

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.97/SR.12
29 March 1960
ENGLISH
ORIGINAL: FRENCH

UNITED NATIONS COMMISSION ON PERMANENT SOVEREIGNTY OVER
NATURAL RESOURCES

Second Session

SUMMARY RECORD OF THE TWELFTH MEETING

Held at Headquarters, New York
on Thursday, 3 March 1960, at 11.30 a.m.

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PRESENT:

<u>Chairman:</u>	Mr. GAMBOA	(Philippines)
<u>Members:</u>	Mr. PAZHWAQ	Afghanistan
	Mr. SCHWEITZER	Chile
	Mr. SCHURMANN	Netherlands
	Mr. BRILLANTES	Philippines
	Mr. MYRSTEN	Sweden
	Mr. SAPOZHNIKOV	Union of Soviet Socialist Republics
	Mr. ASHA	United Arab Republic
	Mr. RAYMOND	United States of America

Representatives of specialized agencies:

Mr. ZMIRCU	International Labour Organisation
Mr. ORR	Food and Agriculture Organization

Representative of the International Atomic Energy Agency:

Mr. FREEMAN

<u>Secretariat:</u>	Mr. SCHACHTER	Director, General Legal Division
	Miss CHEN	Secretary of the Commission

CONSIDERATION OF THE PRELIMINARY SECRETARIAT STUDY ON THE STATUS OF PERMANENT SOVEREIGNTY OVER NATURAL WEALTH AND RESOURCES (A/AC.97/5, Add.1 and Corr.1; A/AC.97/L.1; Conference Room Papers Nos. 1-4) (continued)

Mr. RAYMOND (United States of America) noted that there had been some confusion at the previous meeting, for which, to his regret his own statement might have been partly responsible. The confusion had arisen because some of the views expressed had been erroneous or conflicting.

First, the Afghan delegation and some other members of the Commission felt that the words "in the light of the views expressed at this session" should be added to paragraph 3 (b) of the draft resolution (A/AC.97/SR.11); they invoked certain United Nations precedents, including some from the first session of the Commission. However, they were mistaken, for the words could not be given the same meaning as they had been given at that time, because present circumstances were quite different. The first session had been characterized by general agreement on the guiding principles for carrying out the study and there had been no serious divergence of views. Now, on the contrary, the Commission had before it a preliminary study on which a number of comments had been made and the present task was to suggest changes in the study and include new information. There had been many divergent opinions on the latter point. For that reason, the proposed amendment meant something quite different from what it had meant at the first session.

Other representatives seemed to maintain that, in opposing the insertion of those words, some delegations, including that of the United States, were implying that the views expressed in the Commission should not be taken into account. Such a conclusion was surprising, for the members of the Commission were sovereign States and they were all entitled to express their views on a footing of complete equality; admittedly, they expressed divergent opinions, but the very reason for which they had met was to attempt to reconcile their points of view. In fact, the Afghan amendment would be tantamount to entrusting the Secretariat with the task of settling the differences between the members of the Commission; he was quite unable to concur in such a decision.

(Mr. Raymond, United States)

Although he had made no attempt at the previous meeting to answer certain criticisms which had been levelled at the arguments advanced in his general statement (A/AC.97/SR.9), that fact should certainly not be construed as acceptance of those criticisms. For instance, he had stated that it would be undesirable for information about profits to be included in the study; he had not changed his mind. Profits were mainly of interest in connexion with the flow of private capital, and were already dealt with in several studies on the latter question. Similarly, the physical and policy limitations imposed on the Secretariat should be borne in mind; there again, his ideas conflicted with some of the suggestions made. He reserved the right to submit comments on the suggestions contained in Conference Room Paper No. 4 at a later stage; the fact that he was deferring comment in no way implied that he found them acceptable.

He doubted whether the proposed amendment would, as had been claimed, greatly aid the Secretariat in its task. Many suggestions had been made regarding the sources of information to be used; some delegations advocated an exhaustive examination of information from all sources, others stressed official documents or publications; but, as he had said before, it was necessary to exercise some restraint. In the United States alone, for instance, it would take three years to collect, analyse and summarize all the information which had a bearing on the problem of interest to the Commission and which had been published in the different documents, bulletins and press releases of the State Department and in other publications by official bodies.

Would it really help the Secretariat to be asked to take all the views expressed into account and to use all possible sources of information, when its resources were not unlimited? Regarding the statistics of profit, for instance, was the Secretariat to bow to the wishes of the delegations which wished them to be included in the study or of those which did not? If the Secretariat were left to select the additional information to be included in the study, it would have to disregard some of the views expressed and could not therefore carry out the instructions it had been given. The Secretariat could not be asked to resolve the divergences of view between the members of the Commission, thus making its task even heavier and more complicated. It was those considerations which had

(Mr. Raymond, United States)

prompted the Guatemalan representative, who was one of the co-sponsors of the draft resolution, to ask delegations to make specific proposals but, although the Commission had a list of suggestions (Conference Room Paper No. 4), which could serve as a basis for discussion, some delegations had stated that they were opposed to a detailed examination of that list. In the circumstances, he could not do otherwise than oppose the proposed amendment.

