Commission a permanent organ, were that a practical proposition. Intensification of the work in progress on the development and codification of international law was undoubtedly desirable. International law was still not as precise as it should be, because it had developed in a society in which relations between sovereign States were somewhat vague. It lacked precision and clarity, and should be extended and revised, because the community of nations was no longer limited to western Europe but covered the entire world and embraced countries belonging to a wide variety of civilizations. Contacts between those countries had become closer, first under the League of Nations and then under the United Nations.

3. The Chinese delegation would therefore be prepared to support a modification of the Statute of the International Law Commission which would place the Commission on a full-time basis : but it was undecided whether that should be done at once or whether it would be advisable to wait. Such a change would of course have highly important financial implications, but that should not be the primary consideration. Moreover, the Committee should not be deterred by the present international situation; though codification was clearly a matter for periods of calm and stability, the development of inter-

national law could proceed in periods of unrest. Magna Carta, the French Declaration of the Rights of Man and the United States Declaration of Independence had emerged in the midst of periods of war or revolution. So had the Nürnberg Tribunal. If the United Nations failed in its task of developing and codifying international law, it would do so not because of the international situation but because it was frequently lacking in faith, will and courage. In those circumstances the proposal to place the International Law Commission on a full-time basis appeared premature.

4. Mr. PEREZ PEROZO (Venezuela) emphasized his delegation's great admiration and respect for the International Law Commission and its members. The delegation of Venezuela had been represented in the Committee on the Progressive Development of International Law and its Codification, which had framed the International Law Commission's Statute; it was therefore well qualified to assert that the International Law Commission had more than justified the hopes of those who had promoted its establishment, and that its work assisted the General Assembly in the task assigned to it under Article 13 of the Charter.

5. That, however, was not the point at issue. The problem was that which had been formulated by the Brazilian representative at the previous meeting. The Sixth Committee's decision on the International Law Commission must depend on the importance which the General Assembly would attach to the development and codification of international law. At first sight it might appear that the question whether a full-time organ should be established must be answered in the affirmative; but in reality that was not so. There was no certainty that the Commission's work would attain the desired high level merely because its members would be giving it their full time. The work of the International Law Commission had to be considered and approved by the General Assembly. Although hitherto the Commission had held only one session

* Indicates the item number on the General Assembly agenda.

¹ See *Official Records of the General Assembly, Sixth Session, Supplement No. 9.*

each year, the General Assembly had still been unable to review part of its work. The slow progress of the work of codification was not due solely to the conditions under which the International Law Commission at present conducted its proceedings; it was also due to the fact that the Sixth Committee could devote only a limited time to the examination of the Commission's work.

6. It might therefore be asked whether the United Nations should considerably increase its budget in order to remedy a situation due to other factors. The Assistant Secretary-General had stated (295th meeting) that the appropriation for the International Law Commission would have to be increased from \$56,000 to \$600,000. That was a considerable sacrifice. Of course purely financial considerations should not prevail where higher interests were at stake; but no one could be sure that the necessary financial sacrifices would in fact promote those interests.

7. He would not explain in detail the other reasons for which his delegation would not support the proposal to place the International Law Commission on a full-time basis at once; in any event those reasons were not final. The General Assembly must act with prudence; the International Law Commission was of recent date and it was not yet possible to appreciate at their full value the services it could render. Codification was a long-term project which called for much patience. In 1953, when the terms of office of the present members of the International Law Commission would expire, the General Assembly would doubtless possess additional information which would enable it to take a decision. Until that time the delegation of Venezuela considered that it would be wiser not to modify the Statute of the International Law Commission. It had submitted a corresponding draft resolution (A/C.6/L.218) to which it had just made a number of alterations suggested by the representatives of France and Egypt.

