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**Chairman: Mr. Jorge CASTAÑEDA (Mexico).**

## AGENDA ITEM 56

**Report of the International Law Commission on the work of its tenth session (A/3859) (continued)****QUESTION OF THE PUBLICATION OF AN INTERNATIONAL LEGAL REVIEW OR A JURIDICAL YEARBOOK (A/C.6/L.428, A/C.6/L.432, A/C.6/L.436) (continued)**

1. Mr. BULAJIC (Yugoslavia) congratulated the representative of Ceylon on the interesting working paper (A/C.6/L.428) he had submitted on the question under consideration; it would greatly assist Governments in determining the attitude they should adopt at the fourteenth session of the General Assembly. He drew particular attention to certain general observations in the document on the necessity of developing international law and of studying the active part played by the United Nations in the making of international law. Despite the difficulties in publishing a juridical yearbook, the question deserved careful attention, particularly since the authors of the working paper contemplated "a modest start, which would be feasible financially".

2. In the circumstances, the Yugoslav delegation felt that the joint draft resolution (A/C.6/L.432) was drafted satisfactorily, and did not in any way prejudice the decision which the General Assembly would take at its fourteenth session. It would therefore vote in favour of that text.

3. Mr. HOLMBACK (Sweden) recalled that the Swedish delegation had already had occasion to support the suggestion of a yearbook—the Yearbook of the International Law Commission. It would also vote in favour of the joint draft resolution, on the understanding that in so doing it was not in any way prejudging its attitude regarding the question of the advisability of publishing a juridical yearbook.

4. The financial implications of publishing such a yearbook must be examined very carefully. In 1955, it had been estimated that an appropriation of \$43,450 would be needed. He hoped that the Secretary-General's report would show that the amount could be reduced considerably. Moreover, as the United States representative had requested (581st meeting, para. 24), it would be useful to make a separate estimate for the cost of part I of the yearbook, which was to include

articles written by private individuals or reports by private associations or institutions.

5. Mr. LLAVERIAS ARREDONDO (Dominican Republic) wished to associate himself with the French representative who had objected to the preponderance which the authors of the working paper wanted to give to the English language, and who had requested that the yearbook should be published in the three working languages (*ibid.*, para. 18). The Latin American Governments had fought hard to have Spanish regarded as a working language, and they meant to maintain what they had gained. Spanish was one of the most ancient tongues, and it had all those qualities of richness, precision and elegance which other languages possessed. It had been the vehicle of expression of many eminent jurists, and it could not be excluded from a juridical yearbook which was meant to be of universal scope.

6. Mr. LACHS (Poland) thought that the publication of a juridical yearbook would further the ends of General Assembly resolution 176 (II) regarding the teaching of international law. There was no need to recall the important part played by the United Nations in the development of international law, in view of the number of legal documents and instruments which it prepared and its role as a co-ordinator in relations between States. Experts in international law and the public should be informed of its many juridical activities, of which their knowledge was far too slight. In the Yearbook of the United Nations, 1956, only 6 pages out of 480 were devoted to that work, and there was very little more in the 1957 Yearbook.

7. National publications, such as the Annuaire français de droit international, and United Nations publications, such as the Legislative Series, were, of course, important, and the sponsors of the joint draft resolution, including Poland, had no intention of denying it, but they could not replace a United Nations juridical yearbook.

8. Some objections had been made to the proposed part I of the juridical yearbook which, according to the working paper, was to be devoted to a study of international law questions. That part would be extremely interesting, provided that it represented a meeting-ground rather than a battle-ground. It could be relatively short at first and be expanded later. Parts II and III would be of great value and could be enlarged. Part II would include the legal opinions of the United Nations Secretariat, and he realized that, as the Italian representative had pointed out (*ibid.*, para. 7), those opinions might be of different sorts. The yearbook should include those legal opinions which were of scientific interest, so that they could be studied by specialists in international law. All those points required examination, and therefore justified placing the question on the agenda of the fourteenth session, as provided in operative paragraph 2 of the joint draft resolution.

