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Chairman: Mr. Gonzalo ORTIZ MARTIN (Costa Rica).

AGENDA ITEM 66

*Question of the publication of a United Nations juridical
yearbook: report of the Secretary-General (A/4406 and
Corr. 1; A/C.6/L.471) (continued)*

1. U BO GYI (Burma) considered that the Secretariat had given an unduly narrow and technical interpretation to General Assembly resolution 1451 (XIV); if the resolution were so interpreted, the usefulness of the yearbook would be greatly impaired. From paragraphs 6 and 7 of the Secretary-General's report (A/4406 and Corr.1), taken in conjunction with the annex, it was clear that the Secretariat had felt that the phrase "documentary materials of a legal character" referred only to United Nations documents and that the phrase "relating to the United Nations" referred to the United Nations only and not to the specialized agencies or other bodies. If that had been the General Assembly's intention, however, it would have said that the yearbook would "contain" United Nations documents of a legal character, rather than "include" such documents, a phrasing which was obviously wider in scope.

2. Moreover, the Secretariat's interpretation of resolution 1451 (XIV) did not reflect the purposes of resolution 1291 (XIII), which stated that it was a function of the General Assembly to take appropriate measures to encourage the development of international law and that the publication of a United Nations juridical yearbook might constitute a useful measure for that purpose. That function derived from Article 13 of the Charter, under which the General Assembly was required to initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification. In addition, under article 24 of its Statute, the International Law Commission was responsible for considering ways and means for making the evidence of customary international law more readily available.

3. In his delegation's view, the proposed yearbook should not be confined to United Nations documents, but should embrace all documents of a legal character which had a bearing on the activities of the United Nations. Such documents were not the only source of international law, however, and all other sources should also be searched to provide material for the yearbook. In that connexion, he recalled that, at the 660th meeting (para. 39), the United States representa-

tive had said, with reference to the report of the International Law Commission, that the task of preparing scientific statements of international law was a demanding one, which could not be easily accomplished even when source material was readily available. The Commission should therefore seek information from all sources and exclude no information because of its origin. It must then decide for itself what rules of international law it should propose, and then seek acceptance of those rules on their own merits. Any other view would deny to the Commission the opportunity to reach decisions on the basis of all the resources available to it. The work of the Commission had been assisted by the co-operation of certain American and Asian-African technical groups. It was to be hoped that the Commission would in the future receive assistance from other groups such as, for example, the Eastern European countries. Such efforts to furnish information from all sources would expedite the growth of international law. The United States representative had concluded that the best should be culled from all sources. Those observations were equally pertinent to the question of material for the yearbook. The Burmese delegation agreed that, in selecting the best from all sources, the contributions which could be made by private individuals and associations should be excluded because they might be controversial or defeat the purpose of the yearbook. On the other hand, the yearbook might include articles by authors of recognized legal competence which appeared in various juridical periodicals published in the United States, Latin America and other regions. A number of other potential sources also existed.

4. His delegation believed that, if the principle that the yearbook should include only documents directly concerned with the progressive development of international law were followed with reasonable firmness, the question of the cost of such a publication would settle itself. Generally speaking, factual material, such as the agreement between the United Nations and the Republic of Korea concerning the establishment and maintenance of a United Nations Memorial Cemetery in Korea, which had been mentioned in the annex to the Secretary-General's report, should be excluded from the yearbook unless it had a direct bearing on international law.

5. A mere congeries of material, however, would not be of much assistance; the yearbook, which should be an organic whole possessing its own particular character, should therefore also include comments showing how material from various sources helped to shape international law on old or new topics. For that purpose, it would be necessary to secure the co-operation of the distinguished jurists serving on the International Law Commission, since they had the same end in view as the proposed yearbook itself, namely the progressive development of international law.

6. Mr. PERERA (Ceylon) wondered whether the Secretary-General had exceeded the instructions of the General Assembly in resolution 1451 (XIV) by submitting a report on the question of the publication of a United Nations juridical yearbook rather than a detailed outline of such a yearbook. He suggested that the Legal Counsel might make some further comments on the report, to stimulate discussion by the Committee.

7. Mr. STAVROPOULOS (Legal Counsel) replied that, since the resolution had requested the Secretary-General to submit a report "containing" a detailed outline of such a yearbook, the Secretary-General would have failed in his duty if he had submitted the detailed outline alone. He assured the Committee that the Secretariat had not purposefully discouraged the idea of publishing the yearbook, but had merely fulfilled its obligation to present the question realistically. He also wished to point out, in reply to the Burmese representative, that the Secretariat's literal interpretation of the term "documentary materials of a legal character relating to the United Nations" derived from the Sixth Committee's discussion of the question at the fourteenth session, in which the original broad concept of the yearbook had been whittled down. Even in the form proposed in the detailed outline, the yearbook would include some 3,000 pages a year; and if the suggestions made by the Burmese representative were adopted, it would be larger and more costly. He reminded the Committee that the plan it adopted would have to be acceptable to the Fifth Committee. As he had stated at the 673rd meeting (para. 12), the yearbook, even in the limited form suggested in the detailed outline, might be very useful, but it was not feasible to publish a 3,000 page document annually.

8. It had occurred to him, although he had not yet considered the idea thoroughly, that serious students of United Nations affairs and international lawyers might find it useful to have an index, by subject, of matters discussed in the United Nations, together with an annex containing documents that had not been published or that were out of print. The index would indicate where and when a matter, such as the right of asylum, for example, had been discussed in the United Nations. While not as pretentious a scheme as the juridical yearbook, the index might prove a more feasible project. It would, of course, require further study.

