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CONTENTS

Chairman: Mr. Karel PETRŽELKA (Czechoslovakia).

AGENDA ITEM 53

Report of the International Law Commission on the work of its eighth session (*continued*):

(*a*) Final report on the régime of the high seas, the régime of the territorial sea and related problems (A/3159; A/C.6/L.378, A/C.6/L.385 and Add.1 and 2) (*continued*)

1. Mr. LIMA (El Salvador) congratulated the International Law Commission on its excellent report submitted. Some representatives, speaking not only as lawyers but also on behalf of their Governments, would inevitably have to disagree with parts of that document, but that could in no way detract from its general value. A tribute was also due to the Special Rapporteur, who had presented the Commission's case with his customary mastery.

2. For the time being, he would make only a few general comments. The first important point was that raised in paragraph 26 of the Commission's report. In the great majority of cases, the distinction between the "progressive development" of international law and its "codification" had been rendered obsolete by economic, political and social evolution. That evolution had produced marked changes in municipal law and had affected the law of nations even more profoundly.

3. For that very reason, the statement contained in article 3, paragraph 2, appeared difficult to substantiate. The limitation expressed in that clause had doubtless been recognized as valid for many years, but any attempt to perpetuate it, despite modern developments, would be a denial of the dynamic quality of international law. The Latin American States had only made their great contribution to the law of nations because they had not felt bound by international rules developed in the colonial era, before they had won the right to speak independently; they had consequently been able to adopt an empirical and flexible approach, and to meet international problems in the light of constantly changing conditions.

4. The resources of the sea were of great importance. Some smaller States, unable to accept outmoded principles, had been forced to take unilateral political measures designed to safeguard their livelihood. Scientific advances had been so rapid that the traditional rules governing the breadth of the territorial sea were no longer applicable. In those circumstances, new principles should be formulated and new rules accepted as indispensable.

5. His delegation welcomed the proposal made in the joint draft resolution (A/C.6/L.385) for an international conference of plenipotentiaries. Such a conference should be convened in 1958 and all Member States of the United Nations and members of the specialized agencies should be invited to participate. The specialized agencies themselves should also be requested to send representatives. He believed that there was a good chance of the conference proving successful.

6. Mr. CASTREN (Finland) joined in the tributes paid to the International Law Commission and its Special Rapporteur. The persuasive force of the Commission's final draft was all the greater because the members seemed to have reached a substantial degree of unanimity on many of the provisions.

7. The Finnish delegation agreed in principle with the Commission's recommendation that an international conference of plenipotentiaries should be convened. Questions relating to the law of the sea, including those of a technical, biological, economic and political nature, were of great importance and a statement of uniform rules would be most welcome. The fact that the Conference for the Codification of International Law, held at The Hague in 1930, had failed, principally owing to disagreement on the question of the breadth of the territorial sea, should not discourage the United Nations from trying again. The crucial problem might perhaps prove even more difficult to resolve than in 1930, but any convention or other instrument which the conference might devise would at least represent a partial achievement. The programme of the proposed conference was perhaps too ambitious, especially as there were many new and controversial problems. On the other hand, many questions should present relatively little difficulty.

8. He agreed with the Commission that it would be insufficient to codify established rules of international custom; the formulation of new rules was at least equally important. Finland could not, however, accept the Commission's draft in its entirety, especially as some of the rules were inconsistent with Finnish legislation and practice, and those could not be changed without serious thought. Nor could Finland approve all the arguments and statements in the commentaries on the various draft articles. Nevertheless, the draft could serve as an excellent basis for discussion.

9. The statement contained in article 3, paragraph 2, seemed open to criticism. Historical and other special considerations might make a breadth of twelve miles either excessive or insufficient. It would be better if

the diplomatic conference were given absolute discretion to seek a solution to that problem in any manner it saw fit.