9. There had been no objection to the principle of publishing a juridical yearbook. It was simply a question of proceeding with caution; by the fourteenth session, Governments would have had time to examine the matter, and the Secretariat would have had time to study the financial implications of a publication of that kind, bearing in mind the four proposed parts and the point that it was hardly possible to envisage a yearbook of less than 250 pages.

10. In conclusion, he wished to make a slight change in the joint draft resolution (A/C.6/L.432) by substituting in operative paragraph 1 the words "suggestions made" for "alternative schemes envisaged".

11. Mr. DIAZ GONZALEZ (Venezuela) did not think it was appropriate, for the time being, to examine the substance of the working paper, which was intended solely to set forth the suggestions that had been made. The Venezuelan delegation would have certain comments to make on it, particularly in regard to the proposed languages. The project was important, and Member States should have an opportunity to study it closely, at their leisure.

12. The Venezuelan delegation felt that the joint draft resolution did not indicate clearly enough the desire expressed by the Sixth Committee for the General Assembly to study the possibility of publishing a juridical yearbook at its fourteenth session, after it had received the opinions of Member States on the matter. It therefore submitted an amendment (A/C.6/L.436) altering the preamble and operative paragraph 1 of the joint draft resolution in that sense.

13. Mr. TUNCEL (Turkey) thought that an international juridical review should be published in as many languages as possible so that it could be widely disseminated. To that end, it might be possible to envisage the publication not of a "yearbook" but instead of a United Nations juridical "compendium", which would only come out every two or three years. The consequent saving would make it possible to publish, as well as the English edition, corresponding editions in French, Spanish, Russian, and, if possible, Arabic. Moreover, a collection of documents covering several years would be most valuable. The Secretary-General might examine that proposal in his report.

14. With regard to the contents of the juridical review, he shared the fears expressed by other delegations concerning the proposed part I. It was likely that the various opinions which would be expressed there would be in most cases divergent and irreconcilable. The Turkish delegation was in favour of the proposals made in the working paper respecting parts II, III and IV, but hoped that it would be indicated in the joint draft resolution that the Secretary-General would submit his report after consulting the specialized agencies and the legal associations concerned, and also international tribunals.

15. Mr. ULLOA (Peru) congratulated the representative of Ceylon on his contribution to the study of the matter, but noted that his proposals raised difficulties of language, to which the representatives of France and the Dominican Republic had drawn attention, and difficulties of a budgetary and intellectual nature. The budgetary difficulties should be studied by the Secretariat both from the point of view of what was possible and of the technical arrangements for financing. The intellectual difficulties had been mentioned by the

representative of Ceylon in his working paper, in which he had pointed out that existing reviews of international law were identified with the country in which they were published. It might be hoped, however, that the private persons and organizations co-operating in the yearbook would set its interests above those of their countries. Moreover, the working paper stated that the yearbook would not duplicate existing national publications, although it could hardly be denied that it would to some extent diminish their prestige.

16. Lastly, the scientific contents of the yearbook implied a difficult choice. What criterion would be adopted in appointing the members of the editorial board: nationality, the juridical system which they represented, or their own competence? The Sixth Committee must guard against setting itself up as a jury. If the editorial board was to be permanent, would not its members, whose functions were to be unpaid, have to reside in New York? Otherwise, how would they consult each other? On what grounds would the editorial board base its decisions for publishing an article in the yearbook? The board would have to pass judgement not only on the competence of the author but also on his nationality, which was inadmissible. There were many problems which would have to be studied in greater detail.

17. For the time being, the Peruvian delegation accepted the principle of the publication of a juridical yearbook, and would vote in favour of the joint draft resolution as amended by the Polish representative.

18. Mr. ZULETA ANGEL (Colombia) also congratulated the representative of Ceylon and desired to make some observations on certain aspects of the proposed publication.

