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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. SAHOVIC (Yugoslavia) was somewhat surprised that, despite the unanimous decision to publish a juridical yearbook taken at the fourteenth session of the General Assembly (resolution 1451 (XIV)), the discussion in the Committee had given the impression that the decision could not be carried out. His delegation felt that the decision adopted in 1959 was correct. The political and legal situation of the United Nations at the present time made the publication of a juridical yearbook very desirable, since the dissemination of the envisaged information would assist the development of international law. Moreover, the collection of national documents would help the United Nations staff to become familiar with the laws of Member States. There was no conflict between the yearbook and other publications, and the Office of Legal Affairs could be relied on to solve any technical difficulties. Consequently, his delegation welcomed the suggestions for implementing the decision of the fourteenth session of the General Assembly made by the Canadian and other delegations. The idea of national correspondents put forward by the Canadian representative (675th meeting) was very interesting and should be given careful consideration. In his delegation's view, it would be possible to put out a publication of approximately 500 pages in length. However, the financial implications were very important. His delegation was in favour of the publication of a yearbook, but if the majority of the Committee so preferred, it would agree to the question being put on the agenda of a later session.

2. Mr. LACHS (Poland) said that he ventured to prolong a debate which had already taken more time than was justifiable only because his delegation had been a co-sponsor of the original draft resolution which, as amended, later became General Assembly resolution 1291 (XIII). The initiative taken at that time had been almost routine: the sponsors had thought that publication of a juridical yearbook would contribute to a wider knowledge of the legal activities of the United Nations by teachers and students, as well as by those interested in international law. The resolution had been intended to implement General Assembly resolution 137 (II), which had recommended that all Member Governments

take measures to encourage the teaching of the United Nations Charter and the purposes and principles, the structure, background and activities of the United Nations in the schools and institutes of higher learning of their countries, and resolution 176 (II), which had requested the Governments of Member States to take appropriate measures to extend the teaching of international law in all its phases, including its development and codification, and to promote similar teaching regarding the aims, purposes, structure and operation of the United Nations. The proposal for the publication of a juridical yearbook had thus seemed a simple, uncontroversial attempt to carry out the objectives of those resolutions; and yet, it had become an issue.

3. In 1959, the General Assembly had decided to publish a juridical yearbook (resolution 1451 (XIV)), and in his report to the fourteenth session,^{1/} the Secretary-General had stated that there was agreement that such a publication would be useful and even necessary. That decision had been arrived at after long and detailed discussions. Authorities outside the United Nations, such as the Institut de droit international, had also supported the proposal. The only question which remained open at the present session was the contents of the yearbook. Yet, the detailed report submitted by the Secretary-General (A/4406 and Corr.1) led irresistibly to the conclusion that, while there was much that could be published, there was little that ought to be published. The report raised doubts as to the advisability and utility of the publication, and it was therefore somewhat disappointing.

4. Referring first to documents which had already appeared in United Nations or private publications, he said that the main problem for the jurist was how to find the relevant texts at short notice. The vast number of documents issued by the United Nations and other international organizations made it difficult for the jurist to find what he needed. Moreover, the same legal problem might be dealt with by several organs of the United Nations from different viewpoints and in connexion with various substantive issues; to find all the relevant information, the jurist would have to go through all the publications, and even then, some documents with a limited circulation might not be available. As to private publications, it was well known that the International Law Reports covered only one-third of the Member States, that they were far from current and that they depended in some instances on contributors who did not reside in the country they wrote about. It should also be recalled that, for financial reasons, many universities and other educational institutions were unable to subscribe to the "accessible international law periodicals" mentioned in the Secretary-General's report (*ibid.*, para. 19); the new States, in particular, were only beginning to build their educational institutions.

^{1/} Official Records of the General Assembly, Fourteenth Session, Annexes, agenda item 57, document A/4151, para. 18.

5. In his report, the Secretary-General asserted that there was little advantage to be gained by the republication of such material as national legislative texts and significant decisions of national courts relating to the United Nations (*ibid.*, para. 29); yet, he also maintained, with regard to material already available from United Nations sources, that the principal merit of the yearbook would appear to be to concentrate in a readily available volume material otherwise scattered through many publications (*ibid.*, para. 28). The latter assertion was correct, but it applied equally to national legislative texts and other documents. Why should concentration be desirable only in the case of material appearing in the Yearbook on Human Rights and similar publications, and not in the case of significant decisions of national courts, particularly as not all of those decisions were published? The same applied to the list of treaties: there were many universities and libraries that did not subscribe to the United Nations publication entitled Status of Multilateral Conventions mentioned in paragraph 27 of the report.