8. Mr. ROBINSON (Israel) regretted that his delegation was unable to approve of the plan proposed by the International Law Commission to place the Commission on a full-time basis. The Israel delegation did not underestimate the importance of the time factor for the output of the International Law Commission. So far that output had been excellent; but as a full-time body the International Law Commission would be able to produce many more documents. In either case the co-operation of the Legal Department of the Secretariat should be utilized to the full.

9. However, the real problem was not the production of the International Law Commission, whose work had an undeniable scientific value. The decisive factor was the extent to which the Commission's conclusions were acceptable to the United Nations. In that respect the results were rather discouraging. The Declaration on Rights and Duties of States drafted at the Commission's first session,² the formulation of the Nürnberg principles and the opinion on the establishment of an international criminal court and its conclusions concerning reservations to multilateral conventions adopted at its second session³ and the question of defining aggression had not been adopted by the General Assembly. The only exception had been the report of the International Law Commission concerning ways and means of making the evidence

of customary international law more readily available;⁴ but that was a problem relating to documentation rather than to law and its interpretation.

10. The conclusion to be drawn from those facts was that there was a deep cleavage between the opinions of the experts on the Commission and those of governments. Could such a cleavage be avoided if the International Law Commission had more time at its disposal? There was no indication in the records of the International Law Commission that its conclusions on a number of questions had been reached in haste. Hitherto, therefore, the time factor had not been of prime importance. The real reason for the cleavage was the current status of international law. The present time was hardly favourable for its development. In the first place, periods of international tension were not conducive to processes of crystallization and stabilization. Secondly, the new world system of States was radically different from that under which modern international law had been born and developed. Lastly, even within the realm of traditional international law and within the area of the States where that law was most highly developed, a painful process of adjustment of international law to the new political, economic, social, ideological and scientific developments was going on.

11. Should the further consideration of projects prepared by the International Law Commission demonstrate a *rapprochement* between the experts' views and those of governments, then and then only would the Israel delegation be able to reconsider its attitude towards the reorganization of the International Law Commission.

12. Mr. CREPAULT (Canada) recalled that the Committee on the Progressive Development of International Law and its Codification had originally felt that the International Law Commission should be a full-time body.⁵ The General Assembly had not accepted that point of view since the majority had considered, on the one hand, that it would be possible to set up within the Secretariat a group of specialists to be responsible for carrying out preparatory work under the supervision of the International Law Commission; and on the other hand, with regard to the progressive development of international law, that the International Law Commission should appoint rapporteurs who would receive special honoraria; and lastly that it would be hard to find eminent jurists who would be willing to devote their whole time to the International Law Commission. All those reasons were still valid. If at first sight they seemed less valid now than three years ago, the reason was that the General Assembly had given the International Law Commission too many special tasks. In order to remove the difficulties which the International Law Commission was encountering in carrying out its work, it would be advisable, according to the Canadian delegation, not to amend the Statute of the International Law Commission so as to place it on a full-time basis, but to decrease the number of special tasks which the Commission was asked to carry out. That solution was the obvious one, particularly when those tasks concerned matters which seemed at first sight to be exclusively legal and were later revealed as purely political questions, in which case the discussion of them by the International Law Commission must in the end prove useless.

² *Ibid.*, Fourth Session, Supplement No. 10, part II.

³ *Ibid.*, Fifth Session, Supplement No. 12, parts III and IV.

⁴ *Ibid.*, resolution 487 (V).

⁵ See *Official Records of the General Assembly, Second Session, Sixth Committee, Annex 1, document A/331.*

