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CONTENTS

Chairman: Mr. Abdullah EL-ERIAN (United Arab Republic).

AGENDA ITEM 87

Reports of the International Law Commission on the work of its sixteenth and seventeenth sessions (A/5809, A/6009, A/C.6/L.557-L.561) (continued)

1. Mr. MAISSE (Belgium) said that his delegation had read the reports of the International Law Commission on the work of its sixteenth (A/5809) and seventeenth (A/6009) sessions with great interest. With every year that passed, his delegation was increasingly impressed by the valuable work done by the Commission, an independent body of experts who, while aware of the great importance of what were generally called the traditional rules, nevertheless fully realized the constant need for innovation to meet the needs and aspirations of the modern world.

2. The Belgian Government intended to submit its comments on both reports to the Secretary-General in writing. However, there were three questions dealt with in chapter V of those documents which called for some observations.

3. Firstly, with regard to co-operation between the Commission and other bodies, it stood to reason that any possibilities of such co-operation should be carefully explored; consultations in certain spheres were called for by an explicit provision of the Commission's Statute. It was important, however, that in its relations with other bodies the Commission should bear constantly in mind its unique character in relation to all other bodies concerned with the codification and progressive development of international law. Its status as an organ of the United Nations, and its place in the United Nations family, conferred upon it a specific responsibility.

4. Secondly, it was a matter for satisfaction that the Commission had for some time been giving special attention to the problem of the exchange and distribution of its documents, a matter of particular importance to international lawyers, especially jurists from the developing countries.

5. Lastly, the idea of holding a Seminar on International Law in May 1965 had rightly received wide support in the Sixth Committee, and the Committee now had before it written proposals for the future organization on similar seminars. Meetings such as the Seminar organized by the European Office of the United Nations, were an excellent means of promoting wider knowledge of international law; it would be hard to find anywhere else a teaching body as well qualified as that constituted by the members of the International Law Commission. As to working materials, the European Office of the United Nations at Geneva had an excellent library. And since the subjects discussed at the seminars were those dealt with by the International Law Commission, participants could be sure that they were devoting their attention to practical questions of the highest importance. With reference to the changes that some delegations felt should be made in the procedure followed in 1965, his delegation would explain its views when the Committee took up the Costa Rican amendment (A/C.6/L.561) and the Ghanaian-Romanian amendment (A/C.6/L.560) to the draft resolution submitted by Lebanon and Mexico (A/C.6/L.559). However, it was prepared already to support the idea that future seminars should also be held at Geneva.

6. Mr. TAMMES (Netherlands) said that his Government would soon submit detailed written comments on part III of the draft articles on the law of treaties (A/5809, chap. II, B) to the Secretary-General. He would therefore limit himself to a few general remarks.

7. The International Law Commission had proceeded at a pace unforeseen in the early years of the United Nations. It had gone so far as to formulate entirely new rules, as was apparent from Mr. Bartoš's introduction to his draft provisions concerning high-level special missions (A/6009, chap. III, annex). The time seemed to be approaching when all public international law would have been codified and laid down in one unified statute book. If that stage were reached, the task of international lawyers would merely be to keep abreast of further developments, and no theoretical problems would remain to be solved. It would all be a matter of interpreting treaties and conventions, and the task of interpretation would itself be subject to rules of interpretation such as those contained in part III of the draft articles on the law of treaties.