6. The bulk of the material listed in the annex to the Secretary-General's report was outside the scope of the yearbook as the Assembly had envisaged it. Most members of the Committee would not, he was sure, want to include in the yearbook, for instance, the 379 pages of the summary records of the United Nations Conference on the Elimination or Reduction of Future Statelessness, particularly in view of the results of that Conference.

7. As to the legal opinions of the United Nations Secretariat, the report indicated (*ibid.*, para. 24) that, during the period 1946-1959, there had been 180 items within that category, amounting to approximately 1,000 pages. The inclusion of those items alone would, in his opinion, justify the publication of the yearbook. The 1948 issue of The British Year Book of International Law contained an article by Mr. Schachter, then Senior Legal Counsellor of the United Nations Legal Department, entitled "The development of international law through the legal opinions of the United Nations Secretariat". The mere fact that a leading jurist had considered the legal opinions of the Secretariat so important to the development of international law meant that those opinions should be made available to all jurists. The bibliography and other items suggested by the Canadian representative at the preceding meeting might also be included.

8. The Secretary-General's report had also raised the question whether Governments would provide the necessary information, and some delegations had expressed doubts about the willingness of universities to co-operate. In that connexion, the suggestion of the Canadian representative concerning the appointment of national correspondents was very useful, and he was certain that most universities would not regard co-operation as incompatible with their autonomy or independence.

9. His suggestion in the Sixth Committee at the thirteenth session (582nd meeting, para. 9) that the yearbook should be 250 or 300 pages in length was still valid. There was no reason to be discouraged by the dearth of material in 1959, since a great deal of material had accumulated in the past fifteen years and each issue of the yearbook should cover a part of that backlog. Nevertheless, although the Committee ought not to abandon a project which was useful and constructive, the present financial situation of the United

Nations was not encouraging. It would be difficult to find the necessary money and to agree on a detailed table of contents at the present session. For those reasons, he suggested that publication of the yearbook be delayed for two years, and that, in the meantime, the sponsors of the original draft resolution^{2/} which, as amended, became General Assembly resolution 1291 (XIII), be asked to collect information and to present a detailed report to the seventeenth session of the General Assembly so that the issue could be rapidly decided in 1962.

10. Mr. ZEMANEK (Austria) observed that a divergence of views seemed to exist only with regard to the contents of the proposed yearbook. In that connexion, he wished to make two practical suggestions.

11. First, since it was well known that international organizations collaborated only to a limited extent and that the same organizational mistakes had sometimes been repeated, the yearbook might usefully include decisions taken on constitutional questions by the specialized agencies. Most of those decisions were difficult to find, since they were included in collections of resolutions together with technical questions of no interest to the legal scholar. A section in the yearbook dealing with such decisions would be of value not only to scholars and to legal advisers of Governments, but also to the international organizations themselves.

12. His second suggestion related to the manner in which the material produced by Member States should be made accessible to the editors of the yearbook. Since Governments were slow to furnish information even on highly important questions and since, on an average, only about 22 per cent of Governments replied to requests for particulars by the Secretariat, he supported the Canadian representative's suggestion that a correspondent—either a person or a university—should undertake to supply the Secretariat with the necessary information from each country. The editors of the yearbook should have direct access to the person or institution furnishing the data; only in that way could they ensure that the information would be forwarded in good time. If the Sixth Committee relied on obtaining its information solely through Governments, the material might be four to six years late in arriving.