13. The members of the International Law Commission should make more use of the services of the Legal Department of the Secretariat, particularly with regard to questions of codification. The appointment of rapporteurs was also an excellent method, and such rapporteurs should also make more use of the Legal Department.
14. Furthermore, if such a radical change in the Statute of the International Law Commission were decided on, its members would no doubt be recruited very differently. They were at present eminent jurists from various parts of the world. If the International Law Commission were a full-time body, it would tend to become a body of officials comparable by its nature to the Secretariat of the United Nations, with a consequent risk of overlapping in the work done. Some jurists who were at present members of the Commission would have to abandon the posts they occupied in their own countries or else leave the International Law Commission, which would obviously be regrettable.
15. Such a decision would also have major financial implications, which would seem undesirable considering that the expenses of the United Nations were already very high.
16. The Canadian delegation did not think, therefore, that all the members of the International Law Commission should devote their whole time to the work. It was ready to support the United States representative's proposal that the Statute of the International Law Commission should not be changed for the time being. It would vote in favour of a draft resolution to that effect, and in favour of any recommendation designed to improve the method of work of the International Law Commission.
17. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics) did not think that there was any need to say, as some representatives had said, that those who were in favour of the development of international law must also be in favour of transforming the International Law Commission into a full-time organ. Some of the International Law Commission's work had a certain influence on the development of international law, but the two questions could not be linked completely. The conclusions recently arrived at by the International Law Commission confirmed that point of view. If the Sixth Committee had followed the International Law Commission's advice on reservations to multilateral conventions, it would have contributed not to the development but to the retrogression of international law. The same would have applied to the question of defining aggression.
18. The matter before the Sixth Committee should be considered from the point of view of the organization of the International Law Commission's work. Examining the summary records of the third session of the International Law Commission, he had found that the Commission had worked on the average three hours a day for five days a week. He did not dispute that the Commission's work was highly delicate, but he thought that the number of meetings could well have been doubled without impairing its quality. It was not therefore true to say that the International Law Commission had not had enough time to complete its work.
19. Moreover, the International Law Commission was supposed to represent the principal legal systems of the world. If the members of the International Law Commission became officials of the United Nations, they would lose contact with the legal systems which they ought to represent.
20. He explained that his comments were merely preliminary observations and reserved the right to speak again.
21. With regard to the Venezuelan draft resolution (A/C.6/L.218) he noted that the third paragraph of the preamble prejudged the question by implying that the International Law Commission's recommendation regarding the revision of its Statute would be adopted at a later stage.
22. The CHAIRMAN explained that the text of the Venezuelan draft resolution had been revised; in the new text which would be distributed in the course of the meeting that paragraph was omitted.
23. Mr. FITZMAURICE (United Kingdom) recalled that at the fifth session of the General Assembly (226th meeting of the Sixth Committee) the United Kingdom delegation had held that the International Law Commission had not had time to complete the task assigned to it. The fear had been felt that some members of the Commission might not wish to continue to work in such conditions. The United Kingdom delegation had therefore suggested, though without making a formal proposal, that the International Law Commission should be made a permanent body.
24. The United Kingdom delegation had always regarded the remarkable work of the International Law Commission with respect and admiration. It congratulated the Commission on the high legal standard of its work, and on the political judgment it had shown without departing from its own purely technical domain. The only criticism which the United Kingdom Government had had occasion to make of the Commission had concerned its report on the possibility of setting up an international criminal court, and that criticism had been merely that the Commission had not studied the matter in sufficient detail.
25. The Government of the United Kingdom had examined with care the Commission's recommendations regarding the revisions which should be made in its Statute. The proposed solution would enable the International Law Commission to produce more work; on the other hand, the Commission would no longer be composed of independent experts in close contact with the legal life of their countries. The recruitment of members also would be more difficult. In order to secure the collaboration of eminent jurists, it would be necessary to prolong and make extensible the term of office of the members of the Commission. It would also be necessary to make provision for high fees, which would mean a budget ten times as large as the Commission's present budget. For those various reasons the United Kingdom delegation had hesitated, and had felt that financial considerations should prevail. At the present session, however, it had been led to adopt an attitude similar to that of the United States representative—i. e., that the better course would be not to take any decision yet.
26. The attention of the United Kingdom delegation also had been caught by certain aspects of the matter of the kind just pointed out by the Israel representative. They concerned the attitude of the General Assembly towards the work of the International Law Commission. The Commission was composed of eminent jurists who were for the most part completely independent and not subject to any political influence. The Sixth Committee might therefore have been expected to accept the con-

