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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. Mr. GONZALEZ GALVEZ (Mexico) wished to make some general observations which could be taken into account by the committee composed of the sponsors of the original draft resolution^{1/} which, as amended, became General Assembly resolution 1291 (XIII); such a committee had been proposed by the Polish representative (676th meeting).
2. He recalled that, when the International Law Commission had recommended ten years earlier (A/1316, para. 91 (a)) that the General Assembly should authorize the Secretariat to issue a juridical yearbook, its purpose had been to make the documentation relating to customary international law more accessible. That consideration carried even more weight now that the ranks of the United Nations had been swelled by the admission of a large number of new States which lacked legal archives or libraries and would find the publication of a juridical yearbook extremely valuable.
3. The Secretary-General, in his report (A/4406 and Corr.1), gave the impression that the publication of a yearbook would be of little use and would be a costly undertaking, stressing the financial factor which was actually secondary. So far as the usefulness of a yearbook was concerned, that would depend essentially upon its contents.
4. In that connexion, he noted that his delegation attached the greatest importance to the inclusion in the yearbook of a chapter containing articles written by individual authors, in addition to a section containing summaries of articles appearing in other professional publications. The articles to be published in that chapter could be chosen by the International Law Commission or by a working group set up by the Commission in the form of a drafting committee.
5. His delegation thought that a chapter recapitulating all the legal opinions of the Secretariat was likewise essential.

^{1/} Official Records of the General Assembly, Thirteenth Session, Annexes, agenda item 56, document A/C.6/L.432.

6. It was also strongly in favour of the proposal made by the Legal Counsel (674th meeting) concerning the publication of an index of juridical documents relating to the United Nations, provided, of course, that such an index formed part of the yearbook and was not issued in its stead.

7. Finally, although his delegation would like to see the Committee approve a conclusive draft resolution now, it would be willing to accept the Polish proposal (676th meeting) to defer consideration of the item for two years and set up a committee in the meantime which would submit to the General Assembly, at its seventeenth session, a report concerning the material that might be included in the yearbook.

8. Mr. TODOROV (Bulgaria) said that his delegation was in favour of beginning publication of the United Nations juridical yearbook at an early date, for it would constitute an important contribution to the progressive development of international law and would be extremely helpful to newly independent States, to jurists, ministries of foreign affairs, universities and the general public. Unfortunately, certain circles—the same circles which were not in favour of the development of international law in general—were hostile to that idea and were using the United Nations Secretariat, particularly the Office of Legal Affairs, for their own ends. It was for that reason that a majority of the delegations had rightly criticized the report on that question prepared by the Office of Legal Affairs on behalf of the Secretary-General, according to which the yearbook would be a very large volume the publication of which would entail considerable expense. Furthermore, the documentation listed by way of example in the annex to the report was not of great juridical significance and did not appear to have been selected and classified in accordance with well defined principles. The Legal Counsel had said that the report in question had been difficult to prepare, but that it was realistic and had been drawn up in good faith. Actually, the Secretariat's attitude with regard to the report drawn up by it pursuant to General Assembly resolution 1451 (XIV) showed how a resolution could be rendered meaningless when it was put into effect. That was a practice which should be stopped. The Secretariat was only an executive body, not a policy-making body competent to interfere with the implementation of decisions taken by the General Assembly, and its opposition should be overcome. He was therefore in favour of the establishment of a committee which would assist the Office of Legal Affairs in drawing up and classifying a list of the material to appear in a future yearbook. He felt, however, that the suggested two-year period was excessive, considering that the item had been under discussion during three consecutive sessions, and would rather see a provisional report and plan submitted to the Committee at its next session so that a decision might be taken to begin publication in 1962.

9. The idea of an index which would serve provisionally to replace the yearbook, as suggested by the Legal Counsel, was only another means of side-tracking the publication of the yearbook itself. An index could, however, be useful if it was envisaged simply as a bibliography entirely distinct from the yearbook. It could be drawn up with the assistance of the appropriate services of UNESCO, ILO and the International Court of Justice. He would suggest that the Secretariat should submit to the General Assembly at its next session a report containing an index covering the work of the first few years of the Organization's existence so that the Sixth Committee could decide whether such an index should be published.