19. Part I of the proposed juridical yearbook would contain articles on doctrine, the purpose of which, according to the sponsors of the proposal, would be to fill a gap. He wished to point out that, in addition to the international law reviews mentioned by the representative of France (581st meeting, para. 13), there were many others published in various European and Latin American countries which recorded accurately not only the legal work of the United Nations but also its political, economic and social work. It was not possible to generalize, as in the working paper, and say that all the reviews in question were associated with the country where they were published. To give only one example, in the Annuaire français de droit international there was a legal study by Mr. Georges Fischer on nuclear weapons which was a model of objectivity. The author had completely disregarded his country's interests, and had dealt with the question from a completely international point of view. It might well be asked, however, if jurists writing articles for a United Nations publication would succeed in being completely unaffected by the influence of the legal school to which they belonged or the ideas prevailing in their countries.

20. His delegation shared the doubts which had been expressed regarding the value of part I. If a comparison were made between the number of pages which it was proposed to allot to that part and the number of pages which the Annuaire français de droit international, for instance, devoted to articles of a general character and to articles on the United Nations, the conclusion was that the juridical yearbook would only be able to publish two or three articles a year, and consequently the exchange of ideas would be extremely slow.

21. Part I of the yearbook raised other questions of equal importance. The proposal was to have an editorial board or committee elected by the Sixth Committee to select the articles to be published. It might well be asked what criteria would be used, firstly, in the appointment of the members of the board, and, secondly, in the selection of the articles for the yearbook. Would geographical or political considerations have to be taken into account, or would the decision be based solely on the competence of the individual to be appointed or the scientific value of the article to be published? Further, it had rightly been said that articles dealing with political questions giving rise to disputes should not be published in the yearbook. Even if the United Nations did not assume any responsibility for an article of that kind, the fact that it had appeared in a United Nations publication would give it far greater consequence than if it appeared in a publication with a local circulation.

22. Part II of the yearbook would contain only twenty-five pages, whereas the *Annuaire français de droit international* devoted not less than 338 pages to the legal work of the United Nations. It had to be admitted that the project was somewhat unambitious.

23. Regarding parts III and IV, he pointed out that a mere list of decisions of national and international tribunals and of legal works which had been published would be devoid of any interest, unless accompanied by commentaries.

24. Lastly, he fully agreed with the remarks made by the representatives of the Dominican Republic and Peru on the importance of the Spanish language.

25. Mr. PARRA VELASCO (Ecuador) gave his wholehearted support to the Ceylonese proposal. Few measures could do so much to increase the prestige of the United Nations in legal matters as the publication of the proposed yearbook. It was necessary to familiarize all peoples with the legal work of the Organization, which was of such consequence for the maintenance of peace. There could be no question of unnecessary documentation and restriction of expenditure in such a project.

26. With regard to the joint draft resolution (A/C.6/L.432), he proposed the insertion at the beginning of the preamble of the following three paragraphs which would explain the operative part:

"Considering that it is a function of the General Assembly to take appropriate measures to encourage the development of international law,

"Considering that the publication of a United Nations juridical yearbook may constitute a useful measure for that purpose,

"Recalling its resolution 176 (II) of 21 November 1947,".

27. He supported the request of the representative of France (581st meeting, para. 18) for the publication of the yearbook in the three working languages.

28. Referring to the opinion expressed by the representative of the Soviet Union (*ibid.*, para. 31), he pointed out that the notion of collective security did not date from the Second World War but from the League of Nations. Positive international law had hardly made any progress since the League of Nations, and possibly the present era was even characterized by a movement

in the reverse direction. Apparently States were afraid of making any advance in that subject, as had been evident in the Sixth Committee itself in the matter of arbitral procedure. The yearbook which was planned might perhaps play a useful part in changing that attitude.

29. Mr. RAHMAN KHAN (Pakistan) was interested in the Ceylonese proposal, but would refrain for the time being from any comment on the substance of the question. He approved of the inclusion of the item in the provisional agenda of the fourteenth session, as proposed in operative paragraph 2 of the joint draft resolution. He noted that the change suggested by the representative of Poland met the objections which had been raised with regard to operative paragraph 1.

30. The CHAIRMAN recalled that the change suggested was the substitution of the words "suggestions made" for the words "alternative schemes envisaged" in operative paragraph 1 of the joint draft resolution. He thought he could say that the representative of Poland had spoken for all the sponsors of the draft resolution.

