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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, 477) (*continued*)

1. Mr. JAHODA (Czechoslovakia) noted with satisfaction that the consideration of the question of the publication of a United Nations juridical yearbook was apparently yielding fruitful results, but felt that greater progress could have been made had the Sixth Committee had at its disposal the background material which the General Assembly had requested in resolution 1451 (XIV). The very title and contents of the annex to the Secretary-General's report (A/4406 and Corr.1) showed that the Secretary-General had sought a different purpose from that envisaged by the Assembly. The Secretary-General's attitude had therefore had a negative effect on the Sixth Committee's consideration of the question.

2. The six-Power draft resolution before the Committee (A/C.6/L.477) represented a positive attempt at a solution of the question of the yearbook; it had been correctly based on past resolutions and took due account of the Charter provision that one of the aims of the United Nations was to take measures conducive to the progressive development of international law. His delegation felt that the main purpose of the yearbook should be to make the maximum possible contribution towards that objective; it therefore endorsed in particular the second paragraph of the preamble in which that aim was stated. In view of past experience, it was particularly important that the background material for the detailed contents of the yearbook should be prepared by a special committee, as operative paragraph 2 envisaged.

3. With regard to the composition of the committee proposed in operative paragraph 1, his delegation fully agreed that the sponsors of the original draft resolution^{1/} which, as amended, became General Assembly resolution 1291 (XIII), should participate in the committee's work, since they had taken the initiative in the matter and were best qualified to prepare the background material requested. The representative of Canada, who had made constructive suggestions in that

regard (675th meeting), should also take part in the committee's work. He wondered why the additional States proposed failed to include any representative of the socialist States, as the representatives of those States had strongly supported the idea of the yearbook in their statements.

4. The Czechoslovak delegation endorsed the draft resolution in principle, because it represented further progress towards compiling a yearbook, the main purpose of which would be to further the progressive development of international law as an important factor in securing peaceful coexistence and mutual co-operation among States, regardless of their social and economic systems.

5. Mr. MAURTUA (Peru) suggested that operative paragraph 2 should recommend that the proposed committee, in preparing its report, should take account of the debates held on the question in the Sixth Committee.

6. Mr. QUINTERO (Philippines) said that his delegation was satisfied with the draft resolution and would support it. In reply to the Czechoslovak representative's observation regarding the committee's composition, he reminded him that Poland had been proposed for membership. In order to expedite the Sixth Committee's work it would be advisable not to alter the proposed composition of the committee, especially since it would be technical rather than political in character.

7. Mr. VALLAT (United Kingdom) said that he had not participated in the general debate because his delegation's view had already been made quite clear by its sponsorship of the original draft resolution^{2/} which the Assembly had subsequently adopted as resolution 1451 (XIV), and by its consistent support of the principle of publishing a juridical yearbook. He had gained the impression from the discussion that the Committee had wisely concluded that, in view of the Secretary-General's report, it was probably not advisable to proceed with the yearbook at the present time. His delegation felt that the Secretariat had fully complied with the Assembly's resolution: on investigation, it had discovered that it would be difficult to publish the yearbook as originally contemplated. That conclusion had naturally led the Sixth Committee to consider other possibilities.

8. He supported the Peruvian representative's suggestion that the proposed committee should take account of the Sixth Committee's discussions on the subject. He also hoped that the Committee would take into account the views which had not been orally expressed at the present session; for, while many delegations had refrained from speaking, it should not be inferred that they endorsed all the statements made.

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

^{2/} *Ibid.*, Fourteenth Session, Annexes, agenda item 57, document A/4312, para. 5.

9. Before turning to the draft resolution, he wished to make two specific comments. First, the General Assembly had deliberately and clearly decided that the United Nations juridical yearbook should not include articles by private persons; there was, therefore, no reason why that question should now be reopened. Secondly, while the Canadian suggestion concerning the publication of an index—the major new idea advanced during the present session—was attractive, it also entailed certain difficulties and complications; the Sixth Committee would be in a better position to decide what would be most useful, feasible and worth while after evaluating the information it would have before it in two years' time.

10. His delegation congratulated the sponsors of the draft resolution on their initiative, which was a worthy attempt to bring the work on the question to a successful conclusion. Some details of the draft resolution were not, however, altogether satisfactory to his delegation.