10. He recalled that, on several occasions, and in particular at the 658th meeting, he had requested the Office of Legal Affairs to let him know what were the questions on which the Office had given a legal opinion. Unfortunately, he had not been able to obtain a reply from Mr. Stavropoulos; the latter's silence was in marked contrast to the attitude of the Secretary-General's representative in the Fifth Committee, who gave delegations written replies on very complicated matters. He thought that the Office of Legal Affairs, without having to be expressly invited to do so in a resolution, should be able to submit to the Sixth Committee each year a document containing legal opinions given by it since the previous session, so that the Committee could decide which of them would be of interest for publication in the juridical yearbook.

11. Mr. TABIBI (Afghanistan) said that his delegation had been supporting the idea of the publication of a juridical yearbook for ten years: it had been a co-sponsor of the original draft resolution which, as amended, became General Assembly resolution 1291 (XIII) and a member of the informal working group responsible for preparing a document on the question at the thirteenth session.^{2/} That question dated far back, since it had been discussed by the Sixth Committee at the fifth, sixth, seventh and tenth sessions of the General Assembly, and by the International Law Commission at its second and seventh sessions; at its thirteenth session, the General Assembly had adopted resolution 1291 (XIII) in which it had acknowledged 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 may constitute a useful measure for that purpose". At the fourteenth session, after a long discussion in the Sixth Committee, the Assembly had adopted resolution 1451 (XIV) which placed specific obligations on both the Committee and the Secretariat. Under that resolution, the Assembly had, in fact, decided that a United Nations juridical yearbook should be published and had requested the Secretary-General, as a first step, to submit a report to the General Assembly at its fifteenth session containing a detailed outline of such a yearbook. It was not possible to rescind a decision which had all the greater moral force for having been adopted unanimously; to do so would require another decision approved by a two-thirds majority of the Assembly Members. Furthermore, since the Secretary-General's report was, in the words of the resolution, only "a first step", the point of view expressed therein must not be considered final.

12. The Afghan delegation agreed that the outline of the yearbook appearing in the annex to the Secretary-General's report was not in line either with the majority of the views expressed in the Sixth Committee or the International Law Commission or with the reports of the Institute of International Law and the Committee on Research in International Law of the American Society of International Law that had been reproduced in the annexes to the Secretary-General's report to the General Assembly at its seventh session.^{3/} The views expressed in the Secretary-General's latest report were quite different from those appearing in his previous reports. The Afghan delegation had hoped that the Office of Legal Affairs would be the first to support publication of a juridical yearbook, which would contribute to the development of international law and strengthen its role in the Organization. The yearbook would serve as a unique source of information on international law, which would be valuable to specialists and legal institutions throughout the world and would also help to attain the purposes of General Assembly resolution 176 (II) concerning the teaching of international law, which stated that "one of the most effective means of furthering the development of international law consists in promoting public interest in this subject" and that "greater knowledge of and fuller information on the aims, purposes and structure of the United Nations constitute another positive method of assisting the development of international law, of which the United Nations is the main instrument". Unfortunately, the outline suggested in the annex to the Secretary-General's report did not serve the intended purpose and amounted only to republication of documents already published elsewhere by the United Nations. On the other hand, a yearbook that would contain studies on problems of international law and on the legal activities of the United Nations, legal opinions of the Secretariat, documents on international administrative law, and decisions of international and national tribunals would be useful to the whole world. He thought that it would be useful to request the informal working group set up during the thirteenth session to study the subject further; a carefully considered decision could then be taken in 1961 or 1962.

13. Mr. PERERA (Ceylon) remarked that, in spite of the divergent opinions expressed on several points, most of the delegations seemed to consider that the idea of the publication of the juridical yearbook was, in itself, acceptable.

