



Seventh session
Agenda item 55

WAYS AND MEANS FOR MAKING THE EVIDENCE OF CUSTOMARY
INTERNATIONAL LAW MORE READILY AVAILABLE

Report of the Sixth Committee

Rapporteur: Mr. E. WIKBORG (Norway)

1. The General Assembly, by resolution 602 (VI) of 1 February 1952 on the question of ways and means for making the evidence of customary international law more readily available, inter alia, requested the Secretary-General to submit to it, at its seventh session, a report containing detailed plans as to the form, contents and budgetary implications in regard to the possible publication of:
 - (a) A United Nations juridical yearbook, taking into account the suggestions made during the debates in the Sixth Committee;
 - (b) A consolidated index to the League of Nations Treaty Series;
 - (c) A list of treaty collections supplementary to those already existing;
 - (d) A volume containing a répertoire of the practice of the Security Council.
2. In compliance with this resolution, the Secretary-General submitted to the General Assembly a report (A/2170) containing a detailed plan for each of the four publications envisaged in the resolution.
3. At its 380th plenary meeting held on 16 October 1952, the General Assembly decided to include in the agenda of its seventh session the item "Ways and means for making the evidence of customary international law more readily available: report of the Secretary-General". At its 382nd plenary meeting on 17 October, the General Assembly further decided to allocate the item to the Sixth Committee for consideration.
4. The Sixth Committee considered the item at its 317th to 320th meetings from 3 to 5 November 1952.

Proposals before the Sixth Committee

5. A joint draft resolution was introduced by Australia, Canada, Denmark, Netherlands, Sweden, Syria and the United Kingdom (A/C.6/L.255). The first operative paragraph provided that the General Assembly should authorize the Secretary-General "to undertake, as soon as feasible, the publication of (a) a list of treaty collections supplementary to those already existing; and (b) a répertoire of the practice of the Security Council". In its second operative paragraph, the draft resolution requested the Secretary-General to prepare and circulate to the governments of Member States "a report containing detailed plans as to form, contents and budgetary implications in regard to the expansion of existing United Nations publications and the launching of new special publications of limited scope as suggested in paragraph 70" of the report of the Secretary-General.

6. In the course of the discussions in the Sixth Committee, several amendments were submitted to the aforesaid joint draft resolution.

(a) Egypt proposed (A/C.6/L.256) to substitute the words "having considered" in the first paragraph of the preamble by the word "Considering," and to delete the second paragraph of the preamble.

(b) At the 320th meeting, the representative of the United Kingdom, on behalf of the authors of the joint draft resolution, orally submitted a revised text for sub-paragraph (a) of the first operative paragraph reading as follows: "A list of treaty collections, to be compiled, taking into account the suggestions made during the debate in the Sixth Committee".

(c) A joint amendment (A/C.6/L.257) to add, in the first operative paragraph a sub-paragraph (c) was introduced by the following fifteen Members: Afghanistan, Bolivia, Colombia, Cuba, Ecuador, El Salvador, Haiti, Honduras, Iran, Israel, Liberia, Pakistan, Panama, the Dominican Republic and Yugoslavia. The text requested the Secretary-General to undertake, as soon as feasible, the publication of "a juridical yearbook, which might include the materials referred to in sections I, II, III and IV (D) of paragraph 61 of the Secretary-General's report (A/2170), taking into account the observations made during the discussions in the Sixth Committee". The same amendment further proposed to delete the second operative paragraph of the joint draft resolution. The joint amendment superseded that orally proposed, during the 319th meeting, by the representative

of Ecuador on behalf of his delegation as well as of those of Afghanistan, Bolivia, Cuba, El Salvador, the Dominican Republic, Honduras, Iran, Israel, Pakistan and Yugoslavia.

(d) Finally, an amendment was introduced by Iran (A/C.6/L.258) to amend the second operative paragraph of the joint draft resolution to request the Secretary-General to prepare and circulate to the governments of Members States "a comparative study of the extent to which developments in the field of customary international law and selected legal activities of the United Nations can usefully be covered by an expansion of existing United Nations publications, by the launching of new special publications of limited scope and by a United Nations juridical yearbook; such study to cover form, contents and budgetary implications".

Discussions in the Sixth Committee

7. The Sixth Committee took as a basis for its discussions the report of the Secretary-General referred to above. It was generally agreed that all the four publications envisaged in General Assembly resolution 602 (VI) and surveyed in the report of the Secretary-General had considerable intrinsic usefulness. In view, however, of budgetary and other practical considerations, the Committee could take decisions only by weighing their relative value against the estimated costs given in the report.

8. Publication of a consolidated index to the League of Nations Treaty Series. It was generally agreed that, since there existed nine index volumes to the League of Nations Treaty Series, and in view of the cost involved as estimated in the report of the Secretary-General, the publication of a consolidated index should not be undertaken for the time being.

9. Publication of a list of treaty collections. Members of the Committee were agreed that the relatively small cost involved, as estimated by the Secretary-General in his report, was well worth while. The representative of Israel, however, pointed out that the report, in suggesting that the projected list should take up where Denys P. Meyers' Manual of Collections of Treaties and of Collections relating to Treaties (1922) left off, was based on the assumption that the said Manual was readily available. In fact, the Manual was out of print and it was extremely difficult to obtain a copy. On the other hand, a great deal

of the material contained in the Manual was of more use to the scientific researcher than to the legal practitioner. The projected list, in his view, should therefore exclude this type of material and should contain any new collections issued since 1922. It may be noted that it was with these remarks of the representative of Israel in mind that the authors of the joint draft resolution submitted their revised text referred to in paragraph 6(b) above.

