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SIXTH COMMITTEE
61st meeting
held on
Friday, 1 December 1978
at 10.30 a.m.
New York

SUMMARY RECORD OF THE 61st MEETING

Chairman: Mr. BOLINTINEANU (Romania)
later: Mr. FERRARI BRAVO (Italy)

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ORGANIZATION OF WORK

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The meeting was called to order at 11.20 a.m.

AGENDA ITEM 124: DRAFT CODE OF OFFENCES AGAINST THE PEACE AND SECURITY OF MANKIND (A/32/247)

1. The CHAIRMAN recalled that the question of preparing a draft Code of Offences against the Peace and Security of Mankind had first been considered by the General Assembly in connexion with its work on the confirmation and formulation of principles recognized by the Charter of the Nürnberg Tribunal and in the judgement of that Tribunal, as indicated in Assembly resolution 95 (I).

2. By its resolution 177 (II), the General Assembly had referred the question to the International Law Commission, which at its sixth session, in 1954, had adopted a draft Code of Offences against the Peace and Security of Mankind. Subsequently, the Assembly had decided not to include the item in its agenda until it had completed its consideration of the question of the definition of aggression. The definition of aggression had been adopted by the Assembly in its resolution 3314 (XXIX).

3. The question of the draft Code of Offences against the Peace and Security of Mankind had been included in the agenda of the thirty-second session of the General Assembly at the request of Barbados, Fiji, Mexico, Nigeria, Panama, the Philippines and the Syrian Arab Republic. However, because of lack of time, the Sixth Committee had decided to postpone consideration of the item until the thirty-third session.

4. Mr. ROSSIDES (Cyprus) said that a code of offences against the peace and security of mankind had, from the outset, been considered a very important aspect of the legal order needed to ensure a peaceful world. The questions of State responsibility and of the code of offences were mutually complementary, since one concerned the responsibility of the State, and the other the responsibility of the individual, under international law. Both questions had been considered thoroughly by the International Law Commission, and prompt action was now required on the draft Code of Offences. He recalled, that when the decision had been taken to defer consideration of the question until the thirty-third session, a number of delegations had asked that priority should be given to it at that time. His delegation would be glad to hear comments from other members of the Committee regarding any changes that might need to be made to the draft Code of Offences in order to render it effective and useful in the contemporary world.

5. Mr. Ferrari Bravo (Italy) took the chair.

6. Mr. de FARIA (Portugal) noted that the vast majority of the current membership had not been Members of the United Nations when the draft Code of Offences against the Peace and Security of Mankind had first been adopted in 1951. It might therefore be useful to obtain the views of Governments on the draft articles.

7. Mr. ROSSIDES (Cyprus) pointed out that all States Members of the United Nations were represented in the Committee and had known that the question of the draft Code of Offences was to be taken up at the current session. The Committee should therefore use the time available to it to examine the draft articles and hear the observations of delegations on them, before embarking on the protracted process of asking Governments to submit written comments.

AGENDA ITEM 121: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued) (A/33/41; A/C.6/33/L.7 and Corr.1, A/C.6/33/L.9)

8. Mr. CABADA BARRIOS (Peru) said that, if his delegation had been present during the vote on draft resolution A/C.6/33/L.7 and Corr.1 at the preceding meeting, it would have voted for its adoption.

AGENDA ITEM 115: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS ELEVENTH SESSION (continued) (A/33/17, A/33/177; A/C.6/33/4; A/C.6/33/L.2, L.3, L.11 and Corr.2, L.12 and Corr.1, L.13; A/C.6/33/CRP.1)

9. Mr. PANCARCI (Turkey), introducing draft resolutions A/C.6/33/L.11 and Corr.2 and A/C.6/33/L.12 and Corr.1, said that, as the number of sponsors indicated, the two texts broadly reflected the views of all the regional groups and the main legal systems as they related to international trade law. As could be seen from the corrigenda, Egypt should have been listed among the original sponsors of both draft resolutions. Chile, Guyana, Mongolia and Zaire had now also become sponsors of both draft resolutions and Uruguay had become a sponsor of draft resolution A/C.6/33/L.12.

10. He drew attention in particular to draft resolution A/C.6/33/L.11, paragraphs 3, 4, 6, 7 and 9 and draft resolution A/C.6/33/L.12, paragraphs 1, 2 and 3. Special tribute was due to the International Trade Law Branch of the Secretariat for its assistance in the preparation of the draft resolutions, which the sponsors hoped would be adopted by consensus.

11. Mr. BALANDA (Zaire) said that his delegation wished to co-sponsor the two draft resolutions because of the particular emphasis given to the problems of development, which were of great importance to his country.

12. Mr. ROSENSTOCK (United States of America), speaking on a point of order, said he wished first of all to make it clear that his delegation reaffirmed its support for General Assembly resolution 31/194 with regard to the transfer of the International Trade Law Branch of the Office of Legal Affairs from New York to Vienna, and was prepared to join the consensus in support of draft resolutions A/C.6/33/L.11 and A/C.6/33/L.12.

13. He recalled that, earlier in the session, the representative of the United Republic of Tanzania had asked for further information on the financial implications of the proposed transfer. The information provided by the Secretariat in response to that request had not been satisfactory. The Secretariat had

(Mr. Rosenstock, United States)

suggested that the statement of financial implications submitted to the General Assembly at its thirty-first session in document A/C.5/31/34 was still valid, had been considered by the Fifth Committee and was not the concern of the Sixth Committee. However, substantial changes had meanwhile taken place in international exchange rates and in the situation with regard to the library and librarian of the International Trade Law Branch. The Secretariat had unfortunately not seen fit to provide the Committee with that information. It also seemed odd that the Secretariat's response to the Tanzanian representative's request had been presented in the form of a conference room paper (A/C.6/33/CRP.1).

14. The other point he wished to raise related to draft resolution A/C.6/33/L.12, paragraph 2, which had been the subject of considerable negotiation among delegations. It had originally been suggested that the draft resolution should state that the proposed conference on contracts for the international sale of goods should be convened in Vienna. One of the main objections to that suggestion had been that it would be imprudent to make such an assumption before the transfer of the Branch had actually taken place, and it had accordingly been agreed that the words "at the location of the International Trade Law Branch" should be used, bearing in mind that that location would probably be in Vienna. Since that information must have been communicated to the Office of Financial Services, his delegation was disturbed to note that the information provided in the statement of administrative and financial implications (A/C.6/33/L.13) was based on the assumption that the conference would be held in Vienna, and that no provision was made for any other contingency.

15. If that had been the only occasion on which the Office of Financial Services had been insensitive to the needs of the Committee, his delegation would not have raised the matter, since by and large it had the greatest faith in the Office's accuracy and objectivity. However, on those rare occasions when the Secretariat seemed not to be receptive to the concerns of delegations, it would be a disservice not to call their attention to the fact.

ORGANIZATION OF WORK

16. The CHAIRMAN said it was desirable that the Committee should conclude its work not later than Saturday, 9 December. Accordingly, to enable it to make the best possible use of the available time, all the remaining items would be placed on the agenda of each meeting for the rest of the session.

The meeting rose at 12.20 p.m.