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

**AGENDA ITEM 63**

**Consideration, at the request of the Third Committee, of articles 4 to 11 of the draft convention on the nationality of married women (annex A of resolution 587 E (XX) of the Economic and Social Council, A/C.6/349, A/C.3/L.490 and Corr.1, A/C.6/L.372) (*continued*)**

1. Miss BERNARDINO (Dominican Republic), speaking on a point of order, asked why the Committee meeting scheduled for the afternoon had been cancelled.
2. The CHAIRMAN replied that the meeting had been cancelled because neither the Chairman nor the Vice-Chairman would be able to attend and therefore could not preside over the meeting. As, however, the members of the Committee might wish to meet in the afternoon, he would put the question to a vote at the end of the meeting.
3. Miss BERNARDINO (Dominican Republic) pointed out that it was the practice of the Third Committee to elect one of its members to preside when neither the Chairman nor the Vice-Chairman could attend a meeting.
4. Mr. HSU (China) said he found a certain cogency in some of the arguments advanced by representatives who felt that the Sixth Committee could not consider the question referred to it by the Third Committee. It could hardly be claimed that the reference to the Sixth Committee was obligatory, since there were many questions that had legal aspects and could be regarded as important. The Third Committee could have settled the matter itself: it had dealt with many others which were more important and which also had legal aspects, and in the case under discussion it had had sufficient time. It seemed, moreover, unusual that the Sixth Committee should give its advice to the General Assembly rather than to the Third Committee, which had requested it.
5. However, the Sixth Committee could not dwell on such procedural aspects of the matter. It could not refuse, for considerations of that kind, to discuss a question of such evident importance. As the General Assembly had decided to continue in session up to 16 December, the Sixth Committee could take up the matter submitted to it by the Third Committee. Consideration of it might

not take long, because the Committee already had before it a draft resolution proposed by the Cuban delegation (A/C.6/L.372). If the discussion was prolonged, the Committee could decide to defer further study until the eleventh session. It would at any rate have shown that it had done its best to deal with that additional task.

6. Mr. PEREZ PEROZO (Venezuela) observed that most delegations seemed disposed to accede to the Third Committee's request.

7. The discussion had clarified the two matters raised by the Costa Rican representative at the preceding meeting. With regard to the question of competence, the Sixth Committee's right to take up any matter having legal aspects must be admitted. He was in complete agreement with the Legal Counsel on that point. The Rapporteur could state in his report that the advice requested by the Third Committee had been transmitted by the Sixth Committee direct to the General Assembly because the Third Committee had already completed its work.

8. Furthermore, the plea of insufficient time did not seem to have much weight. In view of the General Assembly's decision to sit until 16 December, the Sixth Committee could not refuse to consider the request, for its agenda was light and other committees were continuing in session. At the preceding meeting, it had been pointed out that some committees had never requested the Sixth Committee's advice on the legal aspects of matters with which they were concerned. The Sixth Committee, therefore, had an obligation to do what the Third Committee had asked. It should decide forthwith to consider the question before it.

9. He asked the Chairman to declare the procedural discussion closed when the list of speakers had been exhausted.

10. Mr. CANAL RIVAS (Colombia) wished to make clear his delegation's position on the two questions raised by the Costa Rican representative at the preceding meeting.

11. There could be no question but that the Sixth Committee was competent to deal with the matter before it, and the Colombian delegation would cast its vote accordingly. In requesting legal advice from the Sixth Committee, the Third Committee had chosen the first of the solutions provided for in paragraph 1 (d) of the recommendations made by the General Assembly in resolution 684 (VII). As the resolution did not specify the organ to which the legal advice should be communicated, the Third Committee had been entitled to act as it had done in paragraph 20 of its report (A/3059) and request the Sixth Committee to transmit that advice to the General Assembly. He also felt that there had been nothing unusual in referring only part of the draft convention to the Sixth Committee, because the first three articles of the draft had already been approved in the Third Committee by the same delegations.