10. The Finnish delegation approved of the system of straight baselines in the special circumstances specified in article 5. As a general rule, it was also true that the maximum permissible length of those baselines should be reasonable. The Commission had also suggested, however, that, in certain circumstances, the coastal State was bound to recognize the right of innocent passage through the internal waters between the coast and the baseline. If that were correct, the distinction between internal waters and the territorial sea seemed to lose most of its meaning. Other points which seemed unreasonable were the statement in article 5 that baselines should not be drawn to and from drying rocks and drying shoals, and the restriction implicit in article 11. If the breadth of the territorial sea was normally to be measured from the low-water line along the coast, as stated in article 4, the same principle should apply at all times. That rule had been accepted in Finland in the new Act governing the limits of the territorial sea.

11. The Finnish delegation believed that the distance specified in article 7, paragraph 2, should be ten miles. That distance had been recommended by several Governments and by the experts who had met at The Hague in 1953. The International Law Commission's arguments were not convincing. Article 7, paragraph 3, was open to the objection that it invited States to appropriate the maximum, regardless of any other considerations.

12. With reference to article 9, he said that the roadsteads in question should be included in internal waters, in conformity with the legislation and practice of several States. Furthermore, article 24 gave the coastal State an unwarranted power; the Commission should not have changed its previous opinion merely because it had evoked some objections. Most learned authors recognized that even warships were entitled to innocent passage in time of peace. Another regrettable change had occurred in the Commission's position in the matter of the nationality of ships (article 29). The detailed provisions contained in the report on the Commission's seventh session (A/2934), concerning the relationship which had to exist between the State and the ship for purposes of recognition of the national character of the ship by other States, had now been replaced by a very vague reference to a "genuine link", which allowed States far too much discretion in the matter.

13. The provisions relating to piracy also called for some comment. According to the commentary on article 39, acts committed in the air by one aircraft against another aircraft could hardly be regarded as acts of piracy. Yet, it was difficult to see the difference between such acts and acts committed between ships or by a ship against an aircraft. Article 45 might be amended to include customs vessels among the craft authorized to effect seizures by reason of piracy.

14. The principle stated in article 49 and the contents of the subsequent articles, requiring States to take certain positive measures of conservation, were completely acceptable; the same could be said of the provisions regarding the reference of disputes to an arbitral commission, and of article 66.

15. The part of the Commission's draft which was open to the most serious criticism was the section dealing with the continental shelf. That question had already given rise to several disputes, and the provisions seemed inconsistent with the principle of the freedom of the seas. The Commission had admittedly tried to steer a prudent course, but its proposals were difficult to accept. The coastal State was given sovereign and exclusive rights which would enable it to lay down arbitrary conditions. The Finnish delegation hoped that the diplomatic conference would not deal with the complex questions which arose in that connexion.

16. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he would for the moment confine his remarks to certain salient points in the Commission's report, reserving the right to comment in greater detail at a later stage.

17. As other representatives had already stated, many of the Commission's recommendations, and much of its commentary on the draft articles, did no more than codify generally accepted, progressive rules of the law of the sea, the principles of the United Nations Charter being respected. It was, for example, gratifying to note the express statement of the fundamental principle of the freedom of the high seas, in the terms of article 27. The draft articles designed to protect fisheries and the other living resources of the high seas, and in particular the provisions recognizing the coastal State's rights to take the necessary measures of conservation, were also to be welcomed, as was the recommendation that the coastal State should have a sovereign right to exploit the natural resources of the continental shelf outside the limits of its territorial sea—although, as other representatives had pointed out before, the actual delimitation of the continental shelf was still an open question. In both cases the Commission had made a commendable, if not entirely successful, effort to reconcile the rights and interests of the coastal State with those of the international community. Another case in which the Commission had taken a correct line was in bringing within the category of internal waters so-called "historic" internal waters, namely those over which the coastal State's sovereignty had been exercised by virtue of special political, economic or other considerations that had arisen in the past. His delegation hoped that all the Commission's progressive recommendations that were directed towards strengthening international co-operation and were in accordance with the principles of the United Nations Charter would find general support from the Members of the Organization.