11. The wording of the second paragraph of the preamble seemed somewhat awkward; he suggested that the paragraph might read: "Considering that encouragement of the development of international law and respect for it is an essential function ...".

12. The third paragraph of the preamble and operative paragraph 2 raised the same point: whether it would be procedurally correct to ask a technical committee established by the Legal Committee to report on the financial implications of any matter. He hoped that the committee would be composed of legal, not financial, experts and that, in accordance with normal practice, it would deal only with legal questions. He therefore suggested that the words "and the financial implications of its publication" in the third preambular paragraph and the words "and financial implications" in operative paragraph 2 should be deleted.

13. The third preambular paragraph referred only to the "contents of the proposed yearbook", while operative paragraph 2 spoke of its "nature, form, contents"; he thought that the ideas advanced in the general debate would be more clearly expressed by the use of the words "form and content" in both places.

14. The United Kingdom delegation would find it difficult to support the composition of the committee as proposed in operative paragraph 1. While he realized that the sponsors had largely drawn on those who had submitted positive suggestions in the Committee both at its present session and in past sessions, he wondered whether the proposed composition represented a fair geographical distribution or even a fair cross-section of the views expressed by delegations. There was also a minor drafting difficulty: as the paragraph was worded at present, it made a distinction between two categories of States. No doubt, the sponsors had included the reference to resolution 1291 (XIII) to show how they had chosen the first group of five States, but it would be better to eliminate that distinction by wording the paragraph as follows: "Decides to establish a committee composed of Afghanistan, Brazil, Canada, Ceylon, Ghana, Italy, Liberia, Mexico, Netherlands, Poland and the United Arab Republic".

15. With regard to operative paragraph 2, many delegations felt strongly that it would not be correct to ask the committee to "avail itself of the assistance of the Secretary-General". He felt that the paragraph should read: "Requests the committee to prepare, in consul-

tation with the Secretary-General, a detailed report on the form and content of the proposed yearbook".

16. Although his delegation had certain misgivings with regard to the composition of the proposed committee, he thought that the draft resolution would receive wide support in the Sixth Committee if the changes he had suggested were accepted by the sponsors.

17. Mr. ASSELIN (Canada) agreed with the sponsors of the draft resolution that the yearbook should further the progressive development of international law and assist those wishing to consult United Nations documents. It was also true that something must be done to bring the Sixth Committee one step forward on the project. The Canadian delegation had accordingly wanted an index published as soon as possible, although not necessarily in 1960, since, in its opinion, the Committee was not prepared to publish either an index or a yearbook at the present time.

18. His delegation felt that operative paragraph 1 would be improved by the adoption of the United Kingdom representative's suggestion. It agreed on the need for establishing a committee, but had originally envisaged a committee consisting of the sponsors of the original draft resolution which had subsequently been adopted as resolution 1451 (XIV), namely, Afghanistan, Ceylon, Ecuador, France, Greece, Mexico, Poland, the United Arab Republic and the United Kingdom. The proposed committee should reflect equitable geographical distribution and might include one of the new African States, for example. It was, however, for the Sixth Committee to decide whether the committee should be larger, smaller or as suggested, bearing in mind that the larger the committee became, the more difficulty it would experience in preparing a report for the Assembly's seventeenth session.

19. In connexion with operative paragraph 2, he recalled that he had informed the sponsors of the draft resolution in advance that he would insist that the committee should collaborate closely with the Secretary-General. He was doubtful as to the present phrasing of that idea: did it imply that persons designated by the Secretary-General should sit on the committee? He found the United Kingdom suggestion in that regard an excellent one, which the sponsors should have no difficulty in accepting. In reality, something practical could be accomplished only with the closest possible co-operation of the Secretary-General and all the United Nations organs concerned. It would be difficult for his delegation to accept any wording that did not express that idea.

20. Subject to those reservations, the draft resolution represented a positive step in the progressive development of international law; his delegation would vote for it and hoped that the suggestions it had made would be acceptable to the sponsors.