8. The fact that the Commission had given up the idea of drafting the law of treaties in the form of a code (ibid., chap. II, paras. 16 and 17), might be considered a matter for regret. As the Commission had stated in its report on the work of its eleventh session, that form had "the advantage of rendering permissible the inclusion of a certain amount of declaratory and explanatory material . . . in a way that would not be possible if this had to be confined to a

strict statement of obligation. Such material has considerable utility in making clear, on the face of the code itself, the legal concept or reasoning on which the various provisions are based".[1] On the other hand, such declaratory and explanatory material, authoritative though it might be, would not provide a basis of clear and fixed rules on which States and international tribunals could rely. For instance, in its commentaries on articles 58 to 61 (see A/5809, chap. II, B)the Commission gave a detailed account of the doctrinal differences which had arisen regarding the possibility of treaties providing obligations or rights for third States; the Commission stated that it had itself been divided on that point. But finally, in article 60, it declared itself in favour of the theory that for a treaty to accord a right to a third State there must be some form of explicit or silent collateral agreement between that State and the parties to the treaty. Whether or not one preferred that solution to the one submitted by the Special Rapporteur,[2] the fact remained that a decision had been taken which, if incorporated in a convention, would be fully operative in any future litigation—which would not be the case if it were incorporated in a code. International law had much to gain from certainty. That became particularly evident when article 60 was compared with other parts of the draft articles, for example, articles 11 and 12 of the revised draft (A/6009, chap. II, B), in which the Commission had not taken such a definite stand.

9. There was a further advantage in setting out the law of treaties in the form of a convention. As the Commission had already observed in its report on the work of its fourteenth session "... a multilateral convention would give all the new States the opportunity to participate directly in the formulation of the law if they so wished; and their participation in the work of codification appears ... extremely desirable in order that the law of treaties may be placed upon the widest and most secure foundations."[3]

10. Meanwhile, in spite of the achievements of codification through multilateral conventions, they would probably do as little as the great codifications of the past to halt the development of the science of international law. On the contrary, the work of codification itself might be a source of new problems. Although for the time being efforts must inevitably be concentrated on limited projects such as the law of treaties, in the long run international law might become so integrated a system that one part could hardly be studied without other parts being taken fully into consideration. Such a trend was apparent in the draft on the law of treaties itself. For it was difficult to separate the law of treaties from the law on other formal sources of international jurisprudence. With regard, for instance, to the relationship between the two main sources of international law, conventional law and customary law, customs, or practice, or unwritten law generally appeared explicitly or implicitly at a number of places in the draft articles. He would only mention in that connexion the concept of peremptory norms of general international law (jus cogens), which appeared in articles 37 and 45.[4] Although the International Law Commission had purposely avoided giving any definitions, it appeared from the commentary that the drafters were referring to rules of such authority that they could make void any treaty conflicting with them, even a treaty in existence prior to their emergence. On the latter point, the commentary on article 45 related particularly to customary law.

11. Article 62 (see A/5809, chap. II, B) also referred to customary law, but it should be noted that, while the heading of the article referred to generally binding international custom, the text itself used the expression "customary rules", without defining their scope. From the examples used in the commentary, however, it became clear that regional international custom was not excluded from those customary rules, although the Commission had not followed the Special Rapporteur in formulating a special rule on so-called "objective régimes". A situation might thus arise where, in accordance with article 62, rules set forth in a regional treaty would become tacitly binding on all the States of that region, whereas, under article 59, obligations arising out of treaties intended to apply throughout a certain region could only become binding upon third parties by express agreement. The decision to apply one rule or the other would then depend on the conception held of customary law. It might therefore be asked whether article 62, evoking as it did certain doctrinaire problems would not fit better in a code than in a convention on the law of treaties.

12. Article 68 (ibid.) also dealt with customary law. So far as the emergence of a new rule of customary law relating to matters dealt with in the treaty and binding upon all parties was concerned, to state that such a rule had the effect of modifying the treaty was merely to recognize that customary law was an autonomous source, and that as such it could modify or void all conventional rights and obligations, terminate them or replace them with other rights and obligations. In point of fact, the commentary on article 68 mentioned the emergence of a new peremptory norm of international law as an instance of the evolution of law through the modifying effect of custom.