18. If the Commission had confined itself to such recommendations, his delegation would have been well content. As other representatives had already pointed out, however, some of the Commission's recommendations could not be accepted since they were inconsistent with generally accepted principles of international law. He proceeded to comment on some specific instances.

19. Firstly, in deciding to make no definitive proposals with regard to the breadth of the territorial sea but suggesting that that question should be referred to a conference of plenipotentiaries, the majority of the Commission had undoubtedly been envisaging the establishment of a uniform breadth for all States. In his delegation's view, however, that was neither just nor practicable. The Commission had failed to

take into proper account the fact that, historically, the breadth of the territorial sea had always been decided by the coastal State itself, in the light of its security requirements, its economic interests and a number of historical, geographical and other factors, including the interest of international shipping. As was clear from the failure of the 1930 Conference at The Hague, and also from the statements made during the current session, it was quite unrealistic to try to subordinate all those diverse interests and factors to a single standard breadth. The claim of the Netherlands representative, that the three-mile rule was the only generally accepted and therefore valid principle of international law, was not admitted by the Commission itself. The States whose territorial sea measured more than three miles in breadth outnumbered those observing the three-mile rule. It was patently impossible to lay down a uniform breadth for the territorial sea or, for that matter, for contiguous zones or the entrances to bays. The sole purpose of any attempt to lay down such a universal rule was to impose, automatically, on all States a point of view which was acceptable to some only.

20. Secondly, he could not accept the draft provision concerning government ships operated for commercial purposes (article 22). The Commission's refusal to recognize the immunity of such ships from the jurisdiction of States other than the flag State was contrary to the accepted principles of international law and inconsistent with its own action in recognizing the immunity of warships. The only argument with which it supported its arbitrary action was that it had "followed the rules of the Brussels Convention of 1926 concerning the immunity of government ships" and that "these rules followed the preponderant practice of States" (A/3159, p. 22). The objections to the grant of immunity to such government ships had notoriously originated with private ship-owners who, at a time when government ships had been used increasingly for carrying cargo, had been desirous of placing them on an equal footing with their own privately-owned cargo vessels. It was under their pressure that the Brussels Convention of 10 April 1926 had been adopted. Accordingly, the fact that the Convention did not recognize the immunity of government ships operated for commercial purposes was no evidence that the firmly established principle of the immunity of all government ships conflicted with international law; on the contrary, it confirmed that principle, in that it was deemed necessary to make a derogation from it by means of a convention which could of course have no validity except with respect to the small number of States that were parties to it. Even of those, many had subsequently failed to ratify it.

21. Moreover, the "preponderant practice" to which the Commission referred in fact ran counter to the rules of the Brussels Convention, both before and after 1926. He cited the well-known case of the Belgian Government vessel, the *Parlement Belge*, which had collided with a British tug in Dover harbour.[1] On appeal, the British courts had decided that they were not competent to hear the proceedings initiated by the master of the tug, on the ground that, in consequence of the absolute independence of every sovereign authority, every State declined to exercise any of its territorial jurisdiction over the public property of any other State, even though such property was within its territory. The court had noted that the fact of the ship's being used for carrying passengers and goods did not take away its immunity. Again, in the case of the Italian Government vessel, the *Pesaro*, the Supreme Court of the United States, in its judgement dated 7 June 1926, had stated:

> "We think the principles are applicable alike to all ships held and used by a government for a public purpose, and that when, for the purpose of advancing the trade of its people or providing revenue for its treasury, a government acquires, mans and operates ships in the carrying trade, they are public ships in the same sense that warships are."[2]

That view had been upheld and confirmed in a number of subsequent decisions of the courts of maritime countries, which had expressed approval of the principle of the immunity of all government ships, including those operated for commercial purposes. They were, moreover, in accordance with the time-honoured principle that no State could exercise jurisdiction over another State—*par in parem non habet imperium*. For the same reason the Commission's draft provision was contrary to the principle of State sovereignty, and thus to the United Nations Charter.