12. The Costa Rican representative had further pointed out that the Sixth Committee should decide whether it had time to consider the matter. The Colombian delegation felt, as did the representatives of the Dominican Republic and Cuba, that the rights of women were at issue, and its position on that point was sufficiently clear to all. The Committee must, however, bear in mind that it had to consider not only the articles of the draft convention but also the amendments relating to them. As those amendments involved political considerations, the discussion might become protracted. He did not think that the Sixth Committee would have time to complete consideration of the articles and the amendments.

13. The Colombian delegation, therefore, would be compelled to abstain if the question was put to a vote.

14. Mrs. BASTID (France) asked the Legal Counsel whether the Sixth Committee had previously had before it the final articles of a convention without being asked to deal with the other provisions of the convention.

15. Mr. STAVROPOULOS (the Legal Counsel) replied that there was no precedent in that regard. The Sixth Committee had been asked on several occasions to give advice on draft conventions. In 1949, for example, at the fourth session, the Third Committee had asked for its advice on various articles, including the final articles, of the draft convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others, but no request had ever been confined solely to the final articles of a convention.

16. Mrs. BASTID (France) noted that a precedent would consequently be established.

17. It was questionable whether it was desirable for one committee to examine certain articles of a draft convention when the other articles were dealt with by a different committee. The final articles often concerned the primary objective of a convention; that would seem, in the present instance, to be true of the alternative readings of article 7 proposed by the Netherlands (A/C.3/L.490 and Corr.1). If the Sixth Committee consented to establish such a precedent, other committees might ask it for legal advice on final articles without referring to it the entire convention in which those articles appeared.

18. Mr. STABELL (Norway) wished to make clear his delegation's position on the two questions raised by the Costa Rican representative.

19. Although paragraph 1 (d) of the General Assembly's recommendation authorized a committee to ask the Sixth Committee for legal advice, it was doubtful whether the Third Committee could detach certain articles from a draft convention and submit them to the Sixth Committee for its advice without itself having examined them. It might with equal justification have referred to the Sixth Committee the entire draft, all the articles of which had a legal aspect, but such a decision would have been contrary to the rules of procedure, because the allocation of agenda items among the various committees was a function of the General Assembly. Sub-paragraph (d) could not mean that a committee was entitled to refer articles of a draft convention to the Sixth Committee for legal advice without itself having examined them beforehand. He agreed with the representative of France that a dangerous precedent would be established if the contrary argument was admitted.

20. The construction placed by the United Kingdom and the representative of the Secretary-General on the Assembly's recommendations in sub-paragraph (d)

seemed hard to accept. There was reason, however, to ask what was the legal standing of those recommendations. The wording used by the General Assembly was unambiguous; the provisions of sub-paragraph (d) of resolution 684 (VII) were not part of the rules of procedure.

21. A fact to be borne in mind, however, was that the same States were members of the Third Committee and the Sixth Committee. Delegations were liable to find themselves in an awkward situation if their representatives in the Sixth Committee decided that that Committee was not competent to deal with a question submitted to it by their colleagues in the Third Committee. The Sixth Committee therefore ought not, in the matter of its competence, adopt a decision contrary to that taken by the Third Committee.

22. He wished to reserve his delegation's position on the second question raised by the Costa Rican representative. The Third Committee had not been in a position to know whether or not the Sixth Committee would have time to give proper consideration to the final articles of the draft convention.

23. Mr. QUENTIN-BAXTER (New Zealand) said that he would not dwell on procedural points, since he thought that the Committee was in order in discussing the matter.

24. Moreover, he believed that, in spite of the short time left to it, the Committee could carry out the necessary study if it worked as hard as the Third Committee had in drafting the first three articles of the draft convention. If the Sixth Committee declined to deal with the matter, it would greatly disappoint the General Assembly and would discourage other Committees from requesting its assistance. If those Committees were forced to solve for themselves the legal problems that arose in their work, they might well be unable to perform their tasks satisfactorily.