clusions of experts more qualified than its own members could be. However, it had not done so, and he recalled the fate which had met the draft Declaration on Rights and Duties of States, the formulation of the Nürnberg Principles, the report on reservations to multilateral conventions, and the report on the question of defining aggression. No report of the International Law Commission on any topic had been accepted in full by the General Assembly. The question could therefore be asked whether it would be of value to maintain a group of independent experts when the General Assembly did not adopt their conclusions but itself re-examined the questions with which they had dealt. He did not intend, by that observation, to criticize the General Assembly or the Sixth Committee.

27. It was interesting to note that the finding on the possibility of establishing an international criminal court was the only report of the International Law Commission to receive substantial support from the General Assembly. The reason had been that that finding had accorded with the ideological tendencies of the General Assembly. Technical work should not be revised by the General Assembly on political and emotional grounds.

28. The United States representative had emphasized the great divergences of views separating the Members of the General Assembly. The United Kingdom representative therefore wondered whether it was of any value to proceed rapidly with the codification of international law. At the present time there existed no agreement on legal principles, and the very bases of international law were put in issue. In place of those principles, thanks to an alliance of various groups of countries which won them an automatic majority in the General Assembly, a number of extravagant notions had been submitted and adopted. That situation was to be regretted, and he feared the fate which in those circumstances would befall important items such as the law of treaties, since each Member would consider them in the light of political considerations and would distort and mutilate, for selfish ends and on grounds of expediency, a code which ought to have a permanent character. The General Assembly's refusal to adopt the International Law Commission's recommendations was therefore even more serious when they concerned draft codes than when they concerned the specific questions thus far referred to the Commission for study.

29. While deploring that situation, for which the members neither of the International Law Commission nor of the General Assembly could be held responsible, he believed that the absence of any code was preferable to the adoption of codes enshrining the legal monstrosities which would probably result from the present state of affairs. The fact remained that the work of the International Law Commission and not that of the General Assembly carried weight in the opinion of jurists.

30. It was preferable at the present time not to review the Statute of the International Law Commission. He was, however, prepared to study any proposal likely to facilitate and accelerate the Commission's work; the International Law Commission could then appropriately suggest measures, other than conversion into a full-time body, which would permit it to carry out its work under more favourable conditions.

31. Mr. BARTOS (Yugoslavia) recalled that, as a member of the Committee on the Progressive Development of International Law and its Codification, his delegation had participated in the work which had led

to the establishment of the International Law Commission, and it had likewise helped to prepare the first draft statute of the Commission, which had not been adopted by the General Assembly. The precise reason for the rejection of that text had been the emergence at the time of differences of opinion on the question now before the Sixth Committee—whether or not the Commission should be placed on a full-time basis. While some had recommended that the Commission should be made a full-time body, others had affirmed that if the members were obliged to devote themselves exclusively to the work of the Commission they would become officials who would gradually lose contact with the various legal systems and thereby cease to be legal experts. As all were aware, it had finally been decided that the members of the Commission should be selected from among persons of recognized authority in international law.

32. With regard to the results of the work thus far accomplished by the Commission, he did not believe that an appreciation of the scope of that work could be based on the statistical method which the USSR representative had used. In addition to their work as a group, the members of the International Law Commission were undoubtedly carrying out individual studies and research work of great value. Far from finding that the International Law Commission's output was insufficient, he was surprised that the Commission had always succeeded in disposing, within the prescribed time-limits, of the tasks which the General Assembly had entrusted to it. The Commission had thus undoubtedly achieved positive results.

33. Nevertheless, if it were desired that the Commission should furnish an even larger output, its members must certainly be enabled to free themselves from all other activities in order to devote themselves exclusively to the Commission's work. But the real issue was whether it was generally considered that the Commission's conclusions could serve as a basis for work by the General Assembly. If the answer to that preliminary question were in the affirmative, the further question had then to be asked whether the expansion of the Commission's work programme would be likely to promote further progress in the development of international law, and thence towards the stabilization of international relations—a result which would justify the extra cost of such a decision. If the reply to the second question were also in the affirmative—and he believed that it might be—then it could seemingly be concluded without hesitation that the Commission should be placed upon a full-time basis.