21. Mr. NUÑEZ (Ecuador) simply wished to observe that the delegation of Ecuador, like other delegations, had always supported the idea of a United Nations juridical yearbook and had taken an active part in the preparation of the resolutions adopted at the thirteenth and fourteenth sessions of the General Assembly. It had no particular desire to be included among the members of the proposed committee, however, for it believed that its membership should be decreased rather than increased, for the sake of efficiency.

22. Mr. NEDBAILO (Ukrainian Soviet Socialist Republic), referring to the United Kingdom representative's proposal regarding the second preambular paragraph, said that he had no objection to the stylistic improvement of the paragraph, but he would prefer the use of the word "compliance" rather than "respect", for the former was a stronger word, with a broader significance. With regard to the proposed committee, it had been his understanding that its establishment would not entail additional expenditure, since it would be composed of members of permanent missions who would meet at Headquarters, where they would be able to work in close liaison with the Secretariat; if that was correct, it should perhaps be made clear in the text. As to the size of the committee, if it were to be enlarged, a number of difficulties would arise, such as the question of geographical representation, for example, as pointed out by the representative of Czechoslovakia. He would therefore urge to reduce the size of the committee to six members, namely, the five sponsors of the original draft resolution which later became resolution 1291 (XIII), and Canada, which had shown such a great interest in the matter. A committee of that size would be perfectly able to undertake the task in consultation with the Secretary-General. He hoped that the Sixth Committee would be able to accept that idea.
23. Mr. REIS (United States of America) suggested that, to meet the stylistic concern of the United Kingdom representative and to satisfy fully the representative of the Ukrainian SSR, the second preambular paragraph should read: "... encouragement of the development of international law and compliance there-with".
24. Mr. MAURTUA (Peru) thought that it was important, in connexion with the request to the proposed committee in operative paragraph 2, that it should be clearly understood that the committee would not act in any way contrary to positions clearly taken by members of the Sixth Committee at any time on the nature, form and content of the proposed yearbook. The Committee had, for example, as the United Kingdom representative had pointed out, taken a definite stand on the matter of the publication of articles in the yearbook. It was important that the committee should take account of such positions in the preparation of its report, and that fact should perhaps be made clear in the draft resolution; otherwise, the committee might well start afresh and adopt an entirely new approach to the whole subject, disregarding all that had happened before. The United Kingdom representative had objected to the inclusion of the study of the financial implications of the project in the committee's terms of reference. But the financial element was an essential aspect of the whole matter, as the discussion in the Sixth Committee had shown, and a study of the financial implications would, he thought, necessarily result from the participation of the Secretariat in the work.
25. Mr. NISOT (Belgium) questioned the need to include the word "nature" in operative paragraph 2; the nature of the work would, as had been agreed, be that of a yearbook; the word might therefore, be deleted.
26. Mr. USTOR (Hungary) considered the draft resolution constructive; it offered a realistic way of solving a problem which could not be solved at the present session. The main problem, it seemed, arose over the composition of the proposed committee. If, as the representative of the Philippines had said, it was to be strictly a technical and in no way a political body, then it should be kept small, and the suggestion of the representative of the Ukrainian SSR was a good one, namely, that it should consist of the five sponsors of the original draft resolution which later became resolution 1291 (XIII), and Canada. A larger body would entail problems of geographical representation, and he would be compelled to endorse the request of the representative of Czechoslovakia. With regard to the second preambular paragraph he, too, felt that "compliance" was a stronger word and should be retained in any form of wording that might commend itself. He understood the United Kingdom representative's objection regarding the study of financial implications, proposed in the third preambular paragraph and in operative paragraph 2, but felt that, in the present instance, the question of financial implications was so germane to the whole issue that it could not but arise in any case, whatever the terms of reference of the committee. Indeed, he considered that it was one of the important duties of the committee to take those implications into account and to put forward a proposal which was in keeping with the financial position of the Organization. With regard to the reference, in operative paragraph 2, to the assistance of the Secretary-General, he believed that it had been the intention of the sponsors of the draft resolution that the task envisaged should be entrusted to the committee and that it would consult the Secretary-General as and when it thought fit; the present wording was perhaps not the happiest, but the intention of the authors should be expressed. Operative paragraph 2 was the most important one of the draft resolution, for it set the task of the committee: to place before the Sixth Committee in two years' time a concrete proposal, a possible outline for the juridical yearbook which stood a good chance of being accepted by all. Operative paragraph 3 should, he thought, specify a date sufficiently in advance of the seventeenth session of the General Assembly to permit Governments to peruse the report and prepare their comments on it.
27. Mr. VALLAT (United Kingdom) said that he had had no intention of weakening the second preambular paragraph and he was perfectly ready to accept the suggestion made in that respect by the representative of the United States of America.
28. Mr. PERERA (Ceylon) believed that the sponsors of the draft resolution would be perfectly ready to accept the suggestion with regard to the second preambular paragraph. As to the matter of financial implications, the sponsors had felt that it was crucial to the whole issue. In resolution 1291 (XIII), the Assembly had requested the Secretary-General to report on the financial implications, and the documentation on the present item included a note by the Secretary-General on that subject (A/C.6/L.471). What the sponsors wanted was that the Sixth Committee should be able, at the seventeenth session, to submit to the Fifth Committee a precise proposal accompanied by an exact statement of its financial implications, so that that Committee would be more or less compelled to accept it. There must be an end to prevarication in the matter. He would therefore urge the retention of the reference to financial implications in the draft resolution. He would even suggest the repetition in the third preambular paragraph of the precise terms of operative paragraph 2, in order to make the inten-