25. There might be grounds for thinking that the Third Committee should have acted less precipitately and should have framed its request more precisely. If that were the general feeling, the Sixth Committee might appropriately give some guidance to other Committees as to the way in which future requests should be framed. In the present case, however, it should be borne in mind that the Third Committee had acted in good faith, and with the intention of placing no restriction on the Sixth Committee's freedom of action.

26. It was to be hoped that the Sixth Committee would deal with the matter on that basis during the present session. An additional consideration was that there would be difficulty in dealing with the matter at the next session, because the Sixth Committee's agenda would be a heavy one.

27. The CHAIRMAN said that the Committee should deal with the procedural motion, since all the representatives on his list had spoken.

28. He asked the Costa Rican representative whether it was in fact the adjournment of the debate that he wished to be put to the vote.

29. Mr. TREJOS (Costa Rica) said that the Chairman's interpretation was correct: there were two reasons for his motion, the principal one being that the Committee did not have enough time to carry out the required study.

30. Miss BERNARDINO (Dominican Republic) considered that, as the General Assembly had decided to prolong the session until 16 December, it would seem

rather absurd for the Sixth Committee not to have time to consider a question that could be discussed and disposed of in four or five meetings. She reminded the USSR representative that the Commission on the Status of Women had devoted only three days to studying the draft.

31. She proposed that the Committee should decide first whether it was competent to examine the articles referred to it by the Third Committee, and then whether it would have enough time to do so.

32. The CHAIRMAN stated that the Costa Rican motion, which had been submitted first, had priority; the Committee would then vote on the question of competence, if the Dominican delegation so desired.

33. Mr. TARAZI (Syria) pointed out that, under rule 120 (c) of the rules of procedure, the Costa Rican motion for adjournment of the debate had priority in any case.

34. Mr. JAMIESON (Australia) said that it was clear from the discussion that the Costa Rican motion was not a motion for adjournment. By adopting the Costa Rican motion, the Committee would be stating that it was unable to consider the matter owing to lack of time; such a statement would constitute a rejection of the Third Committee's request.

35. The CHAIRMAN replied that such a conclusion might be drawn from the debate, but that the Costa Rican representative was entitled to formulate his motion as he wished.

36. Mr. PEREZ PEROZO (Venezuela) thought that the Costa Rican proposal placed delegations in an embarrassing situation. No one could claim that the Sixth Committee would not have time to study the articles in question; such a study could not take more than two or three meetings, especially as the most difficult article, which dealt with reservations, already appeared in the Convention on the Political Rights of Women.

37. The CHAIRMAN said that he was obliged to apply the rules of procedure; a motion had been presented and he had to put it to the vote.

38. Mr. CARPIO (Philippines) formally proposed that the vote on the Costa Rican motion should be postponed until the Committee had begun consideration of the question that had been referred to it; the vote would be taken only if the Committee feared later that it would not have enough time.

39. Mr. TREJOS (Costa Rica) considered that the Philippine proposal was contrary to the rules of procedure. The Costa Rican delegation had formally moved the adjournment of the debate and the time had come to put that motion to the vote.

40. Mr. MAURTUA (Peru) pointed out that his delegation had been the first to express anxiety at the fact that certain United Nations organs were considering legal questions without any right to do so. The General Assembly had recognized the justice of that criticism by adopting resolution 684 (VII) of 6 November 1952, which conferred wide powers on the Sixth Committee in that respect. In spite of that resolution, the Sixth Committee had scarcely been consulted on three important questions: the draft international covenants on human rights, the recommendations concerning respect for the right of peoples and the nations to self-determination and the review of Administrative Tribunal judgments. That fact had undoubtedly damaged the authority of that resolution, which, moreover, had not properly speaking been incorporated in the rules of procedure.