31. Mr. SRESHTHAPUTRA (Thailand) was of the opinion that the proposed yearbook would serve a useful purpose but, as he had not received instructions from his Government, he could not commit his delegation on the substance of the question. However, he was prepared to vote for the joint draft resolution, which proposed the inclusion of the item on the provisional agenda of the fourteenth session of the General Assembly.

32. Mr. HSU (China) was prepared to vote for the joint draft resolution. It was some years since the General Assembly had expressed an opinion on the question of a juridical yearbook, and it would perhaps wish to restate its position.

33. His delegation congratulated the representative of Ceylon on his efforts to extend the reign of law in international relations, but was doubtful whether his proposals could be carried out in the form proposed if part I, which dealt with the study of questions of international law, was to be given such preponderance. The idea of endeavouring to give jurists from small countries an opportunity to make known their views was certainly praiseworthy. But how was it possible to ensure that the patronage of the United Nations would not be exploited for political ends? It was clearly impossible to state categorically that an editorial board elected by the Sixth Committee would be able to avoid such improper use. It would be difficult for such a board to display at one and the same time the desired competence and impartiality. It would be equally difficult to lay down rules for the board, which might well be misleading and needlessly cause international friction. An attempt would have to be made to solve such difficulties before the fourteenth session.

34. Mr. CORZO (Guatemala) attached great importance to the publication of a juridical yearbook, which would make it possible to call attention to the great difficulties involved in the codification and development of international law. He congratulated the representative of Ceylon on his proposal. He had however two observations to make on the working paper. Firstly, the authors had been unmindful of the rightful position of the Spanish language, forgetting that the yearbook ought to encourage a spirit of co-operation between all



peoples, of whom so many were Spanish-speaking. The representative of France had already pointed out that anomaly. Secondly, it could not be said that the existing periodicals on international law were invariably associated with the countries where they were published.

35. He would vote for the joint draft resolution on the understanding that his vote involved no financial commitment.

36. Mr. PERERA (Ceylon) thanked delegations for their comments on his proposals and went on to clarify some points. He had tried to take into consideration the problems raised by such an undertaking as the publication of a United Nations juridical yearbook. He wished to assure the representative of France that he had never doubted the integrity of the authors of contributions to international law journals, nor the value of their articles. A United Nations juridical yearbook would have the advantage of providing a point of contact between jurists all over the world.

37. When they had submitted their draft resolution, the sponsors had expected a variety of plans to be proposed prior to a vote being taken, which accounted for the original wording of operative paragraph 1. The fact that no other plan had been submitted was perhaps a tribute to the proposals contained in the working paper.

38. The representatives of France and Colombia had found the Ceylonese proposal insufficiently ambitious; he would have liked the plan to be more ambitious, but he would then have been accused of undue haste. The limit of 250 pages for the yearbook was proposed for purely financial reasons; he realized that a new venture was being undertaken and he had tried to break the previous deadlock and spare his proposals the fate which had befallen earlier plans in that field. Like the representatives of France, Italy and Colombia among others, he believed it would be an advantage to give the fullest scope to parts II, III and IV of the yearbook.

39. With regard to part I, there seemed to be doubt as to the Committee's ability to select a politically impartial editorial board. Yet no one questioned the impartiality of the judges of the International Court of Justice, who were elected by the United Nations. Article 8 of the International Law Commission's statute could provide guidance in the selection of members of the editorial board. As the Polish representative had remarked, the yearbook would not be a battlefield, but a point of contact. Its function would not be to encourage controversies but to discover common juridical standards. He did not expect insurmountable difficulties to arise. Should the Committee adopt the joint draft resolution, the Secretariat, in drawing up its report, would take into consideration all the points raised.

40. In the matter of administrative details, he had had to bear in mind the limitations imposed by a budget. He had the greatest respect for jurists who had written in Spanish and French, and his proposals certainly did not exclude the use of those languages. He had kept his proposals modest in order that they might be spared the fate which had befallen earlier proposals.

41. With regard to the joint draft resolution (A/C.6/L.432), he accepted the modification proposed by the Polish representative (see para. 10 above), and also the amendment suggested verbally by the representative of Ecuador (see para. 26 above). His delegation regretted, however, that it could not accept the Vene-

zuelan amendment (A/C.6/L.436) since it would involve continual consultation between the United Nations and Governments. He therefore asked the Venezuelan representative not to press his amendment to operative paragraph 1 of the joint draft resolution.