13. The subsequent practice of the parties in the application of the treaty, as referred to in article 68 (b), was again referred to in article 69, para. 3 (b) As shown by the commentaries on those provisions, the Commission was well aware of the difficulty of distinguishing between, on the one hand, subsequent practice as creating a new customary rule modifying the original agreement, and, on the other hand, subsequent practice as evidence of the original agreement itself. It might be said that the adoption of either of those contradictory ways of reasoning would in fact lead to the same practical result. But it would largely depend on the wider or stricter conception of customary international law held by those who had to apply a treaty whether or not a modification of it was accepted. In that respect there seemed to be a certain incongruity between the two provisions relating to subsequent practice. Article 69, para. 3

1/ See Official Records of the General Assembly, Fourteenth Session, Supplement No. 9, para. 18.

2/ See Yearbook of the International Law Commission, 1964, vol. II.

3/ See Official Records of the General Assembly, Seventeenth Session, Supplement No. 9, para. 17.

4/ Ibid., Eighteenth Session, Supplement No. 9, chap. II, B.

(b), required the understanding of "all the parties", whereas article 68 (b) was satisfied with subsequent practice of "the parties". Taking into consideration the fact that the Commission recognized that "the line may sometimes be blurred between interpretation and amendment to a treaty through subsequent practice" (A/5809, art. 68, commentary, para. (2)); it might be advisable, in order to avoid confusion, simply to delete from article 69, para. 3 (b), the clause beginning with the words "which clearly".

14. The remarks he had just made had been intended to show the difficulties involved in keeping so intricate a problem within strict boundaries. Now that the Commission had embarked upon topics of no less importance than the law of treaties, such as the law of inter-governmental organizations, State responsibility and succession of States, it might find that they were closely interlocking. The future statute book of the world might not be divided into the classical chapters. New categories of sources of international law had already developed which could be distinguished from those which it had been possible to list, less than half a century earlier, in Article 38 of the Statute of the Permanent Court of International Justice. The State was now confronted with other subjects of international law of a non-sovereign character but unmistakably vested with moral personality. All that belonged to the routine practice of the United Nations, which functioned by means of resolutions, which adopted declarations and concluded numerous international agreements with States and with other organizations, and which sought to promote the international rights of individuals as human beings. The International Law Commission could already, at the present stage, have also taken into account the existence of human rights, and the Netherlands delegation agreed entirely with the remark made at the 843rd meeting by the United Kingdom representative on that point. Besides the article on obligations or rights to be performed or enjoyed by individuals, juristic persons or groups of individuals, as formulated by Sir Humphrey Waldock in his third report on the law of treaties,[5] there was also the question of the rights of individuals, included in different treaties and divergent as to their scope. A number of those international instruments had excluded an interpretation and application which would limit the rights of individuals provided for in other instruments. That principle of the most favourable stipulation was perhaps most closely related to article 63, para. 3. It was also connected with the principle of "acquired rights" referred to by the United States representative (842nd meeting) in connexion with article 56.

15. Mrs. MOORE (Nigeria) expressed her delegation's satisfaction at the International Law Commission's determination to complete its work on the law of treaties and special missions, on which considerable progress had been made, before the end of 1966. In that connexion, it would seem advisable for the Commission to meet in January 1966 and to extend its 1966 summer session.

16. While the Nigerian delegation was in general agreement with the Commission's proposals on the law of treaties, it would like to make a few remarks on some of the provisions in part III of the draft articles (see A/5809, chap. II, B). Article 55 limited the application of the rule pacta sunt servanda to treaties in force; it seemed desirable that that basic rule of public international law should be formulated in more categorical terms, and that a restriction which introduced an element of controversy should be dropped, especially as that issue had been disposed of when the Commission adopted article 30. Articles 59 and 60, as at present worded, might mistakenly be invoked in order to impose upon a third State an obligation arising out of bilateral or multilateral treaties which were not general in character and by which that State did not wish to be bound.

17. With regard to chapter III of the Commission's report on its seventeenth session, (A/6009), the Nigerian delegation considered that, while it was necessary to grant privileges and immunities to members of special missions on the basis of their functions and not of their personal status, the matter should be more carefully studied in order to avoid abuses. The Nigerian Government would in due course submit its comments on the subject.