13. Mrs. LADAS-PHRYDAS (Greece) pointed out that General Assembly resolution 1451 (XIV) reflected the general opinion that the publication of a United Nations juridical yearbook would be a useful undertaking. In fact, a single yearly publication containing the broadest possible information on the juridical views and activities of the United Nations and its various agencies, on important decisions of national and international courts relating to the United Nations, and on all books and articles published during the year on the general theory of international law and the law of international organizations would be of incalculable value to all practitioners of international law, because it would offer quick and easy reference to material scattered throughout a great number of often rare publications. Moreover, such a yearbook would make a substantial contribution to the development of the law of nations and the furtherance of public interest in and knowledge of the work performed by the United Nations in that field. It was for that reason that the Greek delegation

^{2/} *Ibid.*, Thirteenth Session, Annexes, agenda item 56, document A/C.6/L.432.

had co-sponsored the draft resolution^{3/} which had subsequently been adopted by the General Assembly as resolution 1451 (XIV).

14. Although her delegation still believed in the usefulness of the publication of a United Nations juridical yearbook in principle, it felt that serious consideration should be given to the financial implications of the project, as set out in the Secretary-General's note (A/C.6/L.471). Moreover, the figures quoted in that document applied to the yearbook as envisaged in the Secretary-General's report (A/4406 and Corr.1), which, as many delegations had pointed out, was based on an unduly narrow and technical interpretation of the Assembly's resolution. Consequently, if the yearbook were to include documentary material relating not only to the United Nations but also to its specialized agencies and other bodies of legal interest, the costs would be even greater. Those were facts which could not be easily disregarded or overcome, especially in view of the present financial condition of the United Nations and the Fifth Committee's recommendation in its draft report (A/C.5/L.624, annex) that United Nations organs should not propose the initiation of studies or other projects involving additions to the budget. Since the cost of publishing the yearbook could not be covered out of the regular budget of the Office of Legal Affairs, it would be unrealistic for the Sixth Committee to insist on the project.

15. The alternative was either to abandon the project altogether or to try to do what was possible under the existing circumstances. A reduction of the scope and size of the yearbook would not solve the problem, since, to be really useful, the publication would have to be fairly comprehensive. A publication of 250 or even 500 pages would not seem to serve any very useful purpose. On the other hand, a comprehensive volume would obviously entail much work requiring additional staff and considerable expenditure.

16. The same remarks also applied to the interesting and constructive proposals made by the Canadian representative. While he had said that the work which the Secretariat would be called upon to do under his plan would not exceed the work which would fall upon it under the plan outlined in the Secretary-General's report, she recalled that the latter plan already necessitated additional staff and, consequently, additional expenditure. She asked the Secretary-General's representative for his views on the matter. For her part, she had serious apprehensions as to the amount of work involved in drawing up summaries of all judgements rendered each year by the International Court of Justice and, while the publication of such judgements in a summary form would certainly reduce the size of the yearbook and, consequently, the printing costs, it might very possibly increase administrative costs.

17. Similarly, the Canadian representative had given no indication of whether the person or persons who would undertake the collection and compilation of the material within the various Member States would serve on an honorary basis or whether they would have to be paid; and, if the latter, whether they would be paid by the Member State concerned or by the United Nations. The Canadian representative had not given even a

tentative estimate of the number of pages his proposal would entail, although such an estimate was necessary for an evaluation of printing costs.

18. Even if the project as outlined by the Canadian representative were considered practicable, the Sixth Committee did not possess at present sufficient data to enable it to reach a final decision. In those circumstances, her delegation agreed with the Pakistan representative (674th meeting) that it might be advisable to defer discussion of the question until financial considerations lost some of their present urgency.

19. In the meantime, serious thought should be given to the Legal Counsel's suggestions (*ibid.*). Her delegation believed that it would be very useful to have a handy index, by subject, of juridical matters discussed in the United Nations, with an indication of where and when a given matter had been discussed and an annex containing documentary material that had either not been published before or was out of print. Such an index should include documents of a legal character relating to the entire United Nations family.

20. In conclusion, her delegation concurred with the representative of Ceylon (*ibid.*) that an index was not a satisfactory substitute for a juridical yearbook. She could not, however, endorse his criticism of the Secretariat; no blame in the matter could be attached to that body in general or the Office of Legal Affairs in particular. That had even been recognized by the representative of Ceylon himself when, in the Committee at the fourteenth session (639th meeting, para. 18), he had said that he was reluctant to impose a heavy additional load on an already hard-worked Secretariat. Indeed, the report itself bore witness to the painstaking and conscientious approach which the Secretariat had adopted to the question. The Sixth Committee should pay a tribute to the Office of Legal Affairs for the high level of objectivity with which it had considered the question and for its suggestions concerning the publication of an index, which might well prove a more feasible project.