Mr. ASHA (United Arab Republic) said that he fully appreciated the United States representative's misgivings, but there was no question of the Commission's shifting its responsibilities on to the Secretariat. The Secretariat could obviously not be expected to make such a detailed analysis as the one suggested by Mr. Raymond; what the Commission wanted was very general information, which the Secretariat would certainly be able to assemble, taking the spirit that had inspired the Commission's debates as a guide for its work. There was one question of principle which the Commission should decide: whether or not to include information which some members of the Commission did not want included. What the Commission needed was facts on which it could base recommendations for the strengthening of national sovereignty over natural resources, which it was invited to do by its terms of reference. It should not be forgotten that the Commission was a non-political body concerned with legal and technical questions. The amendment suggested by the Afghan representative was prompted by the Commission's desire to have as much information as possible, particularly relating to the capital-exporting countries. He hoped that the United States of America, the USSR and the Netherlands - to name only a few such countries - would be willing to give their assistance; the Secretariat might consult them with a view to obtaining the best documentation at their disposal on the questions of interest to the Commission.

Mr. RAYMOND (United States of America) felt that there was no difficulty in the case of information transmitted by Governments. As regards the general information mentioned by the representative of the United Arab Republic, he would like to know whether that meant information concerning all countries; if so, the best course would be to draw on United Nations studies and reports. He was largely in agreement with Mr. Asha, but thought that the implications of the proposed amendment differed from those which Mr. Asha ascribed to it.

Mr. ASHA (United Arab Republic) said that the purpose of the information requested was to make it possible for the under-developed countries to compare the various forms of assistance from which they could benefit. The United Arab Republic was prepared, for instance, to indicate the terms on which the USSR was providing it, on purely commercial basis, with financial assistance for the construction of the Aswan Dam.

Mr. PAZHWAQ (Afghanistan) agreed with the representative of the United Arab Republic; it was natural that the under-developed countries should display more concern than other countries about the protection of their sovereignty over their natural resources. The industrialized countries had moreover proved to be very understanding in that respect and had shown a commendably co-operative attitude. No misunderstanding should therefore be allowed to occur: the under-developed countries wished to have as much information as possible so that they could derive the maximum benefit from it. The stress should be laid on the advantages which those countries would derive from it rather than on the scope of the task entrusted to the Secretariat.

He would like the Secretariat to explain a point which was not clear to him: who was responsible for the statement mentioned by the United States representative to the effect that the Commission would be making the Secretariat responsible for settling the differences between the various countries represented on the Commission? At the previous meeting he had made some comments about the advisability of discussing the list of suggestions in regard to the revision of the preliminary study (Conference Room Paper No. 4), but he had not raised any objection to such a discussion and, if the United States representative was prepared to examine that list, he would like to know what form he thought the discussion should take and what he hoped to achieve by it.

(Mr. Pazhwak, Afghanistan)

His delegation's amendment was to insert in paragraph 3 (b) of the joint draft resolution (A/AC.97/L.1) the words "taking into account the views expressed by members of the Commission at this session", which had already been used by the Commission at its first session (A/AC.97/4/Rev.1, end of paragraph 2).

Mr. RAYMOND (United States of America) said that he himself had made the statement to which the Afghan representative had referred: he certainly believed that the proposed amendment would have the effect of forcing the Secretariat to settle the differences existing between the members of the Commission. He was ready to examine the list of suggestions, if the Commission so desired, but he was not urging that course upon it. However, if the Commission adopted the Afghan amendment, it would have to make a detailed study of each suggestion.

Mr. PAZHWAQ (Afghanistan) said that his amendment was in no way intended to make the Secretariat responsible for settling questions upon which the members of the Commission had been unable to reach agreement; he asked the Secretariat to note that fact. He would like to know whether the United States representative could suggest some other wording which would satisfy both of them. There did not appear to be anything unusual in requesting the Secretariat, when collecting the documentation requested by the Commission, to take into account the views expressed during the session. Were it not to do so, the implication would be that the session had served no useful purpose.

Mr. RAYMOND (United States of America) said he still believed that the Afghan amendment would raise serious problems for the Secretariat. The withdrawal of the amendment would certainly not mean that the Secretariat need not take into account the views expressed during the session.

Mr. SAPOZHNIKOV (Union of Soviet Socialist Republics) thought it would be quite contrary to the normal procedure if, at the end of its deliberations, the Commission did not invite the Secretariat to take into account, in the revised study which it was requested to make, the views expressed in the course of the debate. The draft resolution (A/AC.97/L.1) reflected the views of only one

(Mr. Sapozhnikov, USSR)

group of delegations. It would be quite wrong if the views expressed in the Commission by other delegations were not taken into account. The request of the Afghan delegation, which was perfectly reasonable and well-founded, was a matter of simple logic. The Commission, which had received an important mandate from the General Assembly, would be shirking its responsibilities if it did not make certain that the study was prepared in the light of all the views expressed.