22. The International Law Commission's decision to restrict the concept of piracy to acts of piracy committed by private ships or private aircraft for private ends (article 39) was also contrary to the practice and theory of international law. The so-called Nyon Arrangement of 1937 recognized that the sinking of merchant ships by submarines, contrary to the dictates of humanity, could with full justification be regarded as a piratical act. Similarly, when in September 1940 the President of the United States of America had ordered the United States naval forces to open fire on German submarines, he had been taking what the Soviet Union delegation regarded as a legitimate measure of defence against piratical attacks carried out contrary to international law. It was no less well-known that in recent years scores of vessels had fallen victim to the piratical attacks of the Chiang Kai-shek Forces which, with naval and military support from the United States of America, had occupied the island of Taiwan. British, Polish, Soviet and other ships had all been attacked in that way. The Soviet and Polish vessels, and some of their crews, were still detained by the Chiang Kai-shek forces, in defiance of all rules of international law. Some members of their crews had been illegally deported to the United States of America, where their repatriation had met all kinds of obstructions. Those were reprehensible acts which should be condemned by the United Nations. Those members of the crews of the seized vessels who were still illegally detained should be repatriated without delay, and the ships should also be returned. Such piratical acts plainly conflicted with the universally recognized principle of the freedom of the high seas; they also jeopardized the life, health and human dignity of all the many seamen who had occasion to sail in those parts.

23. The USSR delegation's view that the definition of piracy should be extended to cover all criminal assaults at sea was also supported by learned writers on international law. Oppenheim, for example, stated:

[1] L.R. 5 P.D. 197.

[2] 70 L.ed. U.S. 271.

"There is substance in the view that, by continuous usage, the notion of piracy has been extended from its original meaning of predatory acts committed on the high seas by private persons and that it now covers generally ruthless acts of lawlessness on the high seas by whomsoever committed."[3]

24. Although the Soviet Union was in principle in favour of allowing international disputes concerning the regulation of fishing on the high seas to be settled by all possible means, including arbitration, it could not accept the procedure proposed by the Commission which would oblige States to refer such disputes to arbitration at the request of only one of the parties concerned, or that proposed for setting up the arbitral commissions. In those respects the Commission's recommendations were not consistent with the generally accepted principles governing arbitration; in effect, they made it impossible for the parties to the dispute to choose arbitrators by agreement between themselves. The question of the conservation of fisheries and the other resources of the high seas, and of the measures that might be taken by the coastal State to combat the over-exploitation of such resources, affected the vital economic interests of States, and the procedure laid down for the settlement of disputes relating to such questions should therefore be based on generally accepted principles of international law. Clearly, those principles were not respected in the Commission's recommendations. Traditionally, recourse to arbitration had always required the willing consent of both parties to the dispute. What the International Law Commission was recommending was not, in fact, an arbitration procedure at all but the establishment within the United Nations of a court, with jurisdiction binding on all States, to settle disputes connected with the regulation of fishing on the high seas. That would be in flagrant contradiction with Article 33 of the United Nations Charter, which called on the Member States to seek a solution of their disputes by peaceful means "of their own choice". It was unfortunately not the first time that the Commission had shown a tendency to liken arbitral procedure to a court standing above the Member States of the United Nations. The same tendency had been manifest in its draft articles on arbitral procedure, which had been rightly criticized by many delegations at the tenth session of the General Assembly as contrary to the generally accepted principles on which arbitral procedure should be based. Adoption of that incorrect approach could not fail to be detrimental to international co-operation in the regulation of fishing, and ultimately to the general state of international relations. To become acceptable, the Commission's recommendations would have to be brought into line with the traditional principles governing arbitral procedure.