18. Her delegation welcomed the initiative taken by the European Office of the United Nations in convening a seminar on international law. Nigeria had had the singular honour of being the only African State represented at the Seminar, but it regretted that it had not been possible to extend the same opportunity to other countries of Africa and Asia. In that connexion, it wished to express its gratitude to the representative of Israel for his delegation's generous offer of financial assistance (840th meeting). If other countries were to emulate that gesture, the interest in international law which already existed in the developing countries would undoubtedly be increased. The amendments submitted by Ghana and Romania (A/C.6/L.560) and by Costa Rica (A/C.6/L.561) to the draft resolution proposed by Lebanon and Mexico (A/C.6/L.559) were very welcome in that connexion, and her delegation would like to see those two amendments adopted as a separate resolution in view of the importance of the question.

19. Her delegation also gave its support in principle to draft resolution A/C.6/L.559 while reserving the right to comment on it further.

20. The Nigerian delegation would like, moreover, to see further co-operation between the International Law Commission and the regional legal organizations, including, for example, the Commission of Jurists of the Organization of African Unity. It was to be hoped, in particular, that the International Law Commission would send observers to the meetings of such regional bodies and also facilitate participation by observers from those regional bodies in its own meetings. It was also a source of gratification that the Commission was well aware of the necessity for the widest possible distribution of its documents.

21. To conclude, she asked that agenda items 90 and 94, which were closely related, should be considered together after all the other items had been disposed of, provided, however, that the discussion of items 90 and 94 should begin not later than 8 November.

[5] See Yearbook of the International Law Commission, 1964, vol. II.

Her delegation reserved the right to intervene at a later stage should the need arise.

22. Mr. BILGE (Turkey) drew attention to the difficulties experienced by government legal departments in following the work of the International Law Commission. The reason why Governments sometimes failed to comment on a particular point was not always perhaps that they implicitly approved of it, as the representative of Mexico had suggested, but simply that they had not had the time to examine it.

23. As his Government had already submitted written comments on the draft articles on the law of treaties and reserved the right to submit further comments on that topic as well as on special missions, he would limit his remarks to general considerations. It seemed to him appropriate before all else, and as the International Law Commission had proposed, that the law of treaties should be codified in a single multilateral convention and that, in addition, the newer countries should take part in drawing it up so that it might be truly universal in character. He would also like to mention two technical aspects of the matter. In the first place, the various parts of the law of treaties should be made to concord from the legal point of view. For example, the obligation of good faith was defined in article 17 but not in articles 55 and 69. That, however, was a fundamental principle of the law of treaties and deserved equal attention in all parts of the draft articles. In the second place, the terminology should be standardized; in article 68 (c), for example, the expression "rule of customary law" was used, and in article 69, para. 1 (b), the expression "rules of general international law". His delegation also supported the Commission's efforts to codify the rules of interpretation so that disputes between States over the application of treaties might be avoided. On the other hand, it regretted the disappearance of the simplified form of agreement from the text of part I of the draft articles and asked the Commission to give further study to that form of treaty.

24. The most important aspect of the draft articles on special missions (see A/6009, chap. III, B) was the definition given to the scope of the notion of special mission. The States, both the sending State and the receiving State, should be able to determine the scope of that notion on each particular occasion. In view of the temporary nature of special missions, it was difficult to accept articles 4, 21 and 42 without hesitation, as they were intended for permanent diplomatic missions as provided in the 1961 Vienna Convention on Diplomatic Relations.6/ The preparation of draft provisions concerning so-called high-level special missions would seem to serve a useful purpose. A point to be considered, however, was the existence of a category of persons—for example, vice-presidents, deputy prime ministers and ministers of State—who were generally higher in rank than ministers for foreign affairs and were being more and more frequently entrusted with special missions.

