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MEETING**

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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. LAMRANI (Morocco) said that because of its geographical position at the meeting point between the Mediterranean and the Atlantic and between Africa and Europe, and because of its long-established attachment to the principles of peaceful coexistence and the peaceful settlements of disputes as declared by the United Nations and by the Conference of African and Asian States, held at Bandung in 1955; the Conference of Heads of State or Government of the Non-Aligned Countries held at Belgrade in 1961; the Second Conference of Heads of State or Government of the Non-Aligned Countries, held at Cairo in 1964; the Conference of Independent African States, held at Casablanca in 1961, and the Summit Conference of Independent African States, held at Addis Ababa in 1963. Morocco cherished great hopes that the work of the International Law Commission would result in conditions which would ensure the rule of law in a world hitherto dominated by the demands of the great and the selfishness of the rich. Those hopes were sustained by the Commission's reports on the work of its sixteenth (A/5809) and seventeenth (A/6009) sessions.

2. The Moroccan delegation was fully aware of the complexity of the task entrusted to the International Law Commission and the Sixth Committee, but considered that that task was made easier by the efforts of the members of the Commission to approach their work not only as jurists but also as innovators searching for what Mr. Bartoš, the Commission's Chairman at its seventeenth session, had called "rules adapted to the conditions of the contemporary international community" (839th meeting). The Moroccan delegation would add to that description the words "and conforming with the concerns and aspirations of that community". Mr. Ago, the Commission's Chairman at its sixteenth session, had pointed out at the 843rd meeting that the great codifications of municipal law in the past had frequently coincided with great revolutions and that in the light of the

events which the world had witnessed in the twenty years since the founding of the United Nations the codification of international law had taken on great urgency.

3. Thus, if a need for codification was felt in such circumstances, it was because it was felt that existing practices should be reviewed so that the law might be modernized and given a new ethical basis and authority, or, in other words, so that the concerns and aspirations of the moment might be projected on the legal plane. That being so, the aspirations of the developing countries and peoples who had for long been deprived of their rights and were now demanding greater guarantees of their independence, freedom and dignity could no longer be ignored, and in the opinion of the Moroccan delegation the progressive development and codification of international law could only have their full beneficial effect on the international community if they were viewed in that light.

4. The Moroccan delegation generally approved the reports of the International Law Commission and fully agreed with the Commission's decision to codify the three sections of draft articles on the law of treaties in the form of a single convention. The Moroccan delegation also wished to express its appreciation of the pioneer work carried out by the Commission on the subject of special missions, which were becoming more and more frequent with the closer and more diversified relationships between States, and hoped that the final report on that question would be ready for submission to the twenty-first session of the General Assembly. It therefore supported the Commission's proposal to hold an extraordinary winter session in 1966 and possibly to extend its 1966 regular summer session.

5. Finally, the Moroccan delegation welcomed the initiative of the European Office of the United Nations in organizing a Seminar on International Law and hoped that the next seminar would be attended by more nationals of developing countries, in conformity with the spirit of General Assembly resolution 1968 (XVIII).

6. Mr. FLITAN (Romania) said that his delegation fully supported the proposal to give the proposed codification of the law of treaties the form of a single convention rather than of a code, for although the draft articles had been prepared in three separate parts the close links between them made it essential for them to be united in a single instrument. The Romanian delegation also welcomed the fact that the draft articles before the Committee related only to treaties concluded between States and not to those involving international organizations, since States,

which had full capacity to enter into treaties, were in a totally different position from international organizations, whose authority in that respect was limited to that granted to them by their member States. Rules of international law regarding treaties concluded between States were therefore inapplicable to agreements in which international organizations participated.

7 As far as the individual draft articles were concerned, the Romanian delegation wished to make some remarks of a provisional nature without prejudice to the final comments to be made at a later date by the Romanian Government. In article 1 (sec. A/6009, chap. II, B), which defined some of the terms used in the draft, the Romanian delegation considered that it would be desirable to insert a new paragraph to define the differences between declarations and reservations. Relatively recent practice had shown that some States were inclined to express desiderata concerning the provisions of certain international agreements, which did not amount to reservations but merely a wish concerning the development of a situation. It was clear, for example, that international conventions containing provisions from which all the nations of the world could benefit should also be applied in territories which had not yet gained their independence, and there were also cases where the application of the terms of conventions might promote the very process of accession to independence, so it was desirable that in such cases the conventions should contain a declaration expressing the need to put an end as quickly as possible to situations of colonial dependence which were contrary to modern international law. It was the practice of the Romanian Government, in such cases, to include in the instrument of ratification of the convention a declaration—totally different in character from a reservation—which expressed those convictions.

8. In articles 18-22 (*ibid.*), regarding reservations to multilateral treaties, the Romanian delegation appreciated the efforts made by the Commission to take account of the views expressed in the discussions on those articles but thought that paragraph 4 (b) of article 19 was unsatisfactory in that it provided for an excessively severe procedure, whereas it would be much better to assume in such cases that the treaty should be considered to be in force between the two States except when the State objecting to a reservation made an express declaration that it did not consider the treaty to be fully in force between itself and the State which had made the reservation. That would contribute towards the solution of the problem of ensuring wider participation by States in multilateral treaties.