9. Mr. PERERA (Ceylon) thanked the Legal Counsel for his statement, which had clarified the scope of the Secretary-General's report. At the 673rd meeting (paras. 1 and 3), he had pointed out that the report indicated there was no need for a juridical yearbook. If a statement such as that just made by the Legal Counsel had been included in the Secretary-General's report, it would have provided a basis for discussion by the Committee.

10. Mr. NUÑEZ (Ecuador) felt that some kind of index or repertoire would be of great interest, not only to those concerned with the United Nations but also to students of international law. Such an index would make it easy to consult United Nations documents and would make certain documents more readily available.

11. Mr. MUSTAFA (Pakistan) said that he was grateful to the Legal Counsel for having suggested a valuable idea for discussion. He would like to know what the financial implications of such an index would be, particularly in view of the present financial condition of the United Nations.

12. Mr. STAVROPOULOS (Legal Counsel) said that he would try to provide an approximate figure within the next few days.

13. Mr. VALLAT (United Kingdom) asked whether the Legal Counsel might also give the Committee some idea as to whether the cost of the juridical yearbook, as proposed in the outline, and the cost of the index could be accommodated within the United Nations budget. He thought such information would be appropriate in view of the recommendation, in the draft report of the Fifth Committee on the organization and work of the Secretariat, that United Nations organs should not propose the initiation of projects involving additions to the budget (A/C.5/L.624, annex).

14. Miss SCHILTHUIS (Netherlands) suggested that the fact that the question of the publication of a juridical yearbook had been under discussion, off and on, for some ten years, indicated that the subject was more complex than appeared at first sight. At the present session, the Secretary-General had again presented the Committee with a valuable report, but the last sentence in paragraph 31 left the whole matter open again by intimating that the General Assembly should decide whether or not the publication of documents in a United Nations juridical yearbook was justified.

15. The problem ought perhaps, therefore, to be examined more closely. The general aim was to further the development of international law by making the documents concerning it more readily available both to scholars and to practitioners of international law, and the question at issue was whether the publication of a yearbook would serve that aim. The question might perhaps be answered by considering the nature of the documents involved. In her view, they fell into three categories: first, documents of an international legal character in the strict sense—judgements and arbitral awards of international bodies, drafts of the International Law Commission and so on; secondly, documents on various matters with, however, legal significance; and, thirdly, national legislative texts and the significant decisions of national courts relating to the United Nations.

16. The first category comprised in the main the documents published in the various yearbooks and repertoires referred to in paragraph 11 of the Secretary-General's report. It might be worth while to examine those documents in order to find out if they were duly covered by the existing publications and, if not, to determine whether, in order to fill the gaps, the best course would be to extend the scope of existing publications or in fact to incorporate them into a juridical yearbook.

17. The second category comprised a far vaster field of documents, those of the kind specifically referred to in General Assembly resolution 1451 (XIV). The Secretary-General's report listed the documents in that category for a single year and, as the representative of Burma had pointed out, with reference to the United Nations only and not to the United Nations family as a whole. To restrict the work in that manner would, she thought, be a great mistake in view of the need for more, and not less, co-ordination between the various international organizations, and would mean the loss of a great deal of valuable material. However, even accepting a restricted interpretation of the relevant resolution, the volume of material under that head would, according to the report, amount to some 3,000

pages per annum. There was clearly no question, therefore, of publishing all the documents; it would be necessary to make a selection from them. But there would be no point in doing that until it was known which of them would be published elsewhere; and, as the Secretary-General had pointed out in paragraph 31 of his report, it was impossible to forecast very accurately the situation in that respect in any given year. There would necessarily, therefore, be some delay between the actual publication dates of many documents and their appearance in the juridical yearbook. Even then, a large number of documents would inevitably remain unpublished. Moreover, in order to make documents more readily available to jurists, it was not enough simply to publish them; it was essential also to have them properly indexed. If, then, it were to be agreed that a yearbook of some 500 pages would not serve any very useful purpose, it might perhaps be wise to decide, as the Legal Counsel himself had just suggested, to use the staff and means available for the purpose of publishing, at the most appropriate intervals, an index to United Nations documents of a legal character, based on a juridical classification. The index, she would suggest, should cover the documents of the entire United Nations family.

18. As to the third category, their inclusion in the index would undoubtedly be valuable, but the collection of information on them would entail certain problems, since the co-operation of Governments or legal insti-

tutions would be essential. It might perhaps be wiser, therefore, to concentrate for the present on United Nations documents only, while finding out whether the systematic collection of national documents relating to international law, with the collaboration of individuals or institutes, was possible.

19. Mr. PERERA (Ceylon) felt very strongly that the publication of an index was not an adequate substitute for the publication of a juridical yearbook. The intention of his delegation in making its original suggestion in the Committee at the thirteenth session (553rd meeting) had been to contribute something positive to international law. It would not now be satisfied with anything less than a yearbook, even of the rather truncated kind now being discussed.

20. Mr. MUSTAFA (Pakistan) was personally somewhat inclined to agree with the representative of Ceylon that perhaps the idea of an index was not a satisfactory substitute for the juridical yearbook which had been so patiently advocated by that representative over so many years. In view of the circumstances emerging from the Secretary-General's report, however, it might possibly be advisable to defer discussion of the question of a juridical yearbook until some future year, when more material on the subject was available and the discussion might be more fruitful.

The meeting rose at 4.20 p.m.