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UNITED NATIONS COMMISSION ON PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES

First Session

SUMMARY RECORD OF THE FIFTH MEETING

Held at Headquarters, New York,
on Friday, 22 May 1959, at 10.55 a.m.

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3 and 4) (continued)

PRESENT:

<u>Chairman:</u>	Mr. GAMBOA	(Philippines)
<u>Rapporteur:</u>	Mr. ABDEL-GHANI	United Arab Republic
<u>Members:</u>	Mr. PAZHWAK	Afghanistan
	Mr. PINOCHET	Chile
	Mr. HERRARTE	Guatemala
	Mr. SCHURMANN	Netherlands
	Mr. BRILLANTES	Philippines
	Mr. PETREN	Sweden
	Mr. SAPOZHNIKOV	Union of Soviet Socialist Republics
	Mr. RAYMOND	United States of America

Representatives of specialized agencies:

	Mr. METALL)	International Labour Organisation
	Mr. BLAMONT)	
	Mr. ACHARYA	Food and Agriculture Organization
<u>Secretariat:</u>	Mr. SCHACHTER	Director, General Legal Division
	Mr. FABRY	Secretary of the Commission

PROGRAMME AND ORGANIZATION OF THE WORK OF THE COMMISSION (A/AC.97/1, 2, 3 and 4)
(continued)

The CHAIRMAN made a statement, which was circulated as document A/AC.97/4.

Mr. PAZHAWAK (Afghanistan) thanked the Chairman for the valuable contribution he had made to the Commission's work by producing such a clear summary of the opinions expressed in the course of the debate. His delegation was in general agreement with the content of that statement, which dealt with most of the questions that required emphasis. There were, however, some points on which he would like to comment and to obtain further information, in order to remove all ambiguity regarding the Commission's task and the manner in which it should proceed.

In the interests of strict conformity with the terms of General Assembly resolution 1314 (XIII) and in order to take into account the opinion strongly voiced by the members of the Commission, the adverb "possibly", in paragraph 1 (2) should be deleted: it was obvious that the Commission wished to secure the co-operation of the specialized agencies and the regional economic commissions, as the General Assembly had envisaged.

In connexion with the first sentence of paragraph 2, he said that he saw no objection to the Secretariat study being based in part on the ideas contained in document A/AC.97/3, but it was clear from the Commission's discussion that the study should not be prepared solely on the lines proposed in that document. Instead of referring only to document A/AC.97/3, it would be better to say that the study should be prepared on the lines suggested by the Commission in the course of its discussion; otherwise, there would be a contradiction between the first sentence of paragraph 2 and other passages in the text. Moreover, to refer exclusively to document A/AC.97/3 as a basis for the Secretariat's work was to assume that the proposed study would be prepared by the Legal Department alone, whereas the intention was that it should be made by the Legal Department in co-operation with the Department of Economic and Social Affairs.

With regard to paragraph 4, he pointed out that the Commission wished its summary records to be transmitted to the specialized agencies and to the regional economic commissions, because those bodies would be able to form a clearer idea of what the Commission expected of them in the light of its debates.

(Mr. Pazhwak, Afghanistan)

He wondered whether the Chairman had intended the phrase "the less developed areas and the Non-Self-Governing Territories" in the second sentence of paragraph 5 to include the Trust Territories. With regard to the following sentence, he would be glad if the Chairman would explain precisely what he had in mind in suggesting that the Secretariat should be asked to exercise its discretion in regard to the matter of emphasis.

It might perhaps be advisable to add the words "and other available sources" to the end of paragraph 5, because the term "official published sources" seemed to make the scope of the Secretariat's work too narrow.

He had no objection to the date proposed for the next session and would accept the majority opinion on that point. His main concern was to ensure that the Secretariat would have enough time to prepare the study required by the Commission in as satisfactory a form as possible. He hoped that his comments would be fully understood and taken into account.