9. The Romanian delegation welcomed the stipulation in article 68 (c) (see A/5809, chap. II, B), that the operation of a treaty could be modified by the subsequent emergence of a new rule of customary law relating to matters dealt with in the treaty and binding upon all the parties. That provision would have the valuable function of ensuring that treaties automatically reflected later changes in the general principles of international law, the need for the evolution of which in accordance with the most advanced contemporary ideas was accepted both by the majority of international

jurists and by world public opinion. Thus, for example, the principles of sovereignty and national independence, of equal rights, of non-intervention in the internal affairs of another State and of mutual benefit had acquired a new, more precise and richer sense which should be reflected in the interpretation of treaties now in force.

10. A matter which was worthy of the Committee's closest attention was that raised by the second sentence of article 65, paragraphs 1 and 2 of article 66 and paragraph 2 (b) of article 72, which appeared to open the way to contradictions between the desires of States parties to treaties and the rules established by international organizations. Thus, although paragraph 1 of article 66 provided that every party had a right to have proposals regarding the amendment of a multilateral treaty communicated to it, such a party's right to take part in decisions as to the action to be taken in respect of such proposals and to take part in the conclusion of any agreement for the amendment of the treaty, as well as the principle that an agreement amending a treaty did not bind any party to the treaty which did not become a party to such an agreement, were made subject to the established rules of an international organization.

11. The Romanian delegation considered that such provisions regarding the established rules of an international organization were incompatible with the fundamental principle that no treaty could be amended except with the participation and/or consent of the States parties to it. The exceptions proposed in connexion with established rules of international organizations were such as to create confusion in the interpretation of treaties, and the Romanian delegation therefore proposed that they should be deleted.

12. With respect to the draft articles on special missions (see A/6009, chap. III, B) it would appear that States were taking an increasing interest in that subject and therefore certain questions arose; for instance, should the rules governing special missions be embodied in a convention different from the 1961 Vienna Convention on Diplomatic relations^{1/} or in a protocol to that Convention? His delegation accepted the view widely held that special missions were distinct from permanent diplomatic missions and considered that the rules regarding the former should be set out in a single separate convention to be drafted at a special conference of plenipotentiaries. It should not be forgotten, in any case, that the time which had elapsed since the adoption of the Vienna Convention on Diplomatic Relations might, in the case of some countries, have brought about a change of attitude towards that Convention.

13. The Romanian delegation appreciated the Commission's efforts to develop co-operation with other bodies but considered that further measures should be taken to increase it and that in spite of its heavy agenda the Commission should discuss the possibility of extending it co-operation with the main international legal organizations in the interests of international law as a whole.

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

14. The Seminar on International Law described in paragraphs 70 to 72 of the Commission's report on the work of its seventeenth session (A/6009) had been warmly praised by all speakers, and the delegations of Romania and Ghana had therefore submitted an amendment (A/C.6/L.560) to draft resolution A/C.6/L.559 in which they advocated the organization of further seminars of that type. Before doing so, they had asked themselves whether the matter should not rather be raised in connexion with agenda item 89 concerning technical assistance to promote the teaching, study, dissemination and wider appreciation of international law, but had finally concluded that the proposal to hold further seminars should be made in the resolution regarding the two reports of the International Law Commission, as the seminars should be held at the same time as the Commission's sessions and in close co-operation with the Commission's activities.

15. In his statement to the Committee (843rd meeting), the Chairman of the International Law Commission at its sixteenth session, Mr. Robert Ago, had referred to the crisis through which international law was passing. In the opinion of the Romanian delegation, however, that crisis was not confined to international law, but affected the United Nations as a whole and its capacity to serve as an instrument for the promotion of international co-operation and peace founded on equality and justice. As Mr. Corneliu Manesco, the Minister for Foreign Affairs of Romania and head of the Romanian delegation to the twentieth session of the General Assembly had recently said (1353rd plenary meeting), the United Nations could only be strengthened by scrupulously respecting the Charter, taking account of the realities of the changing present-day world, and displaying complete respect for the principles of self-determination and the sovereign equality of States; indeed, the United Nations had achieved positive results only where its actions had been in accordance with those principles.

16. Seen from that point of view, the role of international law was undoubtedly immensely important. It

was unfortunately true that theories were put forward from time to time in the specialized literature which were aimed at undermining certain fundamental notions regarding the role that international law should play in the development of international co-operation and the promotion of peace and progress, while the notion of sovereignty was sometimes put forward in a denatured form so as to prove that it was out of date and had no place in the consideration of international co-operation. In the opinion of the Romanian delegation, however, the sovereignty of States could not possibly be a hindrance to international co-operation between free and equal States, whether large or small, and the present conception of international co-operation made it necessary that each country should be in a position to affirm itself as a national entity and to make its own specific contribution. That consideration should be kept constantly in mind by jurists working with the United Nations to codify the principles of present-day international law into a law which was universally recognized because it was acceptable to all the States of the world.

17. Mr. DE LA VEGA SOLIS (Guatemala) said that his delegation greatly appreciated the work done by the International Law Commission in accordance with the provisions of Article 13 of the United Nations Charter. The delegation of Guatemala supported the Commission's proposal to hold an extraordinary winter session in 1966 and possibly to extend its regular summer session in that year, and supported the draft resolution submitted by Lebanon and Mexico (A/C.6/L.559), as amended by Ghana and Romania in document A/C.6/L.560. The Guatemalan delegation also supported the Costa Rican amendment (A/C.6/L.561) calling upon Member States, non-governmental organizations and foundations to grant fellowships to participants in future seminars on international law, which had a great contribution to make to the better dissemination of international law and the improvement of facilities for training and specialization in that discipline.

The meeting rose at 4 p.m.