25. It would be desirable for the Commission to continue to co-operate with other bodies and even with institutions of private international law in the event of the proposal made by Hungary (A/5933) on 13 July 1965 being accepted by the General Assembly. The Commission's decision concerning the distribution of its documents likewise seemed to be appropriate. His delegation was also agreeable to the Commission holding several additional meetings on condition, however, that the legal departments of Governments were given enough time to keep up with the faster pace of work that would result. It likewise extended hearty congratulations to the European Office of the United Nations for having organized a Seminar on International Law. It proposed later on to give a detailed statement of its views concerning the possibility, in the case of advanced students and Government officials of the newer countries, of having the proceedings of the seminars published for the benefit of the non-participants and also its views concerning the choice of date of such seminars.

26. The two reports of the Commission (A/5809 and A/6009) were acceptable to his delegation although it reserved the right to make further comments at a later stage.

27. Mr. ABOUL NASR (United Arab Republic) noted with satisfaction the progress made by the International Law Commission, which had thus borne out the hopes expressed by the General Assembly at its seventeenth session. The codification and progressive development of the law of treaties were necessary and timely, for the principles governing the contractual relations between States should be defined on the basis of equality and the inherent rights of peoples to sovereignty and self-determination. His delegation was also gratified to note that the Commission had treated the three parts of its draft articles on the law of treaties as an integrated unit; it associated itself with the remarks made by the representative of Mexico in that regard at the 841st meeting. He further paid a tribute to the pioneering work done by the Special Rapporteur for the topic of special missions, who had thus paved the way for the completion of diplomatic law as requested by the General Assembly.

28. As article 55 of the draft articles on the law of treaties expressed a fundamental principle of treaty law, the Commission might consider the possibility of elaborating on the principle by explicitly stating the obligation of States to abstain from acts that would frustrate the objectives of the treaty. A clause to that effect would have special significance for treaties having a constitutional character. His delegation approved of article 57 relating to the territorial scope of treaties. It was likewise gratified that the Commission had eliminated all provisions which might have sanctioned situations existing before the peoples subjected to colonial rule had attained their independence, and it approved of the manner in which the problem of the effect of treaties in relation to the parties and third States had been solved in articles 58 to 62. In view of the principle of national sovereignty, it was imperative, as provided in the draft articles, that free consent should be a basic prerequisite of any arrangement which, in exceptional circumstances, would make a treaty applicable to a third country. His delegation was also

6/ See United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, vol. II, Annexes (United Nations publication, Sales No.: 62.X.1).

in favour of the inclusion in the draft articles of provisions relating to the modification of treaties so that they might be able to respond to the dynamic changes in international relations.

29. Although his Government had not yet been able to give the provisions on special missions the careful study which they needed, it considered them for the time being to be generally acceptable. It also approved the decisions taken by the Commission for holding an additional session in January 1966 and extending its 1966 summer session, and it welcomed the efforts of the European Office of the United Nations in organizing a Seminar on International Law. It was to be hoped in that regard that a reasonable proportion of nationals of the developing countries might be able to participate in future seminars and that permanent financial arrangements for that purpose might be made, for example, under the technical assistance programme, as had been suggested by the representative of India (846th meeting).

30. His delegation supported the draft resolution submitted by Lebanon and Mexico (A/C.6/L.559) while reserving the right to comment on it further at a later stage.

31. Mr. BEN ARFA (Tunisia) said that the work of the International Law Commission represented an advance towards the improvement of international relations. With regard in particular to the countries which in the past had had treaties to which they had not been parties imposed upon them, there were three principles that should be explicitly stated: first, the strict equality of all States, secondly, free consent, and thirdly, good faith in the execution of treaties. In addition, the codification of the law of treaties in a single convention would represent considerable progress. His delegation would be in favour of a possible extension of the Commission's next regular session, and it was grateful to the European Office of the United Nations for having organized a Seminar on International Law. It would be desirable for arrangements to be made to enable a larger number of the newer nations to participate in such seminars in the future. In so far as special missions were concerned, he praised the pioneering work done by the Special Rapporteur of the Commission but warned him against the tendency to broaden the field of ad hoc diplomacy.