21. Mr. MAURTUA (Peru) stressed that, if the juridical yearbook was to fulfil one of its original purposes, namely, to foster the teaching of law in national educational systems, the sources of international law would have to be made more readily accessible. Those sources included international agreements and the work of many learned institutions, for example, the American Institute of International Law, which had exercised great influence in such fields as the rights and duties of States and the law of the sea, among others. Many of the ideas thus evolved had already been published, but should be systematized to facilitate reference. His delegation therefore believed that the agreement on the need for the yearbook should not be allowed to lapse; on the contrary, it should be unambiguously reaffirmed.

22. Although the Secretary-General's report left little hope regarding what could actually be published, the law of the United Nations as a whole must be arranged in orderly fashion, with stress on the need for consultation and with due reference to sources. What was important was to know where the sources were. It was important, for example, to know where the separate opinions of the members of the International Court of Justice, the opinions of arbitral courts or the legal work done by regional or other organizations could be found. The importance of such a study was exemplified

^{3/} *Ibid.*, Fourteenth Session, Annexes, agenda item 57, document A/4312, para. 5.

by the fact that some principles of international law, such as the denunciation of the crime of genocide and the affirmation of human rights, might ultimately be incorporated in national legal systems.

23. Despite those facts, his delegation agreed with the Polish representative that the question of the publication of a United Nations juridical yearbook should be postponed; he emphasized, however, that postponement was not tantamount to a rejection of the idea. The Sixth Committee should therefore reaffirm the need for the yearbook, but postpone its fulfilment for economic and financial reasons. In the meantime, the Secretariat could continue to screen possible material and report to the Assembly at a later session.

24. The CHAIRMAN stressed the importance of the Sixth Committee finishing its work by 17 December, in view of the budget difficulties of small delegations and the financial plight of the United Nations as a whole. He urged the Committee to redouble its efforts to finish its work, which would leave members free to help in other Committees.

25. Since the Committee seemed to be in agreement on the usefulness of the yearbook and differed only with regard to its contents, he wondered whether it might not be advisable to establish a small sub-committee to study the technical and financial aspects of the yearbook and report to the Committee at a later stage.

26. Mr. DADZIE (Ghana) recalled that the question of the publication of a United Nations juridical yearbook had been settled at the fourteenth session, when the Committee had decided (643rd meeting) to include in the publication only parts II and III of the proposals submitted by the working group.^{4/} At that time, the Secretary-General had been requested to submit a model yearbook using already existing material for the Sixth Committee's final decision. All that the Committee was now entitled to do, therefore, was to decide whether it was completely satisfied with the results of ten years of deliberations and whether the yearbook might now go into print.

27. At the present session, however, a weakening of the desire to go on with the original project had become apparent. His delegation could not subscribe to that tendency and urged that, despite the apparent obstacles, the Committee should hold fast to its original idea and publish the yearbook whenever financial and other circumstances made such publication possible. He therefore supported the suggestion that the question should be deferred for review in two years' time.

28. His delegation would not oppose the publication of an index, provided that it was clearly understood that the index was not intended to be a substitute for the yearbook. The Committee could very well support the publication of such an index as a separate concept, only loosely related to the original idea.

29. Mr. MOROZOV (Union of Soviet Socialist Republics) urged the Committee against any hasty action on the present item, particularly in the absence of its originator, the representative of Ceylon. He supported the contention of those speakers who had maintained that a decision taken by the General Assembly requiring a certain course of action could not be overturned at the whim of the Secretariat. Yet, that was what the

Secretariat was trying to do as was clear from the nature of its report. The whole tenor of the report was designed to cast doubt on the very idea of a yearbook which, it was now proposed, should be jettisoned in favour of some sort of index. That attitude, he submitted, was but another example of the suppression of law in the United Nations and he could but recall all that had been said in that respect in the course of the discussion on the report of the International Law Commission. The Secretariat, and in particular the Office of Legal Affairs, must be made to understand that decisions of the General Assembly, once adopted, stood, and must be obeyed. Unless that was clear, there would be no point in deferring action on the yearbook for two or any number of years, since the Secretariat, following its own line, would fail to act in the interim.

