United Nations
GENERAL ASSEMBLY
TENTH SESSION
Official Records

SIXTH COMMITTEE, 470th MEETING
Tuesday, 6 December 1955, at 12.15 p.m.
New York

CONTENTS

Chairman: Mr. Manfred LACHS (Poland).

AGENDA ITEM 52

Arbitral procedure: comments of Governments on the draft on arbitral procedure prepared by the International Law Commission (A/2456, para. 57, A/2899 and Corr.1 and A/2899/Add.1 and 2, A/CN.4/92, A/C.6/L.369/Rev.1) (*continued*)

CONSIDERATION OF DRAFT RESOLUTION SUBMITTED BY COLOMBIA, CUBA AND THE UNITED STATES OF AMERICA (A/C.6/L.369/REV. 1) AND AMENDMENTS THERETO

1. The CHAIRMAN recalled that the general debate was closed and invited the Committee to examine the three proposals before it.

2. Mr. EVANS (United Kingdom) introduced the amendment (A/C.6/L.371), submitted by his delegation jointly with the delegations of Canada, Egypt, France, Honduras and Sweden, to the revised draft resolution submitted by Colombia, Cuba and the United States (A/C.6/L.369/Rev.1).

3. The draft on arbitral procedure, as his delegation had stressed during the general debate (462nd meeting), had been prepared by a highly competent organ; it was of great value, and the General Assembly should take a clear-cut decision on it. The authors of the revised joint draft resolution recognized the worth of the draft on arbitral procedure, since they wished to bring it to the attention of States. However, the result of the International Law Commission's painstaking work deserved more than that. The General Assembly should make the best possible use of the opportunities offered by the draft on arbitral procedure. The draft in its present form was not perfect, but it could serve as the basis for an international convention to be prepared by a conference of plenipotentiaries. During the debate, various delegations had favoured the calling of such a conference. The proposed amendment would enable the Secretary-General to convene the conference as soon as he had been notified by twenty States of their willingness to participate in it. States would thus not be obliged either to ask that the conference be called or to take part in it, any more than they would commit themselves to signing the convention to be drawn up by the conference. It was reasonable, however, to provide for the calling of a conference if sufficient States were interested.

4. The revised amendments (A/C.6/L.370/Rev.1) submitted by Afghanistan, Mexico, the Netherlands and Yugoslavia to the revised three-Power draft resolution was regarded by his delegation as unacceptable. It was undesirable to refer the draft on arbitral procedure back to the International Law Commission with a view to reconsideration by the General Assembly at its thirteenth session. The main problem now was to resolve the conflicting views of States and, at this stage, this was not a task which the Commission should be expected to perform. The Commission had prepared a text which it considered final and satisfactory. There was, therefore, no likelihood that the General Assembly would be in a better position to take a decision in three years' time than it was now. Moreover, the proposed reference back to the Commission would unduly interfere with its programme of work an other important projects. Furthermore, the revised amendments were not entirely clear. They spoke of "rules on arbitral procedure". "Rules" were binding, whereas the sponsors of the amendments had specifically wished to exclude any notion of obligation.

5. His delegation would be compelled to vote against those amendments if they were put to the vote, and it hoped that the authors of the revised joint draft resolution (A/C.6/L.369/Rev.1) would be able to accept the amendment it had proposed jointly with five other delegations (A/C.6/L.371).

6. Mr. BROKENBURR (United States of America), speaking on behalf of the sponsors of the revised joint draft resolution, said that they accepted the amendment presented by Canada, Egypt, France, Honduras, Sweden and the United Kingdom (A/C.6/L.371). While they hesitated to make such a proposal themselves, they could accept it now it had been made by the six Powers.

7. The arguments in favour of once again referring the draft convention back to the International Law Commission were not convincing. The result would be that the same text would have been examined at least six times, three times by the Commission and three times by the General Assembly. Such frequent re-examinations in so short a time did not seem the best course to follow. Moreover, the climate of a diplomatic conference might be more conducive to mutual concessions and the adoption of compromise solutions.

8. Mr. MOROZOV (Union of Soviet Socialist Republics) said that, in addition to the arguments he had advanced at the preceding meeting, he wished to make a few remarks prompted by the statements of the United Kingdom and United States representatives.

9. Those statements showed that a minority of the Committee's members still nursed the hope that the majority would adopt a draft resolution indirectly approving the International Law Commission's text.

Many delegations had, quite rightly, objected to paragraph 3 of the operative part of the revised draft resolution (A/C.6/L.369/Rev.1). The adoption of the six-Power amendment (A/C.6/L.371) would make the text even less satisfactory, as it would introduce a provision indicating that the Commission's text, of which the majority of delegations disapproved, should serve as the basis for the work of a conference of plenipotentiaries.

10. He urged the sponsors of the amendment to consider the position in which they placed the majority of the delegations by asking them to vote for the calling of a conference the work of which would be based on a document unacceptable to them. He respected the views of those who considered a conference advisable, even though he did not share them. If twenty States wished to convene a conference, they were free to do so, but outside the United Nations, since he failed to see why the entire machinery of the United Nations should be placed at the disposal of a handful of Member States.

11. It was not the first time that certain delegations had attempted to force the majority of the Committee to approve, by means of an ambiguous resolution, a text of the International Law Commission which the Committee opposed. At an earlier session, at which the majority had been against the draft convention on statelessness—quite properly, as the draft violated the relevant principles of international law—some delegations had submitted a text rather similar to that of the latest amendment, providing for a re-examination of the question on the basis of the International Law Commission's draft if twenty States so requested. Such tactics were neither useful nor wise. Delegations which wished to observe scrupulously the principles of the Charter must criticize frankly all the documents submitted in order to bring to light their defects and thereby contribute to the development of international law.

12. He was surprised that some States apparently wished to hasten the calling of a conference of plenipotentiaries. The sponsors of the amendment, although prompted by the highest motives, did not seem to realize all the possible consequences of their proposal. Only one State had so far declared itself ready to accept the Commission's text as it stood.

13. In his view, the revised four-Power amendments (A/C.6/L.370/Rev.1), far from shelving the question of arbitration, provided a practical and constructive solution, since, they ensured that the text would be reviewed by the International Law Commission, while the General Assembly would be left free to convene a conference of plenipotentiaries if that was justified in the circumstances. Such a procedure would neither hamper the Committee's work in any way nor imply any discourtesy towards the International Law Commission, which, for all its venerability, was nonetheless a subsidiary organ of the General Assembly.

The meeting rose at 1.5 p.m.

Printed in U.S.A.

S—77601—January 1956—1,800