34. Unfortunately, experience showed that a large part of the work performed by the Commission was not being utilized by the General Assembly. An example was the draft Declaration on Rights and Duties of States which the Assembly had not adopted. Incidentally, a number of delegations had rightly pointed out that although the Assembly was not prepared to study and if necessary amend the text proposed by the International Law Commission, it would nevertheless be better to adopt the text notwithstanding its imperfections than to be content with a purely negative attitude. He did not believe that the members of the Commission were unable to take account of the political aspects of the questions which they studied, as the Egyptian representative had intimated. Over and above their legal skill, the members of the Commission had extensive political experience, which often induced them to sacrifice their personal views for the sake of arriving at compromises. It could therefore not be concluded that the Assembly

was rejecting the texts submitted by the Commission solely because they were based on legal considerations only.

35. In those circumstances the Yugoslav delegation would be prepared, for the time being at least, to vote for a text putting the International Law Commission on a full-time basis and thus enabling its members to devote all their time to the work of the Commission, provided always that that work was actually utilized by the General Assembly.

36. Mr. FARZAND ALI (Pakistan) said that for the time being his delegation was not in favour of any decision to place the International Law Commission on a full-time basis. The result would be that the members of the Commission would lose touch with intellectual circles in their respective countries, and also lose sight of a number of political considerations which played an important part in the progressive development of international law. In addition, apart from the financial implications, which should not be neglected, such a decision would turn the Commission into a body with no work to do during part of the year.

37. The term of office of the members ought not to be extended beyond six years, and certainly not to nine years.

38. On grounds of economy the practice of holding sessions of United Nations bodies away from Headquarters should be discouraged as far as possible. There was no doubt that when a body met away from Headquarters it did not always dispose of indispensable working facilities.

39. Mr. PETREN (Sweden) said that his delegation, though it recognized the value of the work done by the International Law Commission, was not in favour of making the Commission a full-time body or even of deciding, as the United Kingdom delegation had suggested in 1950, that some of its members should sit in a full-time capacity while the others retained their present status.

40. He wondered whether it would not be possible to recommend that the member of the Commission who was acting as rapporteur for a question of particular importance should receive an allowance which would enable him to put aside his other activities and give all his time to the study entrusted to him.

41. Mr. AMMOUN (Lebanon) said that his delegation agreed with the International Law Commission that the conditions in which it was working were not the most suitable for accomplishing its task; in other words the Lebanese delegation understood the motives behind the Commission's recommendation. He wondered, however, why the Commission had shown such caution in stating in its report (paragraph 70) that its recommendation was at present placed before the General Assembly "in general terms only". He did not fully understand those words.

42. The Lebanese delegation was opposed to the transformation of the Commission into a full-time body. In the first place there could be no doubt that, as many representatives had already pointed out, by giving the Commission a special status similar to that of the International Court of Justice it would be turned into an academy of public international law whose members would have lost touch with legal realities. Secondly, if the International Law Commission were made a full-time body, the Sixth Committee would lose some of its best jurists, who besides being members of the Com-

mission also represented their countries in the Sixth Committee.

43. Referring to the censure levelled at the Commission by a number of representatives, he pointed out that, even if the Commission's work did give rise to a number of criticisms in the Sixth Committee, nevertheless the work of the Sixth Committee—which by its very nature grew out of the ideas underlying the establishment of the United Nations—was based upon the conclusions of the Commission. He did not think, moreover, that the legal monstrosities referred to by the United Kingdom representative were a real obstacle to the codification of international law. He agreed that intellectual work could not be assessed by mass-production standards.