The CHAIRMAN pointed out with reference to paragraph 2 that several members of the Commission had expressed approval of document A/AC.97/3, which simply set out a minimum programme that had received unanimous approval. The mere fact that that document was mentioned did not mean that it would be the Secretariat's sole guide; there were several passages which made it quite clear that the Secretariat's study would deal with other questions raised during the debate.

He assured the representative of Afghanistan that the summary records of the Commission's meetings would be duly transmitted to the regional economic commissions and to the specialized agencies.

With regard to the last sentence of paragraph 5, he said that his sole concern had been to avoid defining or limiting the scope of the Secretariat study in advance. He had accordingly thought it better to leave the Secretariat free to decide which countries the study should cover and which points should be emphasized, on the definite understanding that it would base its work on the opinions expressed by the Commission and on the information at its disposal. He assured the Commission that the opinions expressed by members on that point would be taken into account.

In using the phrase "official published sources" in paragraph 5, his idea had been that the Secretariat could not consult all the material which had been published,

(The Chairman)

because that would present too great a task; it should, therefore, confine itself to reliable sources.

Mr. SCHACHTER (Secretariat) said that the term "official published sources" covered not only United Nations, but Government publications. The Secretariat must avoid the use of private sources, particularly in studying controversial questions.

Mr. PAZHWAQ (Afghanistan) pointed out that Governments might have at their disposal information not included in publications. He would also like to know what attitude the Secretariat would take in regard to official journals.

The CHAIRMAN said that the publications which the Secretariat might consult included official journals and the records of parliamentary debates.

Mr. SCHURMANN (Netherlands) said that he approved the text of the Chairman's statement (A/AC.97/4) in its entirety. He thought that the reference in paragraph 2 to "other relevant factual data" had been intended as an allusion to treaties already in force or about to be concluded, to court decisions relating to the question of sovereignty over natural resources and to other matters of international law.

The CHAIRMAN said that that had in fact been his intention.

Mr. PINOCHET (Chile) said that his delegation agreed with the Chairman's suggestion regarding the programme and organization of the work of the Commission and was confident that the Secretariat would perform its task conscientiously and objectively. The Chilean delegation understood that the report to be submitted by the Secretariat to the next session of the Commission would take into account not only national laws and regulations and international treaties affecting the sovereignty of nations and peoples over their natural resources but also all the relevant General Assembly resolutions, including in particular those which dealt with the international flow of private capital. A report by the Secretariat on those lines would form an admirable basis for the Commission's work.

(Mr. Pinochet, Chile)

In the opinion of the Chilean delegation, when the Secretariat approached Governments to obtain the information it required for its report it should:

(1) communicate to all Member States a list of relevant laws and regulations in its possession, with a request that it should be brought up to date; (2) ask for information about the practical application of those provisions; (3) consult Governments with regard to any steps which in their opinion would reinforce the sovereignty of peoples and nations over their natural resources, since the formulation of recommendations on that subject was the main purpose of the Commission's work.

Lastly, the Chilean delegation considered that the summary records of the Commission's debates should be included among the documentation to be transmitted to Governments by the Secretariat together with its request for information.

Mr. PETREN (Sweden) thanked the Chairman for his statement, which his delegation endorsed unreservedly.

Mr. SAPOZHNIKOV (Union of Soviet Socialist Republics) associated himself with the reservations made by the representative of Afghanistan with regard to the Chairman's statement. The USSR delegation would like it to be clearly understood that the Secretariat would merely collect data and make a preliminary draft of the survey which the Commission itself was to submit to the Economic and Social Council in accordance with General Assembly resolution 1314 (XIII). At its next session the Commission would examine that preliminary draft and members would have the opportunity to submit supplementary information, which if necessary would be inserted in the final text of the report. He asked for confirmation of that interpretation.