32. Mr. JACOVIDES (Cyprus) congratulated the International Law Commission on having made of its labour of codification something better than a sterile compilation and having worked on the progressive development of international law on lines which took due account of the political, economic and social developments and the creation of many newly independent States. It was with this in mind that the Commission had rightly decided (see A/6009, para. 18) to give the codification of the law of treaties the form of a multilateral convention which would give all the new States the possibility of participating directly in the formulation of the law and thus place the law of treaties on a wider and more solid foundation. The existence of those new States also imposed upon the Commission the duty of studying as soon as possible the question of the succession of States and Governments, although its action in keeping that question and the responsibility of States outside the draft articles before the Committee must be approved.

33. The Cypriot Government would submit its comments on the draft articles as soon as possible and he would therefore confine himself to a few general remarks.

34. The Commission had been quite right in specifying in article 55 that the rule pacta sunt servanda should apply to treaties in force. That rule must be interpreted bearing in mind all the draft articles according to which a treaty might not come into force and in particular those draft articles which referred to the invalidity of treaties and their termination.

35. That stipulation was in agreement with paragraph 2 of Article 2 of the Charter according to which obligations assumed by Member States were "in accordance with the present Charter". Thus a treaty could not come into force nor establish obligations within the meaning of article 55 nor within the meaning of Article 2 of the Charter if it had been concluded under the threat or use of force in violation of the principles of the Charter. In such a case it was for the State concerned to decide freely, once it had attained complete equality with all other States, if it intended to continue to observe the treaty in question. That was even more true in cases where the treaty had been imposed upon a people in circumstances which excluded all liberty of decision on its part, before its accession to independence and as the price for such accession.

36. The same applied to treaties which were incompatible with an imperative rule of general international law, for example, a treaty which provided for the unlawful use of force contrary to the principles of the Charter or which contained provision intended to deprive a State of its sovereignty and of its independence, for such provisions rendered the whole treaty invalid.

37. Likewise a treaty could not come into force within the meaning of article 55 if one of the parties had terminated it in good and due form on grounds of the substantial violation of its provisions by the other party.

38. The Cypriot delegation approved the wording of articles 58 and 59 but wished to point out that the essential rule was that the parties to a treaty could not impose an obligation on a third State without its consent. In other words, the notion of constraint and the doctrine concerning unjust treaties applied equally in the case where a State, without any real liberty of choice found itself forced to assume an obligation derived from an agreement to which it was not a party and a fortiori when the third State in question had not yet achieved the capacity of a State and still found itself under a colonial régime.

39. With regard to article 63, the Cypriot delegation approved the Commission for having insisted on the over-riding character of Article 103 of the Charter and went so far as to consider that, if the case should arise, the competent organs of the United Nations should be guided by and apply Article 103 unreservedly.

40. In articles 69, 70 and 71 relating to the interpretation of treaties, it would have been preferable to attach more weight to the maxim ut res magis valeat quam pereat.

41. The Cypriot delegation was glad to note the co-operation established between the International Law Commission and other bodies such as the Asian-African Legal Consultative Committee and the Inter-American Council of Jurists and hope that those ties would be strengthened and increased.

42. The organization of a Seminar on International Law by the European office of the United Nations was an excellent thing and he approved the proposal (see A/6009, chap. V) to organize new seminars during the future sessions of the Commission provided that the participants were chosen on an equitable geographical basis and with regard to the needs of the developing countries.

43. The Cypriot delegation also appreciated the need to hold a winter session in 1966 and if necessary to prolong the 1966 summer session by a fortnight.

44. Cyprus approved the draft resolution submitted by Lebanon and Mexico (A/C.6/L.559) and the amendment proposed by Ghana and Romania (A/C.6/L.560).

45. Mr. HAMID (Ethiopia) said that before commenting on the draft articles on the law of treaties he would wait for the final texts.