44. In conclusion, he wondered whether the best solution would not be to increase the membership of the Commission from fifteen to twenty, thus avoiding any breach of the principles laid down in article 8 of the Commission's statute. He would not submit that suggestion as a draft resolution, but wondered whether it could not be taken into account when the question was studied again.

45. Mr. AMADO (Brazil) regretted, after hearing the many criticisms of the Commission, that it had not adopted the suggestion, made by some of its members when it had been drafting its report, that the report should contain some information about the conduct of its proceedings.

46. Several members of the Sixth Committee, in particular the representatives of Yugoslavia and Lebanon, had indeed pointed out that intellectual work could not be assessed statistically; but no reference had been made to the annex to chapter VIII of the report, which contained draft articles on the continental shelf and related subjects. In order to prepare a draft on that subject, which was absolutely novel and for which neither legal texts, theory nor custom could provide a source of information, the members of the Commission had made a thorough study of maritime law: they had undertaken individual research work, they had followed the work of the forty-fourth Conference of the International Law Association held in Copenhagen, and they had even consulted technical experts. All ideas on the subject which they could previously have entertained had been turned topsy-turvy when the Commission had attempted to define the expression "continental shelf" as applied to the Arab countries. To that work Faris El-Khoury Bey had made a priceless contribution.

47. Mr. Amado requested all members of the Sixth Committee who held scientific method in respect to read that part of the Commission's report. Certainly the work was not complete—and in that connexion it should be pointed out that the Commission had unfortunately been deprived of the help of Mr. Koretsky—but it was the fruit of considerable effort which should not be underestimated.

48. Mr. BARTOS (Yugoslavia) said that, when he had expressed his satisfaction with the excellent work of the International Law Commission, he had been thinking primarily of chapter VI of the report, relating to the law of treaties. As regards the draft articles on the continental shelf and related subjects, he was glad that that question was not on the Sixth Committee's agenda, as he would have been obliged to express his disagreement with the Commission's conclusions on it. In particular, much could be said about the attitude adopted by the Commission towards the continental

shelf of the Arab countries, a question well known to be particularly important in view of the problem of oil production in that region.

49. Mr. VAN GLABBEKE (Belgium) said that his delegation had often had occasion to express its deep gratitude to the members of the International Law Commission for their fruitful collaboration in the work of the General Assembly; he wished to repeat once again that in his delegation's opinion the work of the Commission was invaluable.

50. He did not intend to go into all the aspects of the question in detail, as they had been dealt with at length by previous speakers. It was hardly necessary to say that the Belgian delegation, also, did not believe that the work of the Commission, which was the fruit of long hours of reflection and patient research, could be gauged by the time spent by its members at meetings. Moreover, the argument that the General Assembly had hardly ever endorsed the conclusions of the Commission was in his opinion quite without value. It was perfectly natural for a political body to have a different point of view on a given question from that of a purely legal body. Nor did he accept the argument based on the financial implications of adopting the International Law Commission's recommendation, since that argument alone was not decisive.

51. On the other hand, his delegation shared the view of those representatives who had expressed a fear lest the Commission's prestige should be endangered by a decision which would make its members officials whose functions would ultimately blend into those of the staff of the United Nations Legal Department. He had the greatest respect for the staff of the Legal Department, but their work and that of the International Law Commission must not be confused. Moreover, if the recommendation in question were adopted, the members of the Commission might be brought into conflict with the Legal Department of the Secretariat.

52. Furthermore, there could be no doubt that the present state of international relations was not favourable to the development of international law; and it did not therefore seem opportune to place the Commission on a full-time basis. In view of the present circumstances, whatever decision was taken should not be final.

53. For those reasons the Belgian delegation would support the Venezuelan draft resolution (A/C.6/L.218), which did not prejudice any decision that might be taken in future. He did not think that fears expressed by the USSR representative with regard to the third paragraph of the preamble to the draft resolution were justified.