It was also understood that the Secretariat should approach not only Governments but also the specialized agencies and the regional economic commissions, which had been expressly invited by the General Assembly to co-operate with the Commission in its task; the word "possibly" in paragraph 1 (2) of document A/AC.97/4 should therefore be deleted.

While the document on the nature of possible Secretariat studies (A/AC.97/3) had been endorsed by certain members of the Commission, it had at the same time been the subject of severe criticism, especially on the ground that it approached the question of the sovereignty of peoples and nations over their natural resources solely from the legal point of view. The document could not therefore serve as a guide to the Secretariat unless it were interpreted in the light of the suggestions made by the members of the Commission during the general debate.

In connexion with paragraph 2 of document A/AC.97/4, he would like to be assured that "factual data" would be understood to mean not only the existing situation from the legal point of view but also the actual situation resulting from the application of the provisions.

Paragraph 5 of the Chairman's statement suggested that the question of the geographical scope of the survey should be left to the discretion of the Secretariat. Various members of the Commission had, however, stressed that the survey should concentrate chiefly on the Trust Territories, the Non-Self-Governing Territories and the under-developed areas of the world; a statement to that effect should be included.

Lastly, with regard to the sources from which the Secretariat would obtain its information, he considered that the term "official publications" should be given a wide interpretation and should include statements by heads of State, members of Governments and so forth, even if they were published elsewhere than in the official journals. Generally speaking the USSR delegation considered that no undue limits should be placed on the Secretariat's means of obtaining information.

The CHAIRMAN drew the attention of the USSR representative to the fact that document A/AC.97/3 was the only one which indicated the subject matter of the study to be carried out by the Secretariat. It could not therefore be ignored. It was understood that that document would not be the Secretariat's only guide and that, in accordance with paragraph 5 of the Chairman's statement, the Secretariat would give due regard to the views expressed during the debate to which the members of the Commission had given general agreement.

Mr. RAYMOND (United States of America) congratulated the Chairman on his summing up of the delicate and complex exchange of views that had taken place in the Commission. The United States delegation entirely agreed with the

(Mr. Raymond, United States)

interpretation he had given to the Commission's debates and with the broad lines proposed for the Secretariat study.

Mr. HERRARTE (Guatemala) thanked the Chairman for the explanations he had given in replying to the questions asked by the representatives of Afghanistan and the USSR, especially with regard to the reference to document A/AC.97/3. In the light of those explanations the delegation of Guatemala endorsed the statement in document A/AC.97/4.

Mr. ABDEL-GHANI (United Arab Republic) expressed his satisfaction with the clear statement made by the Chairman and his agreement with the ideas set forth therein.

He understood that the study to be made by the Secretariat would be merely a basis for the Commission's report. The document to be submitted to the Commission would be essentially a working document.

It was clear from paragraph 1 of document A/AC.97/4 that in carrying out its study the Secretariat would be guided by the views expressed by the members of the Commission, following the lines indicated in document A/AC.97/3. As far as the request to Governments was concerned, he would like to know whether it would consist of a mere general request or of a detailed questionnaire. He was in favour of the latter alternative. It should be remembered that only nine countries were represented on the Commission. A detailed questionnaire would be of great use to other Member States. That need not prevent Governments from furnishing other information in addition to that for which they were asked.

Mr. SCHACHTER (Secretariat) thanked the Commission for the confidence it had expressed in the Secretariat, either explicitly or implicitly, by entrusting it with a difficult task. The study to be prepared by the Secretariat would no doubt be open to criticism but it should be remembered that the study would be only provisional.

He felt that the Secretariat document (A/AC.97/3) should form one of the bases of the proposed study: a distinction should be made between the kind of data to be collected and the topics to which the data related, and that document was the only one which gave any indications on that point.

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(Mr. Schachter, Secretariat)

The Secretariat quite understood that the material was not to be limited to a list of the treaties and regulations or laws in force; it must also include factual data, both economic and other.