tion entirely clear. The assistance of the Secretariat and, in particular, of the Office of Legal Affairs, would, of course, be indispensable. He believed that the sponsors would have no objection to the use of the formula "in consultation with the Secretary-General", as proposed by the United Kingdom representative, in place of the present wording in operative paragraph 2. As to the composition of the proposed committee, he did not think that considerations of geographical representation were relevant. There was no disagreement on the fundamental issues; consequently, the smaller the committee, the better it would conduct its day-to-day work. The suggestion of the representative of the Ukrainian SSR might thus be adopted; otherwise, operative paragraph 1 could be left as it stood.

29. Mr. MOLINA LANDAETA (Venezuela) said that Venezuela had consistently supported the idea of the publication of a yearbook. Indeed, several of the ideas incorporated in General Assembly resolution 1291 (XIII) originated in an amendment proposed by his delegation.^{3/} While the Secretary-General's report had been so realistic as to be discouraging, his delegation was convinced that the Secretariat had been objective in drawing up the report.

30. Although the draft resolution before the Committee was generally acceptable to his delegation, he would like to make several comments on it. Referring to the discussion on the wording of the second preambular paragraph, he stated that there was no difference in Spanish between the terms "observancia" and "respeto", and either would be acceptable. The Peruvian representative had rightly urged that the proposed committee take into account the debates of the Sixth Committee. It should, in fact, be guided by the opinions expressed by the majority of the members of the Sixth Committee. Thus, at the fourteenth session of the General Assembly, it had been clear that most delegations, including his own, had preferred the Secretariat's approach to that of the working group and had wanted to exclude articles by private contributors from the publication. On the subject of the financial implications, he shared the views of the Ceylonese representative: there was a close relationship between the contents of the yearbook and its financial implications, and if the financial implications were disregarded, the solution of the problem would merely be delayed.

31. As to the committee proposed in operative paragraph 1, the sponsors of the draft resolution had certainly acted in good faith and the delegations selected were well qualified to serve, but he failed to understand why the sponsors of the original draft resolution which became General Assembly resolution 1291 (XIII) had been chosen rather than the sponsors of the draft resolution which had been subsequently adopted as resolution 1451 (XIV); the latter, in addition to representing a wider geographical distribution, included Ecuador, which had shown particular interest in the publication of the yearbook. In his view, the sponsors of the original draft which later became resolution 1451 (XIV), with the addition of Canada and one or two new African States, would make a good committee.

32. With respect to operative paragraph 2, he expressed the hope that the report to be submitted by

the proposed committee would be so complete as to require no further discussion. Moreover, while his delegation felt that the proposed committee would ask for the assistance of the Secretariat when necessary, it preferred the wording adopted by the sponsors of the draft resolution at the suggestion of the United Kingdom representative, since that wording more clearly defined the independence and functions of the committee.

33. Turning to operative paragraph 3, he hoped that Governments would receive the committee's report well before the seventeenth session of the General Assembly, so that they might give their delegations full instructions on the matter. Accordingly, he hoped that the Hungarian representative's suggestion, that a date be fixed for the submission of the proposed committee's report prior to the seventeenth session of the General Assembly, would be adopted.