25. Finally, his delegation could not accept the Commission's draft article 73. A State's expression of its willingness to submit to the jurisdiction of the International Court of Justice was part of its sovereign prerogative, and no State could be required to indicate such willingness in advance. The provision should be so framed as to leave States free to decide individually in each case whether or not to refer the dispute to the Court. Any other solution would run counter to the very idea of international co-operation and the principle of mutual respect for the sovereignty and equality of States.

26. The Soviet delegation had endeavoured to give an objective appraisal of the Commission's report, as it attached great importance to the present broad exchange of views, which should indicate what progress could be made towards reaching agreement on a number of serious questions that were still unsolved. It was obvious that, in those circumstances, a correct decision on the most apropriate procedure to follow would be of considerable importance in ensuring the successful and fruitful consideration of the main problems that arose in connexion with the law of the sea.

27. Mr. DUTTA (Pakistan) congratulated the Commission and its Special Rapporteur on this scientific approach to the many intricate problems dealt with in the report. The Commission had been right, moreover, in grouping together all the rules it had adopted, since the various sections of the law of the sea were so closely independent that it would be extremely difficult to deal with them separately. His delegation agreed with the observations in paragraphs 26 and 27 of the Commission's report and, accordingly, had thus become one of the sponsors of the draft resolution proposing an international conference of plenipotentiaries (A/C.6/L.385).

28. The juridical and physical interdependence of many of the problems dealt with in the Commission's report was immediately evident. The breadth of the territorial sea, for example, on which the Commission had stated its views in article 3, was bound up with the questions of the right of innocent passage and the location of the continental shelf, as well as with the possibility of a contiguous zone in which the coastal State would be empowered to exercise certain rights in connexion with customs and the regulation of fishing. The proposed international conference should attempt to lay down a uniform and equitable limit for the breadth of the territorial sea, taking into account the sovereignty of the coastal State, the limitations imposed on it by international law and the right of innocent passage. With regard to the problem of arresting or diverting a foreign ship passing through the territorial sea, some means had to be found, if possible, of resolving conflicts of jurisdiction under private law between the coastal State and the flag State.

29. As far as the high seas were concerned, it had proved impossible, as yet, to establish uniform regulations on the nationality of ships, and the existing divergence of national legislations involved certain difficulties. An attempt should be made to determine the general principles governing that matter in the different countries. Further consideration should also be given, in connexion with article 35, to formulating specific rules to determine what court was competent to deal with any criminal proceedings arising out of a collision in the territorial sea.

30. Any conflict in the exercise of the coastal State's rights in the contiguous zone, under article 66, and in the continental shelf, under article 68, should be avoided. After outlining the purpose and scope of the Commission's recommendations for the conservation of the living resources of the sea, he urged that some provisions should be added under which it would be possible to enforce conservatory measures proposed in an arbitral award; the existing draft article did not contain any such provision.

[3] L. Oppenheim, *International Law*, Vol. I, *Peace*, 7th ed., H. Lauterpacht (ed.) London, Longmans, 1948), p. 563.

Mr. Castañeda (Mexico), Vice-Chairman, took the Chair.

31. Mr. ROBINSON (Israel) expressed his delegation's appreciation of the work of the International Law Commission and its Special Rapporteur.

32. The joint draft resolution (A/C.6/L.385) proposing an international conference of plenipotentiaries was purely procedural, but that fact did not affect the right of delegations to express their views on the substance of the Commission's draft. Such a discussion would clarify many issues. The text required examination not only from the legal point of view but also in the light of scientific considerations. However, in view of the fact that the study of the draft articles by the various services of his Government had not yet been completed, he would deal with the substance only occasionally.

33. The law of the sea was not *tabula rasa*. The Commission had not broken virgin ground as had been done some forty years previously in the field of the law of the air. There was a vast amount of treaty law, case law and customary law already in existence, not to speak of doctrinal literature. Despite that fact, however, there were some uncertainties which might justify the calling of a conference.