Nevertheless, that resolution, whether as a recommendation of the General Assembly or as part of the rules of procedure, was binding on the Sixth Committee. The Committee could not, without invalidating the resolution, refuse on grounds of lack of time to give the advice which another Committee had requested of it for the first time. If the Sixth Committee did not wish to give that advice, it had a legitimate and correct escape clause open to it; it could take exception to the vagueness of the request, since the competence of the adviser necessarily depended on the terms of the request.

41. Mr. JAMIESON (Australia) expressed anxiety at the change in the Costa Rican proposal. At the preceding meeting, the Costa Rican delegation had proposed that the Third Committee's request should be rejected for two reasons, lack of competence and lack of time. It was now suggested that the proposal should be divided and the second reason submitted first, in the form of a motion for adjournment.

42. He considered that change to be of primary importance and asked for an explanation.

43. Mr. TREJOS (Costa Rica) replied that, in his delegation's opinion, the Committee had no time to consider the question before it. He had therefore proposed that the Committee should refrain from undertaking the study. The reason given, which was lack of time, had turned that proposal into a motion for adjournment.

44. The CHAIRMAN took note of the interpretation given by the author of the motion.

45. Mr. MOROZOV (Union of Soviet Socialist Republics) thought the Costa Rican proposal meant that the Secretary-General would automatically include the item in the provisional agenda for the eleventh session. He was in favour of adjournment, as time was short, but did not wish to see the item definitely deleted from the agenda. He hoped that it would be reconsidered in 1956, and that a decision could then be taken as to whether or not the advice requested should be communicated directly to the General Assembly.

46. Mr. TREJOS (Costa Rica) said that the Soviet representative had correctly interpreted his delegation's motion. If the debate was adjourned the item would be one of those on which the Assembly had been unable to conclude its discussion and, as such, would automatically figure in the provisional agenda for the next session. It would be for the General Committee or the Assembly to decide, when the time came, which Committee should deal with it.

47. Miss BERNARDINO (Dominican Republic) observed that since the Costa Rican representative had invoked rule 117 of the rules of procedure, the Chair had no alternative but to put the Costa Rican proposal to the vote, thus ruling out a discussion on the substance.

48. Mr. ALFONSIN (Uruguay) asked whether the proposed adjournment applied to the discussion of articles 4 to 11 of the draft convention or to the question of competence. In the former case adoption of the motion would implicitly decide the question of competence in the affirmative. If there was to be an adjournment it was preferable to apply it to both questions simultaneously.

49. The CHAIRMAN said that the vote would be on the agenda item as a whole, with all its implications.

50. Mr. MAURTUA (Peru), supported by Mr. MOROZOV (Union of Soviet Socialist Republics), felt that in the light of General Assembly resolution 684

(VII) no problem of competence arose on the point at issue, except the question whether, after examining the articles transmitted by the Third Committee, the Sixth Committee would be able to report directly to the General Assembly.

51. Mr. HOARE (United Kingdom) asked the Chairman to put the Costa Rican motion for adjournment to the vote immediately, as the number of speakers prescribed by rule 117 of the rules of procedure had already been exceeded.

52. The CHAIRMAN pointed out to the Philippine representative that the proposal for adjournment had priority and should therefore be put to the vote before that representative's proposal.

53. Mr. CARPIO (Philippines) explained that his proposal was designed to preserve the Sixth Committee's prestige and save it from being reproached with having decided prematurely that it had had no time to consider the question referred to it by the Third Committee before the end of the tenth session. The Sixth Committee could not take such a decision until it knew exactly what it was expected to do. In the circumstances his delegation would have to oppose the motion for adjournment.

54. Miss BERNARDINO (Dominican Republic) requested that a vote be taken by roll-call on the motion for adjournment of the debate proposed by the Costa Rican delegation.

*A vote was taken by roll-call.*

*Colombia, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Costa Rica, Czechoslovakia, Netherlands, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Brazil, Burma, Byelorussian Soviet Socialist Republic.