In the present case, the Secretariat was not being asked to express an opinion in favour of one view or another nor to settle controversial issues, but to collect information on various aspects of the subject. While he did not wish to reopen the debate on the question, he felt he should point out that the information available would be incomplete if the data, for instance, on the flow of private capital were to deal only with investments without also indicating the profits derived from them. The work which the Secretariat was being asked to undertake was not so difficult or so time-consuming as the United States representative seemed to fear. He himself was convinced that the Secretariat was perfectly capable of doing it.

Mr. RAYMOND (United States of America) asked the USSR representative whether he interpreted the Afghan amendment as requiring the Secretariat to include in the revised study information on income from private investments.

Mr. SAPOZHNIKOV (Union of Soviet Socialist Republics) replied that the Secretariat should take into account the views expressed by members of the Commission. In his opinion, it would be unadvisable to reopen the debate and take a decision on each individual point in the various suggestions put forward concerning the contents of the revised study. The draft resolution submitted by Guatemala and the Philippines (A/AC.97/L.1) took into account the views of one group of delegations only; the general formula proposed by Afghanistan should not give rise to any objections, for it was designed, not to impose the opinion of certain delegations, but to ensure that all points of view would be taken into consideration.

Mr. RAYMOND (United States of America), pointing out the contradiction between the USSR representative's reply and the statement made previously by the representative of Afghanistan, asked the representative of the USSR whether he thought that the Secretariat would have complied with the provisions of the amendment if it failed to include information concerning profits in the revised study.

Mr. SAPOZHNIKOV (Union of Soviet Socialist Republics) pointed out that at the present stage it was difficult to forecast the factors which would influence the Secretariat's decision with regard to the contents of the revised study. His delegation was anxious to avoid any resolution which would reflect the views of only one group of delegations.

Mr. ASHA (United Arab Republic) appealed to the members of the Commission to break out of the vicious circle in which they had become involved. As the representative of the Secretariat had pointed out at the previous meeting, there were four sources of information: (1) replies from Governments; (2) publications, studies and decisions of the United Nations, of its organs and of its specialized agencies; (3) official publications (4) unofficial material. His delegation, for its part, would like the Secretariat to use the first three sources only. If all delegations were in agreement on that point, what objection could a State have to seeing information it had published summarized or reproduced in the revised study?

Mr. RAYMOND (United States of America) said that a State could obviously raise no objection to the publication of data from official sources. That, however, was not the question. The Secretariat could not be asked to examine all the voluminous official documentation available throughout the world, particularly in connexion with certain points that his delegation considered to be extraneous to the subject or too broad in scope. If the various suggestions reproduced in Conference Room Paper No. 4 were not discussed point by point, it would be impossible to give precise instructions to the Secretariat.

Mr. ASHA (United Arab Republic) thought that such a discussion would be untimely at the present stage of the work. The Secretariat had always shown its discernment in its choice of data for use in the many studies which it had

(Mr. Asha, United Arab Republic)

been called upon to make and his delegation had no doubt that it would do the same in the case of the revised study. The representative of the Secretariat might perhaps be asked if he foresaw any difficulties in the event of the Afghan amendment being adopted.

Mr. SCHACHTER (Secretariat) said that the members of the Commission had been so generous in their compliments to the Secretariat that he would be reluctant to say that it could not live up to that flattering appraisal. It was obvious that if the Commission decided that the revised study should cover certain special points, the Secretariat would explore all possible means of giving it satisfaction. At the present time, however, the Secretariat was still unaware of the exact scope of the study for which it was to be asked. He would not, therefore, wish to take sides or to place emphasis on the burden which would be imposed on the Secretariat if it was asked to draw information from sources other than the first two of the four to which he had referred at the previous meeting.

Mr. SCHWEITZER (Chile) thought that a discussion of the various points in ~~the suggestions~~ made would be premature and inappropriate. For the time being, it was a question of asking the Secretariat to examine the opinions expressed by members of the Commission at the current session and, in the light of those opinions, to collect a considerable volume of factual data. The Secretariat would doubtless be called upon to make a selection among the information to which it would have access and to determine the degree of importance which it would accord to any particular point. His delegation, like all others, was convinced that the Secretariat would perform that task with its usual competence and impartiality. If the Secretariat was unable to settle certain controversial questions, it might, as the Philippine delegation had suggested, include in the study a chapter giving an account of the views expressed on those points in the Commission.

There was no point in taking a decision at present on the suggestions put forward. Only when the Commission had before it the revised study could it profitably discuss the relative importance of the facts collected and express its own views in its report to the General Assembly. In the meantime the Secretariat

(Mr. Schweitzer, Chile)

should be asked to collect the relevant data on the points of concern to the various delegations. The Afghan amendment was designed solely to ensure that in the revised study, as in the preliminary study, the Secretariat would take into account all the views expressed.

He hoped that in the light of those explanations draft resolution A/AC.97/L.1, amended in the manner proposed by the Afghan delegation, would be unanimously adopted.

Mr. PAZHwak (Afghanistan) said that as it was growing late, he would wait until the next meeting to make a statement on the precise implications of his amendment.

The meeting rose at 1.10 p.m.

