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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 (continued) (A/5809, A/6009; A/C.L.557-L.561)

1. Mr. BAZAN (Chile) said that he merely wished to express a few preliminary ideas on the draft articles on the law of treaties and that his Government reserved the right to submit more detailed comments in due course.

2. The International Law Commission was to be commended for having decided to draft its articles in the form of a single convention. The conclusion, entry into force and registration of a treaty, its invalidity and termination as well as its application, effects, modification and interpretation were components of a single whole—treaty relations between States—and the rules relating to them could not be fragmented without losing some of their coherence and effectiveness.

3. It was regrettable that the draft articles failed to restate one of the basic principles of the law of treaties, namely, that if a treaty did not contain provisions for its termination or denunciation, it could not be terminated by the unilateral action of any party and could only cease to be in force as a result of the common agreement of all the parties.

4. That principle could no doubt be inferred from article 55 (see A/5809, chap. II, B), which provided that a treaty "in force" was binding upon the parties, if it was taken in conjunction with articles 38 and 39,[1] which stipulated that a treaty came to an end either through the operation of its provisions or by denunciation if the latter was explicitly or implicitly authorized by the treaty—a proviso that precluded unilateral denunciation—and with articles 31 and 40,[1] which provided that the agreement of the contracting States was the supreme law governing termination of a treaty. It would nevertheless be preferable to include an express provision in the draft articles analogous to article 34 of the Harvard draft,[2] which provided that a party could not denounce a treaty unless provision was made in the treaty for such denunciation or the other parties gave their consent.

5. The question of the invalidity and termination of treaties was dealt with in an excessive number of provisions which were of a regulatory rather than a codifying nature and the general effect of which was sometimes nebulous or indeed contradictory.

6. For example, article 31 started out by stating that the fact that a provision of the internal law of a State had not been complied with did not invalidate the consent expressed by its representative, unless the violation of its internal law was "manifest" and that, save in the latter case, a State could not withdraw the consent expressed by its representative unless the other parties to the treaty so agreed. That last clause was not only superfluous, it was incorrect because in the case in question the State concerned did not withdraw its consent but was released from its obligations by the mutual agreement of the parties to proceed no further.

7. Similarly, article 38, paragraph 1, stated that a treaty terminated through the operation of one of its provisions: (a) on such date or on the expiry of such period as might be fixed in the treaty; (b) on the taking effect of a resolutory condition laid down in the treaty; and (c) "on the occurrence of any other event specified in the treaty as bringing it to an end", the third clause necessarily overlapping with one of the first two. In paragraph 3 of the same article, the effect of stating that "when a party has denounced or withdrawn from a multilateral treaty in conformity with the terms of the treaty", was to divide a single termination clause into two acts while implying that only one of those acts had to be in conformity with the terms of the treaty. It would have been better in both cases to avoid redundancy.

8. Generally speaking, part II of the draft articles should be simplified and reduced to its essentials as had been done for part I (see A/6009, chap. II, B). However, certain gaps should also be filled.

9. For example, article 36 introduced a principle which was lex lata in contemporary international law by providing that "any treaty the conclusion of which was procured by the threat or use of force in violation of the principles of the Charter of the United Nations shall be void". That was both an innovatory and a judicious provision since it did not affect measures of individual or collective self-defence aimed at repelling an armed attack which, if taken within the

[1] See Official Records of the General Assembly, Eighteenth Session, Supplement No. 9, chap. II, B.

[2] Harvard Law School, Research in International Law, III, Law of Treaties, p. 1173. (Supplement to the American Journal of International Law, vol. 29, 1935).

framework of Article 51 of the Charter, could go so far as to impose the conditions of peace upon an aggressor without thereby nullifying his consent. But in the view of the Chilean delegation, the notion of coercion should not be limited to the threat or use of force, but should also include, as did the Charter of the Organization of American States,[3] other forms of pressure, in particular economic or political pressure, if the future convention was truly to safeguard the principle of the sovereign equality of States. Furthermore, it should be stated whether that article was to take effect from 1945, the date of the adoption of the United Nations Charter, or from the date of the entry into force of the convention. The first alternative, which would again call into question most of the peace treaties which had brought the Second World War to a close, seemed to be excluded by article 56, which provided that treaties were not retroactive. It would be preferable, however, to state explicitly that neither article 36 nor any of the other articles establishing the grounds for invalidating a treaty would have retroactive effect.

10. Several articles dealt with acts invalidating a treaty or terminating it before the due date, and while they were indispensable in order to ensure that treaties represented the genuine expression of the will of States and to secure universal respect for certain principles of law which prevailed over the will of States, as now drafted they unfortunately seemed to create or legalize the possibility of evading compliance with treaties.

11. Thus, article 31 implicitly authorized States to withdraw the consent expressed by their representatives by claiming that a provision of their internal law had been violated in a "manifest" manner, but actually left the criterion for deciding what was "manifest" to the subjective judgement of States.