The request to Governments for information could be formulated in three different ways. The summary records could be sent to Governments and they could be asked, in general terms, to communicate the relevant data, being left free to determine what kind of information to provide in the light of the general debate in the Commission and of the Chairman's summing up.

Another solution was, as the Chilean representative had proposed, that Governments should be asked for three specific things: a list of relevant laws and regulations, information regarding the practical application of those provisions, and any proposals they might wish to make regarding measures to strengthen the right of peoples to sovereignty over their natural resources. It would be very difficult for Governments to provide information on the implementation of the relevant legislation, because of the vast amount of documentation to be collected. Member States had already protested on several occasions about the number and complexity of the questionnaires they received.

The Rapporteur had mentioned a third possibility: to send a detailed questionnaire to Governments. Such a solution would raise real difficulties for Governments, since one single questionnaire would have to cover widely different material which would not be the same for all countries. That was why the Secretariat favoured the first solution, which would leave each Government free to decide the kind of information that could usefully be communicated to the Commission for the study it had been asked to carry out.

In conclusion, he explained that, from the point of view of international law, the Secretariat study would be based on positive law as embodied in international agreements and in the available documentation, especially that of the International Law Commission.

Mr. BRILLANTES (Philippines) said that he found the Chairman's statement entirely satisfactory and saw nothing to be deleted from it or added to it.

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(Mr. Brillantes, Philippines)

In his view, the ideas expressed in the Secretariat document (A/AC.97/3) did not exclude other possibilities. Regarding the way in which the survey was to be carried out, it was clear from resolution 1314 (XIII) that the Commission itself must draw up the final report.

He had originally felt that the request to Governments should take the form of a questionnaire. The Commission had now, however, been informed of the difficulties that would entail and it would seem that the objective mentioned by the representative of the United Arab Republic, who had been in favour of a questionnaire, could be achieved if the Secretariat circulated to Governments not only the text of the resolution but also the historical summary in document A/AC.97/1, document A/AC.97/3, which formed the basis of the Commission's discussion of the organization of its work, the Chairman's statement and the summary records of the debates. If that was done, Governments would know that the Commission had considered the idea of a questionnaire and they would understand in what spirit to draft their replies.

The CHAIRMAN observed that the Commission appeared to be in agreement regarding the statement in which he had tried to sum up the views expressed and to define the consensus of opinion in the Commission.

Mr. SAPOZHNIKOV (Union of Soviet Socialist Republics) expressed agreement with the Chairman's opinion that the discussion held after he had made his statement should be taken into account by the Secretariat in compiling material for the survey. He would agree to the conclusion of the Commission's work at the current session only on the basis of his understanding, set out below, of the Chairman's statement and of the agreement reached in the Commission following an exchange of views. Firstly, the work the Secretariat was asked to do was purely preliminary; the survey requested in resolution 1314 (XIII) would be presented to the Economic and Social Council by the Commission itself. Secondly, he understood the Chairman's statement and his subsequent explanatory remarks to mean that the Commission expected from the Secretariat the preparation of a study which would be more than a mere summary of laws and regulations, as proposed in document A/AC.97/3. The study must contain factual data, particularly on the way in which foreign companies were exploiting the resources of various countries, especially the Trust Territories, the Non-Self-Governing Territories and the under-developed countries, and should point out cases of infringement of the principle of sovereignty over natural resources

Mr. PAZHWAQ (Afghanistan), speaking on behalf of the members of the Commission, congratulated the Chairman on the competent way in which he had directed the debates. He thanked the Secretariat for the basic document it had provided, which had provided a basis of agreement for the Commission. He also thanked the representative of the International Labour Organisation and expressed the hope that other specialized agencies would follow the ILO's example.

The CHAIRMAN noted that the Commission was in agreement regarding the date of the next session. He associated himself with the tribute which the Afghan representative had paid to the Secretariat. After thanking the members of the Commission for their effective co-operation, he declared the session closed.

The meeting rose at 12.30 p.m.