34. As regards the nature of the report, the Commission had itself made it clear in paragraph 26 that no strict distinction could be drawn between progressive development and codification. Such difficulties were bound to arise when technical terms were borrowed by international law from municipal law. In civil law countries, codification inevitably involved the creation of a new law. Only in common law countries was it a process of clarification and restatement. To that extent, therefore, the analogy drawn by the International Law Commission's Statute was not wholly correct. The same criticism could be made of such terms as "progressive development" and "international legislation". Those concepts could only be applied to municipal law, which was constantly subject to review by a permanent legislative organ. In the international field, where no such organ existed, such terms could only complicate matters and should be avoided.

35. Another question which had been asked was whether the time was propitious for the codification of the law of the sea. That problem had confronted every generation of international jurists and no positive answer had ever been given. Each generation had merely tried to make some progress. In the present circumstances, the same course might prove the most judicious. From the juridical-technical point of view, at least, the subject was ready for codification. On the other hand, until such time as a convention was signed, the articles had an intrinsic value in themselves. Article 38 of the Statute of the International Court of Justice referred to the "teachings of the most highly qualified publicists" as "subsidiary means for the determination of rules of law". A document prepared through the collective effort of several such publicists was clearly of even greater value. In saying that, he did not wish to suggest that the articles should be accepted as a definitive statement of the law of the sea. They nevertheless constituted a significant contribution.

36. The proposal for the convening of a conference was sponsored by an impressive number of States, representing not only the various regions of the world but also many legal systems; that showed there was a deep-seated sentiment in the United Nations in favour of the conventional method of codifying the international law of the sea.

37. The conventional method had, however, many drawbacks. The interests of Governments were so diverse that it would be hard to work out an international agreement concerning rules of conduct intended to be binding upon States in the indefinite future, and covering situations which could not be foreseen. Also, the failure of Governments to reach agreement in a codification conference could cast doubt upon certain rules the validity of which had been admitted for a very long time as part of customary international law. Thus the failure of the 1930 Conference had been interpreted by some States as giving them freedom of action in the matter of fixing the breadth of the territorial sea.

38. It was important to bear in mind the lessons of the failure of the 1930 Conference. That Conference had adopted, *inter alia*, a resolution including as an annex thirteen articles on the legal status of the territorial sea "drawn up and provisionally approved with a view to their possible incorporation in a general convention on the territorial sea",[4] but no agreement on the breadth of the territorial sea had been reached. The Conference had done useful exploratory work and had paved the way for more fruitful efforts to be made in the future but it had been substantially a failure.

39. That failure had not been due to any lack of ability on the part of the participants in the Conference, who had included the greatest experts on international law, or to a lack of efficiency in technical arrangements. One explanation was perhaps the difficulty of the subject matter itself. Possibly the failure of the Conference could be accounted for by a number of other circumstances, some of which would not recur. For example, the 1930 Conference had attempted to deal with three extremely difficult problems at the same time; the conference which it was now proposed to convene would only deal with the international law of the sea. Another mistake made in 1930, which would not be repeated, was the fact that the Bases of Discussion drawn up by the Preparatory Committee had not been submitted to the Governments; the Commission's draft articles had been prepared in the light of the comments of Governments, but unfortunately not of all the Members of the United Nations, and not always dealing with all aspects of the law of the sea.

40. Other reasons which had been held to account for the failure of the 1930 Conference were, in addition to the reason advanced in paragraph 30 of the Commission's report on its eighth session (A/3159), the two-thirds majority rule then applied, insufficient preparation, lack of time, and insufficient attention to political considerations on the part of the legal experts. He hoped that the prospective conference would avoid the shortcomings from which the 1930 Conference had suffered. On the other hand, the reopened conference would have to contend with new problems. There were eighty-five potential participants, instead of the forty-four States which had participated

[4] League of Nations publications, *V. Legal, 1930.V.16* (document C.351(*b*)M.145(*b*).1930.V), pt.B.

in The Hague Conference. Furthermore, the freedom of the seas now embraced not only navigation and fishing but also the right to fly over the sea and the right to lay submarine cables. The problem was made more complicated by the further crumbling of the three-mile limit. Another new phenomenon was the fragmentation of international law according to regional or ideological groups; and, lastly, the question of the exploitation of newly discovered resources had become most prominent.