54. Mr. AMMOUN (Lebanon) said, in reply to the Brazilian representative, that he had taken note of the annex to the Commission's report containing a series of draft articles on the continental shelf and related subjects, and that in his opinion the work done by the Commission in that field was admirable and most instructive.

55. Mr. SPIROPOULOS (Greece) said that he was in favour of the Venezuelan draft resolution, because he felt that the matter could not be settled at the current session.

56. He recalled that it was not the International Law Commission which had asked the General Assembly to consider the review of its statute, and that it was a

General Assembly resolution which had proposed that the Commission should be placed on a full-time basis. If its work were examined, most of the documents it had prepared, apart from the question of reservations to multilateral conventions, would be found to be connected not with the codification of international law but with special tasks assigned to it by the General Assembly. In the sphere of codification the Commission was at present dealing with the law of treaties, the régime of the high seas and arbitral procedure. It had already made remarkable progress in the first two studies, but the codification of arbitration, on which Mr. Scelle (A/CN.4/46) had submitted a report, had only just been commenced. He stressed that only lack of time had prevented the Commission from doing more.

57. In order to remedy that state of affairs, some representatives had suggested the appointment of permanent rapporteurs. That solution would not help at all to speed up the Commission's work. It did not lack rapporteurs but time to examine their reports.

58. Other representatives had proposed that the Commission should meet twice a year. Many of its members, however, were university professors, and it could therefore only hold one session a year, during the summer vacation. The other members of the Commission made valuable contributions in their own sphere, for example El-Khoury Bey in political matters, Mr. Sandström in civil law, and Mr. Amado in legal technique.

59. He was surprised that the Israel representative should have defended his point of view by saying that the Commission never took its decisions unanimously. It was very rare for any organ to succeed in doing so. The opinions of the International Court of Justice, for example, were rarely unanimous. In any event unanimity was not a criterion by which to evaluate a commission's work.

60. Divergencies of view between governments and the Commission were inevitable; he quoted specific examples. Some delegations had voted against referring the Declaration on the Rights and Duties of States to the International Law Commission, or had abstained with the intention of voting against the draft in the General Assembly. Within the Commission Mr. Koretsky had voted against the Declaration because the draft adopted did not contain certain clauses which would have enabled his Government to accept it in the General Assembly. It was thus impossible to satisfy all parties. The same thing had occurred in the matter of reservations, and would probably occur again at the next session in relation to the draft Code of Offences against the Peace and Security of Mankind.

61. The Commission must in each case suggest a solution which the General Assembly would be able to accept when it examined the draft submitted to it. However, several years might elapse between the completion of the Commission's work and the General Assembly's examination of the draft.

62. Contrary to the view of the Israel representative, he did not consider that tension in international relations had any bearing on the present problem. He believed that international law had altered very little since Grotius. The failure of the attempts at codification in 1930 had been due to differences of opinion, for there had been no international tension at that time. If what the Israel representative had said were true, it would be better to abolish the Commission.

63. He felt that the reasons put forward by the Belgian and Yugoslav representatives were more serious.

64. He could not agree with the USSR representative that to make the Commission a full-time body would cause its members to lose all touch with reality.

65. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics) said that the Venezuelan draft resolution in its revised form (A/C.6/L.218/Rev.1), which had been distributed since his previous speech, contained in paragraph 3 of the operative part a wording similar to that in the third paragraph of the preamble of the original draft resolution. Such a wording bound the future, and he would prefer the revised text to end at the word "Statute".

66. Replying to the Greek representative, he felt bound to point out that, although members of the Commission did not represent their governments, Mr. Koretsky had not reproached the Commission for failing to take a unanimous decision. The Commission ought to be protected from the influence of certain States who favoured, not the development of international law, but on the contrary its regression. He considered that that was the meaning of Mr. Koretsky's remarks, and that consequently they could not be used to refute the arguments adduced by the representative of Israel.