14. He wished to point out that, when it came to alternative proposals, only those representing an improvement over the decisions previously taken could be entertained. The Sixth Committee should consider itself bound by resolutions 1291 (XIII) and 1451 (XIV), adopted by the General Assembly on its recommendation, to take further steps for their implementation.

15. To that end, the Ceylonese delegation, together with the delegations of Bolivia, Ethiopia, Ghana, Iraq and the United Arab Republic, had prepared a draft resolution^{4/} which took into consideration the points of view and suggestions advanced as well as the problem of financial implications.

16. With regard to the establishment of the committee envisaged in operative paragraph 1, he thought that it was the Sixth Committee which should ultimately decide

^{2/} *Ibid.*, document A/C.6/L.428.

^{3/} *Ibid.*, Seventh Session, Annexes, agenda item 55, document A/2170.

^{4/} Subsequently circulated as document A/C.6/L.477.

the choice of its members. He would like to point out that the States listed in that paragraph were agreed on the fundamental aspects of the question. He would also have preferred that the question be settled at the present session rather than referred to the seventeenth session; he considered, nevertheless, that the discussions that had taken place in the Committee should prove fruitful.

17. In conclusion, he remarked that, if the necessity for the publication of the yearbook was recognized, as it seemed to be, the question of cost was secondary. In any case, the sponsors of the draft were not inclined to accept any substitute.

18. Mr. MUSTAFA (Pakistan) said that he thought it would be helpful to explain his position on the draft resolution to which the representative of Ceylon had just referred. He recalled the observations he had made at the 674th meeting, when he had said that he was personally inclined to agree with the representative of Ceylon that an index was not a satisfactory substitute for the juridical yearbook, but that, in view of the circumstances emerging from the Secretary-General's report, it might possibly be advisable to defer the question of the juridical yearbook until some future year, when more material on the subject was available and the discussion might be more fruitful. Then, at the 675th meeting, he had proposed the publication of a juridical digest, but that had been envisaged merely as a temporary solution primarily designed to avoid complete abandonment of the original idea. He, therefore, unhesitatingly supported the suggestion of referring the question of the publication of the juridical yearbook to a later date. He reserved the right to make some suggestions on the membership of the proposed committee.

19. Mr. VALLAT (United Kingdom) pointed out certain procedural difficulties: if the text of the draft resolution referred to by the representative of Ceylon was to be distributed only on the following day, many delegations would have some difficulty in making a decision immediately, particularly since it raised certain difficult problems such as that of the composition of the committee. He further noted that the idea of an addi-

tional report by the Secretary-General, suggested by the Legal Counsel (677th meeting), seemed to have been abandoned, and it was now proposed to appoint a committee to prepare that report. Those problems deserved study, and the necessary discussions and consultations could not be held without the text of the proposed draft resolution.

20. Mr. NISOT (Belgium) and Mr. PERERA (Ceylon) suggested that the Chairman read out the draft resolution.

21. Mr. ZEMANEK (Austria) drew attention to rule 121 of the General Assembly's rules of procedure, which stated that no proposal should be discussed or put to the vote unless copies of it had been circulated to all delegations not later than the day preceding the meeting. He suggested, therefore, that the meeting be suspended to allow a distribution of the text of the draft resolution when the meeting resumed or, if that solution were not acceptable, to adjourn the meeting until the following day.

22. The CHAIRMAN acknowledged that the objection of the representative of Austria was valid, but thought that it would be preferable, perhaps, to take advantage of the available time and to read out the draft resolution.

23. After a brief exchange of views in which Mr. NISOT (Belgium), Mr. MOLINA LANDAETA (Venezuela), Mr. VALLAT (United Kingdom) and Mr. DADZIE (Ghana) participated, the VICE-CHAIRMAN read out the draft resolution.

24. The CHAIRMAN then announced that the text of the draft resolution would be distributed the following day in all the working languages.

25. Mr. PERERA (Ceylon), referring to the remarks of the representative of Pakistan, wished to emphasize that the sponsors of the draft resolution did not reject any proposals made with a view to improving the proposed yearbook; they refused only to accept a substitute.

The meeting rose at 4.50 p.m.