30. The representative of Ceylon had been perfectly justified in objecting to the Secretary-General's report as one which did not make fruitful discussion possible. That was because it started from the assumption that the publication of a juridical yearbook was not necessary. In support of that thesis, it pointed out at length that any material appearing in the yearbook would already have been published elsewhere. But that was necessarily so: the proposal was to publish legal documents; and they would not be documents—they would not even exist—if they had not been published somewhere. Resolution 1451 (XIV) itself implied that the material to be published in the yearbook would already have appeared in documents. What was necessary was to make a selection from them. The Secretary-General's report to the fourteenth session^{5/} recognized the need to make such a selection; the present report did not. There was, of course, no question of publishing all the relevant material. That had not at any time been suggested, and, in fact, at the last session, there had been some discussion of the principles to be followed in the matter of selection. He could himself suggest certain principles for selection which would produce a most valuable publication. For instance, the yearbook might well include material relating to the following questions: the struggle against colonialism and the problems arising therefrom, peaceful co-existence between States regardless of their economic and social systems, the use of outer space, and disarmament.

31. The first volume of the yearbook, he thought, should not be confined to the year 1959. The choice of 1959 had been purely arbitrary. The Secretary-General had deliberately narrowed down the scope of the proposed yearbook in that way and included in his list of material for 1959 (A/4406 and Corr.1, annex) such items as the draft rules of procedure for the Olive Oil Council in order to make the idea seem absurd and thus to kill it. There was a need for a juridical yearbook. The General Assembly had decided that a yearbook should be published. Neither the Committee nor the Secretariat, therefore, had any option in the matter. The reference to financial restrictions was, consequently, irrelevant and he deplored the apparent attempt to outflank the proposal by ensuring that it would be quashed in the Fifth Committee. Naturally, the financial implications must be confined within reasonable limits; his delegation was not one to adopt a different position in such matters in the Sixth Committee from the one it adopted in the Fifth Committee.

^{4/} *Ibid.*, Thirteenth Session, Annexes, agenda item 56, document A/C.6/L.428.

^{5/} *Ibid.*, Fourteenth Session, Annexes, agenda item 57, document A/4151.

It should be possible, however, to make a wise choice of material for the yearbook without heavy financial commitment. It was the Secretariat's responsibility to make practical suggestions in that respect; however, if that body persisted in its present attitude of wooden opposition, his delegation would have to recognize, reluctant though it was to do so, that it would be necessary to come back to the matter at a future session. He would only say that, in any decision it adopted, the Committee must insist on observance by the Secretariat of General Assembly directives and thus on acceptance of the basic idea of the publication of a United Nations juridical yearbook.

32. Miss SCHILTHUIS (Netherlands), referring to the statement just made by the representative of Ghana in connexion with the working paper on the question of a juridical yearbook prepared by an informal working group, would note that, according to the proposals in that paper, some 150 pages of the yearbook were to be devoted to articles written by private individuals, another fifty pages to purely summary and bibliographical material and only twenty-five pages were to contain documents in extenso. The idea of an index was thus, it seemed, not so far removed from the original scheme. All would agree that the yearbook could contain only a selection of the relevant documents. It was clear, therefore, that an index would be essential in any case to cover the entire field; and indeed, many of

those who had spoken had expressed themselves in favour of an index. That being so, it might be useful to proceed with the index at once on the understanding that, on the basis of more information in the future, a suitable method would be sought for the selection of documents for publication and that, in later years, the yearbook would be compiled accordingly.

33. Mr. STAVROPOULOS (Legal Counsel) said that he intended at the next meeting to elaborate on the suggestion he had made at the 674th meeting. Since the matter was a complicated one, it probably could not be finally disposed of at the present session. The proposal of the representative of Poland that the production of the yearbook should be deferred for two years commended itself, so long as the intervening period was employed constructively. The General Assembly resolution stood, of course, and must be fulfilled. In the event of a postponement, therefore, it might be advisable for the Sixth Committee to appoint a committee to study the project and to keep members of the Committee informed of the intricacies encountered in its work. Naturally, given the necessary funds, any kind of yearbook desired could be produced. The question was how to reconcile the demand for a yearbook with the demand not to spend money.

The meeting rose at 12.50 p.m.