67. Mr. PEREZ PEROZO (Venezuela) was surprised at the objection raised by the USSR representative to paragraph 3 of the operative part of his delegation's revised draft resolution. The end of the sentence was intended to show that the General Assembly was acting with caution and moderation. As the Commission had only been in existence for three years, the evidence on which it could be appreciated was still inadequate. He therefore preferred to maintain the text of the paragraph as submitted; a separate vote could be taken on the two parts of the sentence.

68. Mr. TARAZI (Syria) regretted that the Greek representative had referred only to the political abilities of El-Khoury Bey, who had been for many years professor of the Damascus Faculty of Law.

69. The Syrian delegation, he said, would vote in favour of the revised Venezuelan draft resolution.

70. Mr. AMMOUN (Lebanon) was in favour of paragraph 3 of the operative part of the revised Venezuelan draft resolution because he thought it preferable not to take a decision binding the future.

71. He had noted in the Greek representative's statement two tendencies of the Commission which seemed to him unfortunate: to regard international law as static, and to take account of opinions which the General Assembly might hold in several years' time. If such tendencies were likely to prevail, it was all the more necessary to take only provisional measures.

72. Mr. SPIROPOULOS (Greece), replying to the Syrian representative, said that his intention had been not to ignore El-Khoury Bey's legal abilities but simply to emphasize his great political experience.

73. Answering the Lebanese representative, he indicated that in the matter of the progressive development of international law the Commission was bound to seek solutions acceptable to the General Assembly; otherwise its work would have only theoretical value.

74. The CHAIRMAN put to the vote the revised draft resolution submitted by Venezuela (A/C.6/L.218/Rev.1).

75. Mr. MACHOWSKI (Poland) asked for a vote by division on paragraph 2 of the operative part, and a separate vote on the words in paragraph 3 "until it has acquired further experience of the functioning of the Commission".

76. The CHAIRMAN put to the vote the preamble and paragraph 1 of the operative part of the Venezuelan draft resolution.

The preamble and paragraph 1 of the operative part were adopted by 38 votes to none, with 2 abstentions.

77. The CHAIRMAN put to the vote paragraph 2 of the operative part.

The paragraph was adopted by 34 votes to none, with 7 abstentions.

78. The CHAIRMAN put to the vote the first part of paragraph 3, down to the word "Statute".

The first part of the sentence was adopted by 39 votes to none, with 2 abstentions.

79. The CHAIRMAN put to the vote the second part of paragraph 3, beginning with the word "until".

The second part of paragraph 3 was adopted by 25 votes to 5, with 11 abstentions.

80. The CHAIRMAN put to the vote the Venezuelan draft resolution as a whole.

The Venezuelan draft resolution was adopted by 34 votes to none, with 8 abstentions.

81. Mr. WYNES (Australia) suggested that the word "operation" should be replaced by the word "functioning" in the English translation of paragraph 3 of the draft resolution just adopted.

82. The CHAIRMAN asked the Rapporteur to take note of the Australian representative's suggestion.

83. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) pointed out that the full title of the agenda item under consideration by the Committee was "Report of the International Law Commission covering the work of its third session, including: (a) Reservations to multilateral conventions; (b) Question of defining aggression; (c) Review of the Statute of the International Law Commission with the object of recommending revisions thereof to the General Assembly". It therefore remained for the Sixth Committee to examine chapters VI to VIII of the report, but, as the International Law Commission had submitted them only for information, he suggested that the Sixth Committee should ask its Rapporteur to take note of them in his report to the Assembly.

84. Mr. BARTOS (Yugoslavia) thought that the Assistant Secretary-General's proposal was out of order.

85. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics) pointed out that the Assistant Secretary-General's suggestion could only be adopted by the Sixth Committee if sponsored by a delegation.

86. Mr. ABDON (Iran) formally proposed that the General Assembly should take note of chapters VI to VIII of the report of the International Law Commission covering the work of its third session, and stated that he would submit a draft resolution to that effect at the next meeting.

It was so decided.

The meeting rose at 6.45 p.m.