42. The CHAIRMAN invited the Committee to vote on the joint draft resolution (A/C.6/L.432) and on the proposed amendments. Since the sponsors of the joint draft resolution had accepted Ecuador's amendment (see para. 26 above), the preamble would now consist of four paragraphs. He would put to the vote first the three initial paragraphs of the preamble, then the text proposed by Venezuela for the fourth preambular paragraph (see A/C.6/L.436), and lastly, if that amendment were rejected, the original version of the fourth paragraph.

The first three paragraphs of the preamble were adopted by 53 votes to none, with 9 abstentions.

The Venezuelan amendment to the preamble was rejected by 11 votes to 4, with 43 abstentions.

The fourth paragraph of the preamble was adopted by 57 votes to 2, with 1 abstention.

43. Mr. CUEVAS CANCINO (Mexico), on a point of order, proposed the suspension of the meeting for a few minutes to allow the sponsors of the joint draft resolution and the representative of Venezuela to agree on a text for the operative part of the draft resolution.

It was so decided.

The meeting was suspended at 6 p.m. and resumed at 6.10 p.m.

44. Mr. CUEVAS CANCINO (Mexico) said that the sponsors of the joint draft resolution and the Venezuelan representative had agreed on the following text for the operative part:

"1. Requests the Secretary-General to prepare a report on the question of publication of a United Nations juridical yearbook, covering in addition the technical and financial implications of such a publication, taking into account the suggestions made during the discussion in the Sixth Committee, and to circulate the report to Member States before the fourteenth session of the General Assembly;

"2. Decides to place this question on the provisional agenda of its fourteenth session."

45. Mr. DIAZ GONZALEZ (Venezuela) withdrew his amendment (A/C.6/L.436).

46. The CHAIRMAN asked the Committee to vote on the operative part of the joint draft resolution as amended.

Operative paragraph 1 was adopted by 54 votes to none, with 4 abstentions.

Operative paragraph 2 was adopted by 56 votes to none, with 1 abstention.

47. The CHAIRMAN put to the vote the joint draft resolution as a whole, as amended.

The draft resolution as a whole, as amended, was adopted by 56 votes to none, with 1 abstention.

48. Mr. MOROZOV (Union of Soviet Socialist Republics) wished to make it clear that his vote in favour of the second preambular paragraph, stating that the

publication of a juridical yearbook could be an effective means of furthering the development of international law, in no way prejudiced his delegation's attitude to the final solution of the issue, which would depend on a variety of considerations. In particular, that vote should not involve any financial consequences for the Union of Soviet Socialist Republics.

49. The USSR delegation had voted against the Venezuelan amendment to the preamble because the Sixth Committee had not, in its opinion, considered the question of the publication of a juridical yearbook, but only the possibility of taking action to enable it to study the question at the fourteenth session.

#### CONSIDERATION OF CHAPTER V (continued)\*

50. Mr. ROSENNE (Israel) proposed that the Committee adopt the following draft resolution:<sup>1/</sup>

\* Resumed from the 554th meeting.

<sup>1/</sup> Subsequently distributed as document A/C.6/L.437.

#### "The General Assembly,

"Having considered the questions dealt with in chapter V of the report of the International Law Commission covering the work of its tenth session (A/3859),

#### "Takes note of chapter V of the said report."

51. Mr. MOROZOV (Union of Soviet Socialist Republics) doubted the practical value of such a resolution and questioned the need for adopting it.

52. Mr. LIANG (Secretary of the Committee) said that in submitting such a draft resolution to the General Assembly, the Sixth Committee would be acting in conformity with an established practice and would show that it had not overlooked chapter V of the International Law Commission's report.

53. Mr. GLAZER (Romania) proposed that the consideration of the matter be postponed until the next meeting to enable delegations to decide whether they had any comments or reservations to make regarding chapter V.

#### It was so decided.

The meeting rose at 6.30 p.m.