12. Article 32 covered two cases where the representative of a State had exceeded his authority: in the first, the act of the representative was without any legal effect; in the second, the validity of the State's consent could only be "affected". In that instance, too, nothing prevented the party alleging the irregularity from determining its effects subjectively.

13. Articles 33, 34 and 35 dealt with fraud, error and personal coercion of representatives of States, all of them grounds for claiming invalidation of consent, while articles 42 and 44 provided that the breach of a treaty or a fundamental change of circumstances could be invoked by the party concerned as grounds for terminating the treaty. None of those articles, however, fixed a time-limit for submitting those claims or specified a legal forum to which they might be submitted.

14. Articles 36 and 37 declared void treaties the conclusion of which had been procured by the threat or use of force in violation of the principles of the Charter of the United Nations and treaties conflicting with a peremptory norm of general international law, and article 45 stated that a treaty became void and terminated when a new peremptory norm of general international law with which the treaty conflicted was established. In those three cases, the nullity was absolute, it could not be remedied by ratification and it did not have to be proclaimed by decision of a higher legal authority or even to be claimed by the parties, since any State which regarded itself as coming under those provisions was free to terminate the treaty unilaterally and to release itself from the obligations it imposed.

15. All those articles were an invitation to arbitrariness, despite the safeguards provided in article 51 to eliminate that danger. The draft should objectively define the acts which might result in the invalidation of treaties or their termination before the due date, it should fix the time-limits within which claims might be put forward with a view to obtaining the termination or voiding of a treaty and it should require that in all cases, even one involving absolute nullity, the grounds invoked should be judged by an arbitral or judicial court.

16. Realizing as he did the magnitude of the International Law Commission's task, he agreed that it should hold special sessions, but he considered it essential that the Commission should amend its programme of work and devote itself exclusively to the draft convention on the law of treaties during the proposed January 1966 session and the 1966 summer session which would follow, and only after the draft had been completed, should it resume the study of the draft articles on special missions.

17. The Seminar in International Law, held at Geneva during the Commission's seventeenth session was a most praiseworthy initiative the benefits of which should be extended to all regions of the world. To that end, the Commission might consider holding sessions in Latin America, Africa or Asia in the near future.

18. Mr. DELEAU (France) reserved the right to comment in detail on the latest report of the International Law Commission when the final texts proposed by the Commission on the law of treaties and on special missions were known. Meanwhile, he would confine himself to a few preliminary remarks.

19. First of all, he wished to join the Brazilian representative (840th meeting) in congratulating the Commission on having set itself the task of defining, drafting and codifying while leaving it to States and their representatives to lay down the law. It would indeed be for the latter to decide what was to become of the draft articles and, in particular, whether the draft articles on the law of treaties should be given the form of a convention or a declaration. His delegation would prefer the latter alternative, since it could not see how one could draw up a treaty on the method of drawing up a treaty and believed that it would be better to define the form in which it was desirable for future treaties to be drawn up.

20. On the other hand, the draft convention on special missions would certainly be useful, especially if it employed the same terminology as the 1961 Vienna Convention on Diplomatic Relations[4] while remaining independent of that Convention. In its case, as in the other draft articles, a simple and brief formulation

[3] United Nations, Treaty Series, vol. 119 (1952), No. 1609.

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

was preferable to rigid and detailed provisions. Codification did not consist in making provision for everything but merely in formulating general rules and leaving it to time, experience and judicial interpretation to do the rest.

21. He also recalled the reservations which his delegation shared with others concerning the alleged supremacy of peremptory norms of general international law over other rules of law. The application of such a concept would be made very difficult, and hence disputable, by the lack of criteria for determining with certainty whether a rule of international law was a part of jus cogens. The only principles that could be regarded without hesitation as having pre-eminence were those embodied in the Charter, but in that case they derived their authority from conventional law.

22. As to the Commission's further work, it seemed desirable that it should first complete the work already begun on the law of treaties and the status of special missions, but his delegation had some doubts about the advisability of providing for a 1966 winter session and an extension of the 1966 summer session for that purpose. Such a measure would require a considerable effort of the members of the Commission, which would hamper the exercise of the professional pursuits that formed the very basis of their qualifications and experience. Moreover, it would conflict with the calendar of conferences plan, under which the Commission was to hold an annual session at Geneva, at the very time when the Secretary-General of the United Nations had appealed to Members to limit the extension of the programme of meetings. Lastly, the financial implications of such a decision would more than double the usual budgetary allocation for the International Law Commission, and therefore if that proposal was maintained the French delegation considered that the Fifth Committee would have thoroughly to examine its financial implications. For those reasons, the presence in draft resolution A/C.6/L.559 of the paragraph relating to a 1966 winter session and an extension of the 1966 summer session would compel his delegation to abstain from voting.