10. Publication of a répertoire of the practice of the Security Council. All members of the Committee who took part in the discussions invariably expressed the view that a répertoire would serve a useful purpose, the cost involved, as estimated in the report of the Secretary-General, being relatively small. Some representatives expressed the opinion that it would be useful eventually to have a répertoire of the practice of other organs of the United Nations as well.

11. In this connexion, the Committee noted a statement by the representative of the Secretary-General who, in answer to an inquiry, said that the Secretariat had been engaged for some time upon an annotation of the Charter. The proposed répertoire of the practice of the Security Council would, of course, cover only a limited part of the work of the United Nations. If, he said, the General Assembly decided that that part was required first, the efforts of the Secretariat could be concentrated upon it without prejudice to the other work.

12. Publication of a United Nations juridical yearbook. As regards the question of a juridical yearbook, divergent views were expressed. Some delegations, who were in favour of this publication, considered its intrinsic value as being worthy of the expenditure it would entail as estimated in the Secretary-General's report. It was emphasized that it would provide a valuable means of following legal developments in the world or in the United Nations. The impact of the United Nations on international law and certain far-reaching developments in recent years, which greatly extended the applicability of international law, consequent upon the emergence of a number of independent States and the establishment of various international inter-governmental organizations, were said to render the publication of a United Nations juridical yearbook an urgent necessity. Such a publication would, in the view of some delegations, be especially useful in countries which do not at present possess libraries well-stocked with material on international law.

13. On the other hand, some other delegations pointed to the difficulties inherent in the publication of a United Nations juridical yearbook. To be comprehensive, it would in part duplicate existing publications, such as the United Nations Legislative Series, the Yearbook on Human Rights, the Yearbook of the International Court of Justice, the Yearbook of the United Nations and the Annual Digest and Reports of Public International Law Cases edited by Professor H. Lauterpacht. If, however, matters covered by existing publications were to be eliminated, there would probably remain an insufficient flow of material to warrant an annual publication. Such a publication would not be worth the relatively high costs it was estimated that it would entail. Some delegations expressed the opinion that further study was required concerning the publication of a juridical yearbook and that the project should not be undertaken immediately. This, it was emphasized, did not imply a complete abandonment of the proposition.

14. As against the arguments outlined in the preceding paragraph, some delegations contended that the fear of duplication should not be over-emphasized. Moreover, duplication could be overcome by, for instance, avoiding reproduction of texts in extenso and giving in the yearbook only references to existing publications. As to the costs involved, these were not incommensurate with the utility of the publication. Moreover, they might perhaps be diminished by reducing the scope of the yearbook. The draft resolution eventually adopted by the Sixth Committee represented a compromise between the two views summarized above.

Voting on proposals

15. At the conclusion of its discussions on the item, the Sixth Committee proceeded to vote on the joint draft resolution (A/C.6/L.255) and the various amendments thereto, with the following results:

(a) The amendment by Egypt (A/C.6/L.256) to substitute, in the first paragraph of the preamble, the words "Having considered" by the word "Considering" was adopted by 27 votes to 1, with 21 abstentions.

(b) The amendment by Egypt to delete the second paragraph of the preamble was rejected by 27 votes to 10, with 13 abstentions.

(c) The first paragraph of the operative part of the joint draft resolution, as revised by its authors, (paragraph 6 (b) above), was put to the vote in parts. The first phrase "A list of treaty collections" was adopted by 45 votes to none, with 3 abstentions. The second phrase "to be compiled, taking into account the suggestions made during the debate in the Sixth Committee" was adopted by 20 votes to 14, with 14 abstentions.

(d) The fifteen Power amendment (A/C.6/L.257) to add a sub-paragraph (c) to the first operative paragraph was rejected by 25 votes to 17, with 10 abstentions.

(e) Consequent upon the last-mentioned vote, the fifteen Power amendment to delete the second operative paragraph was withdrawn by its sponsors.

(f) The amendment by Iran (A/C.6/L.258) to the second operative paragraph was adopted by 41 votes to none, with 10 abstentions.

(g) The joint draft resolution as a whole, as amended, was adopted unanimously.

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16. The Sixth Committee therefore recommends to the General Assembly the adoption of the following resolution:

WAYS AND MEANS FOR MAKING THE EVIDENCE OF CUSTOMARY
INTERNATIONAL LAW MORE READILY AVAILABLE

The General Assembly,

Considering the report of the Secretary-General on ways and means for making the evidence of customary international law more readily available (A/2170), submitted in pursuance of General Assembly resolution 602 (VI) of 1 February 1952,

Having regard to the detailed plans in the report as to the form, contents and budgetary implications of certain publications referred to in the aforesaid resolution and to the conclusions of the Secretary-General stated in the report,

1. Authorizes the Secretary-General to undertake, as soon as feasible, the publication of:
 - (a) A list of treaty collections, to be compiled taking into account the suggestions made during the debate in the Sixth Committee;
 - (b) A répertoire of the practice of the Security Council;
2. Requests the Secretary-General to prepare and circulate to the governments of Member States a comparative study of the extent to which developments in the field of customary international law and selected legal activities of the United Nations can usefully be covered by an expansion of existing United Nations publications, by the launching of new special publications of limited scope and by a United Nations juridical yearbook; such study shall cover form, contents and budgetary implications.