46. With regard to the proposal that the International Law Commission should hold a winter session in 1966, he pointed out that those members who held important posts in their own countries were not always in a position to devote all their time to the Commission's work. Mr. Bartoš had requested the Sixth Committee to study the means of improving the working conditions of the International Law Commission so that in future it would encounter fewer difficulties in carrying out its work.

47. Bearing those observations in mind and also the number of questions still to be considered, he was prepared to give the Commission the additional time it had asked for but wondered whether it would not be better to take a wider view and draw up a rational programme of work. For example, it would be possible, if necessary, to fix time-limits for the examination of the various questions, prolong the duration of sessions, extend the term of office of the participants or of certain officers of the Commission and accelerate the submission of comments by States.

48. With regard to the organization of new seminars on international law, it appeared preferable before taking any decision to wait for discussion of item 87 of the agenda and in particular the report of the Special Committee on Technical Assistance to promote the Teaching, Study, Dissemination and Wider Appreciation of International Law (A/5887); further a more precise understanding of the needs of the new States appeared necessary.

49. Mr. WYZNER (Poland) noted with pleasure that the International Law Commission whose members represented the principal legal systems of the whole world had frequently succeeded in finding areas of agreement between States possessing different political and social systems and had been able, thanks to that ability, to draft texts which could be considered as forming part of the generally recognized international law.

50. The success of the mission in its work for the codification of the law of treaties would depend on its attitude as much as upon its anxiety to establish the progressive development of international law.

51. He would not make a separate analysis of the various draft articles but merely recalled that treaties were one of the essential sources of international law and one of the principal instruments for coexistence between States. He hoped that the final text of the draft articles would be in the form of an instrument having obligatory force, preferably a single convention which would condemn in unequivocal terms the kind of unjust treaties to which countries that had recently attained independence had too often been subjected by their former metropolitan countries. It would therefore be advisable for the Commission to give further study to the question of the expression of free will of the parties and the application of the principle of the sovereign equality of States.

52. The interdependence of all nations was a sign of the present era; multilateral treaties and in particular those which established international organizations were one of the most important factors in international co-operation. For that reason the law of treaties should be universal in its scope and the Polish delegation hoped that when the Commission resumed its examination of article 8 on participation in a treaty, it would return to its initial text 7/ which laid down that in the case of a general multilateral treaty every State might become a party thereto.

53. The definition given by the International Law Commission of special missions in its commentary on article 1 of the draft, according to which the task of a special mission should consist in representing the sending State in political or technical matters (see A/6009, chap. III, B) appeared so vague that it might include automatically the thousands of persons who travelled abroad every year for official purposes. Diplomacy today possessed a character which was more functional than representative, and ad hoc diplomacy could not be reduced to purely diplomatic missions; it would probably be necessary to make a distinction between the persons who would be entitled to privileges, immunities and special rights, etc., and those who did not enjoy them. That distinction might subsequently take the level of representation as its criterion.

54. The Polish delegation sympathized with the desire of the International Law Commission to complete its two drafts before the term of office of its members came to an end and for that purpose to extend the duration of its 1966 sessions, but it appeared preferable to solve that question without placing a heavier burden upon the budget of the United Nations.

7/ Official Records of the General Assembly, Seventeenth Session, Supplement No. 9, chap. II.

55. It was an excellent idea to organize seminars on international law during the session of the International Law Commission and the Polish delegation was prepared to support the amendment submitted by Ghana and Romania (A/C.6/L.560) to the draft resolution submitted by Lebanon and Mexico (A/C.6/L.559). With a view to covering the participant's travelling expenses and subsistence recourse might be had to the United Nations Technical Assistance Programme in addition to the grants of fellowships by various countries. If the United Nations Training and Research Institute was considering organizing identical meetings, it would be necessary to co-ordinate the two programmes in order to avoid duplication.

The meeting rose at 1 p.m.

Litho in U.N. 77601—December 1965—2,000