34. Mr. EL-ERIAN (United Arab Republic) said that his delegation attached special importance to the publication of a juridical yearbook, in view of the great need for such publications felt by the newly independent States which were establishing or organizing legal departments. In that connexion, he wished to express his country's appreciation for the useful publications previously issued by the Office of Legal Affairs.

35. The Committee had already resolved many of the questions involved in the publication of the yearbook. Thus, while there had, at first, been some thought of publishing articles by private contributors, the establishment of an editorial board had raised too many political problems, and it had therefore been agreed that, for the present, the publication should be a documentary work. As the political issues had thus been eliminated, the only questions before the Committee were practical and financial ones concerning the form and content of the yearbook.

36. In proposing the composition of the committee in operative paragraph 1 of the draft resolution, his delegation had had in mind a working group of delegations interested in the question of the yearbook. The insertion of the phrase "in consultation with the Secretary-General", in operative paragraph 2, would certainly improve the draft resolution. The original working paper^{4/} had been prepared by Mr. Perera in consultation with the Secretariat, and, of course, that co-operation should continue. While the proposed committee would have to take account of the financial implications of the yearbook, it could not decide such matters, since the Fifth Committee was constitutionally the only organ of the General Assembly with jurisdiction over financial questions. Therefore, it might be better to use a phrase such as "taking into account the financial implications".

37. Mr. STAVROPOULOS (Legal Counsel) thought that the new wording of operative paragraph 2, which had been adopted by the co-sponsors of the draft resolution at the suggestion of the United Kingdom representative, was very reasonable. The new text would be in line with rules 45, 46 and 72 of the rules of procedure of the General Assembly, which had a mandatory character, whereas the previous wording had a somewhat ambiguous tone. He asked the United Kingdom representative to withdraw the suggestion that reference to financial implications be deleted from the draft resolution. In dealing with the publication of the yearbook,

^{3/} *Ibid.*, Thirteenth Session, Annexes, agenda item 56, document A/C.6/L.436.

^{4/} *Ibid.*, document A/C.6/L.428.

the committee would be wise to check on the financial implications at every stage of its consideration. Perhaps the wording suggested by the representative of the United Arab Republic might solve the difficulty. In any event, it would be impossible for the Sixth Committee to reach a satisfactory conclusion in 1962 unless it had the financial implications before it.

38. Mr. VALLAT (United Kingdom) said that he would certainly accept the suggestion made by the representative of the United Arab Republic. The point he had made was that the proposed committee ought not to report on matters which were within the competence of the Fifth Committee; the committee could, nevertheless, properly take those matters into account.

39. Mr. PERERA (Ceylon) said that, in revising their draft resolution, the sponsors would give consideration to the Hungarian representative's suggestion regarding operative paragraph 3.

40. Mr. MOVCHAN (Union of Soviet Socialist Republics) thought that the main obstacle to reaching agreement on the draft resolution was the composition of the proposed committee. Some representatives had expressed concern about the representation of certain viewpoints on the committee, but the preamble of the draft resolution made it clear that the opinions expressed in the discussions of the Sixth Committee

should be taken into account. Other representatives had referred to geographical distribution; he did not believe, however, that geographical distribution was a relevant factor in the composition of a technical committee. The committee was being established merely to draw up an outline of the form and contents of the yearbook; the sponsors of the original draft resolution which later became General Assembly resolution 1291 (XIII), who had initiated the idea of the publication and had consistently supported it, were undoubtedly the best qualified to do that work. He thought that, if attempts to increase the membership of the committee raised problems, it would be best to adopt the suggestion of the Ceylonese representative that the membership of the committee be limited to the five sponsors of that draft resolution and Canada. Otherwise, a positive solution of the question would be still further delayed.

41. Mr. ASSELIN (Canada) said that the composition of the committee, as set forth in the draft resolution, might be acceptable to his delegation. However, the instructions of his Government were very clear that, if any attempt was made to decrease the membership of the committee, as proposed in that draft, it would be very difficult for his delegation to vote for operative paragraph 1.

The meeting rose at 1.20 p.m.