41. With regard to the preparatory work for the conference, he said the Secretariat's useful "Guide" (A/C.6/L.378) would have to be supplemented by references to existing sources of the law of the sea, the material referred to in annexes A and B of that document, and by the proceedings of the Sixth Committee. The volumes of the United Nations Legislative Series would have to be supplemented and brought up to date.

42. Preparation at the academic level was equally important, and it was to be hoped that those representatives connected with the academic world would encourage study and discussion in their own countries before the conference took place.

43. There was need for a new multilingual bibliography of the law of the sea, which might be prepared by the Peace Palace library along the lines of its selective bibliographies on such subjects as recognition and immunities in international law.

44. With regard to preparation at the diplomatic level, there was need for more consultation with Governments, of which only thirty-two had so far submitted their comments. That need was well illustrated by the fact that the inter-American meetings at Mexico and Ciudad Trujillo had shown that no agreement could be reached as yet by countries having otherwise much in common.

45. The pitfalls of 1930 could probably be avoided by the adoption of any of the following four methods: (*a*) a single State could be designated to negotiate the convening of the conference, as used to be done before the League of Nations was set up; (*b*) a group of sponsors could perhaps undertake the task of preparation; (*c*) the Secretary-General could be entrusted with the task; or (*d*) a preliminary conference could be held at Headquarters.

46. The Conference should not be held before 1958, so as to allow ample time for preparation. Furthermore, it was essential to lay down a minimum of participants, without any distinction between maritime States and others. With regard to the place of meeting, The Hague was ideally suited for the purpose (provided the Netherlands Government was agreeable), because of its tradition and the library available there. If it was not possible to hold the Conference at The Hague, Geneva would be the most suitable alternative.

47. In principle, therefore, he supported the draft resolution (A/C.6/L.385), but would suggest that it should be elaborated by reference to the need for preparation, particularly at the diplomatic level, and to the date (not before 1958), place (either The Hague of Geneva) and minimum number of participants.

48. Mr. HSUEH (China) said he would make a general statement later. For the moment he wished to speak only in reply to the USSR representative's statement concerning alleged acts of piracy in the China Seas. That representative had employed unparliamentary language and misrepresented the facts. One of the ships in question had been engaged in carrying strategic materials to the Chinese Communists; the cargoes had been intended for use against the people and the legitimate Government of China, and China was justified in defending its existence by stopping that ship. The other two vessels in question were owned by Chinese Communists and used against the Chinese Government. It was within the sovereign rights of the Chinese Government to seize them wherever found.

49. In connexion with the remarks concerning some members of the crews of those ships, he said that the persons in question had been free to return home or to go to any other country; many had refused to go back to the USSR and some had come to the United States of America. No coercion had been used either by China or by the United States of America. Five of the seamen had, however, been coerced by the Soviet authorities into returning to the USSR from the United States of America.

50. In conclusion, Mr. Hsueh said that it was slanderous to link those cases with the discussion of the subject of piracy.

51. Mr. MOROZOV (Union of Soviet Socialist Republics) said that his earlier statements had not been effectively challenged. His sole purpose had been to point to the need for improving the Commission's draft articles on piracy.

52. The freedom of the seas had been interfered with by the Formosa authorities when they had stopped or arrested ships flying the flags of a number of countries not involved in hostilities in that area.

53. Mr. GREENBAUM (United States of America) said the allegations of the USSR representative, in so far as they related to the United States of America, were inconsistent with the facts. The whole question was irrelevant to the subject before the Committee, and had been introduced by USSR representative not in order to contribute to the Committee's work but rather to hamper it.

The meeting rose at 6 p.m.

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