*Against:* Cuba, Denmark, Dominican Republic, Egypt, Iceland, Iran, Liberia, Luxembourg, New Zealand, Pakistan, Philippines, Sweden, United Kingdom of Great Britain and Northern Ireland, Venezuela, Australia, Belgium, Canada, China.

*Abstaining:* Colombia, Ecuador, El Salvador, Ethiopia, France, India, Indonesia, Israel, Mexico, Norway, Peru, Turkey, United States of America, Uruguay, Yugoslavia, Afghanistan, Argentina, Chile.

*The motion for adjournment of the debate was rejected by 18 votes to 12, with 18 abstentions.*

55. The CHAIRMAN felt that the question of competence raised by several representatives did not affect the Committee's competence to deal with the legal aspects of an agenda item, for no one challenged that. The two real points at issue were the following: whether it had been in order to address the request for legal advice to the Committee and whether the Committee could agree to give its advice on part of a convention when another Committee had taken a decision on the remaining articles of the same instrument.

56. To avoid prolonging the discussion he suggested that speakers should deal with those aspects of the question of competence and with the substance of the item.

57. Mr. CARPIO (Philippines) considered that there was a third question involving competence. The Sixth Committee did not know exactly what it was being asked to do. The Third Committee had asked it for legal advice and should therefore have stated the point or points which the advice was to cover.

58. Mr. BROHI (Pakistan) took the view that a strict interpretation should be given to every provision of the rules of procedure. Strict interpretation was a formal rule of Anglo-Saxon law. The General Assembly's recommendation on which the reference was based mentioned legal advice. In addition, the Committee requesting such advice should state precisely what it was asking the Sixth Committee to consider and should list the items to be examined. The request was silent on that point. Furthermore, the Assembly's recommendation did not bind the Sixth Committee to give the legal advice requested of it. Finally, the fact that the proposed convention was divided into two parts, each of which was considered by a different Committee, threw doubts on the value of work done under such circumstances.

59. He felt that all those questions called for a preliminary debate on the aspects involving competence.

60. Mr. TARAZI (Syria) agreed with the Pakistani representative. The principle of strict interpretation was applicable equally to Moslem and to French law.

61. He wondered what were the important "legal aspects" on which the Sixth Committee was asked to give its advice. The request contained no precise information on that vital point. The draft convention on the nationality of married women had been referred by the General Committee of the General Assembly to the Third Committee. It was thus the Third Committee which was competent to consider its substance. The Sixth Committee could have no competence outside the terms of reference conferred upon it in the Third Committee's request for advice. Those terms of reference had not been specified in the letter from the President of the General Assembly to the Chairman of the Sixth Committee (A/C.6/349); hence that Committee could not do the work requested of it.

62. He felt that the previous question should be settled before the substance of the problem received any consideration.

63. Mr. MAURTUA (Peru) considered that the Sixth Committee was not faced with a genuine problem of competence, but had to decide whether it could perform its task. The fact that the request for advice was too vaguely worded did not deprive the Committee of competence. On the other hand, the lack of precision prevented it from knowing whether it was asked to consider the substance, the form, or the desirability of the draft convention.

64. Mr. CARPIO (Philippines) felt that some difficulties would be removed if the Committee asked its Chairman to seek from the Chairman of the Third Committee written information as to the exact purpose of the request for legal advice.

65. Mr. BROHI (Pakistan) did not consider the Philippine representative's suggestion practicable.

66. Miss BERNARDINO (Dominican Republic) stated that by the next meeting the Chairman of the Third Committee would be willing to provide the necessary clarification.

67. The CHAIRMAN said he had made arrangements for the Committee to meet in the afternoon if it wished.

68. Mr. GARCIA OLANO (Argentina) proposed that the Committee should adjourn and meet again at 10.30 a.m. on Friday, 9 December.

*The Argentine proposal was adopted by 22 votes to 11, with 8 abstentions.*

The meeting rose at 1.5 p.m.