23. With regard to the amendments proposed by Ghana and Romania (A/C.6/L.560) and by Costa Rica (A/C.6/L.561) concerning the seminars on international law, his delegation endorsed the idea behind those proposals but wished to point out the desirability of providing for a linking up of the activities relating to such seminars with technical assistance programmes to promote the teaching, study, dissemination and wider appreciation of international law. It would perhaps be preferable, therefore, for the Sixth Committee to formulate such recommendations when it examined the latter question (agenda item 89) rather than in connexion with the reports of the International Law Commission.

24. Mr. LIU (China) paid a tribute to the International Law Commission for the important work it had done in the codification of the law of treaties and, in particular, for the abundant and learned commentaries which accompanied the draft articles. He did not propose to comment on part III (see A/5809, chap. II, B), the text of which was still provisional and on which the various Governments had not commented. On the other hand, his delegation was gratified that the Commission had taken the observations of Governments into account in revising part I (see A/6009, chap. II, B). It also welcomed the fact that the Commission had postponed decision on articles 8 and 9. In its opinion, from the point of view of theory and State practice, the concept of universality—the idea that every State or entity had the right to become a party to a treaty—was in contradiction with the very nature of treaties, which were recognized to result from the establishment of a consensual relationship. Even the theorists of natural law had never claimed that participation in a treaty was a right similar to the right of independence and sovereignty. To recognize such a right would, in the last analysis, be to deny the basis of Article 4 of the Charter of the United Nations, which imposed specific conditions on the admission of new Members. Moreover, the argument that every State had the right to become a party to a treaty had already given rise at international conferences to disputes as to how the depositary of a treaty would decide whether a given entity constituted a State and as to who could take such a decision if the depositary could not.

25. In reality, the question of participation in a treaty should be left to the decision of the States participating in the conference. His delegation therefore associated itself with the objections raised by the United States Government against paragraph 1 of the original text of article 8 (see A/CN.4/177), since it considered that it was a fundamental rule of treaty law that in the absence of a provision allowing additional States to participate, it was impossible for them to do so except by agreement of the parties to the treaty. Treaties concluded under the auspices of the United Nations should continue to be governed by the so-called Vienna formula (article 48 of the 1961 Vienna Convention and article 73 of the 1963 Vienna Convention) whereby participation was open to all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and any other State invited by the General Assembly of the United Nations to become a party. That formula, incidentally, had been introduced prior to the Vienna Conference and had been used, in particular, at the United Nations Conference on the Law of the Sea, held at Geneva in 1958.

26. He was also gratified to note that the Commission had postponed a decision on the definition of a general multilateral treaty. To define such a treaty as a multilateral treaty relating to general rules of international law or dealing with matters of general interest to States as a whole might constitute too uncertain a criterion to be employed usefully in a draft convention.

27. His delegation approved the recommendations in operative paragraph 3 of the draft resolution submitted by Lebanon and Mexico and would vote in favour of the draft resolution as a whole.

28. Mr. YASSEEN (Iraq) said that the examination of the International Law Commission's reports was one of the most important tasks of the Sixth Committee. It enabled the General Assembly to be associated with every stage of the codification and

progressive development of international law. It ensured that the work of the Commission would bear on the most recent developments in the international community, since the Commission's study of the General Assembly debates on its reports provided it with inspiration and experience.

29. The International Law Commission, wishing to complete the study of the law of treaties and the question of special missions before the terms of its present members expired, had established a programme of work to that end and intended to convene a session in January 1966 and, if need be, to extend its 1966 summer session. His delegation approved those decisions. It also welcomed the fact that the Commission was maintaining direct and continuous relations with certain inter-governmental bodies also concerned with the codification and development of international law, namely, the Inter-American Council of Jurists and the Asian-African Legal Consultative Committee. Those direct relations would give the Commission a better awareness of the different trends of ideas in various regions of the world; at the seventh session of the Asian-African Legal Consultative Committee, held at Baghdad in March 1965, he had been able to note how highly appreciated had been the presence at that session of Mr. Ago, the Commission's observer. It would be desirable for the Commission to maintain relations with other regional bodies as well.

30. He congratulated the European Office of the United Nations on having organized a Seminar on International Law in 1965, and he commended the Commission for recommending the holding of other seminars; it should be possible, however, to include a reasonable number of participants from developing countries. The organization and programme of the seminars should be studied thoroughly, and it would be desirable for the Sixth Committee to consider that problem when it took up agenda item 89 (Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law).

31. He would limit himself to a few general observations regarding the draft articles on the law of treaties. Treaties had become the source, above all others, of international law, for the international community had undergone many changes and custom could no longer supply the rules of law required by the world in its present state. Its rate of formation was too slow and it was not adapted to the rapid evolution of the international society of today. The codification of the law of treaties was therefore of particular importance and the International Law Commission was to be complimented on having decided to embody the draft articles in a single convention rather than in a code. The rules concerning treaties should be as clear as possible and indisputable in order to obviate controversies and difficulties and the treaty form alone could ensure those advantages. Moreover, advantage should be taken of the occasion in order to allow the new States to share in the drawing up of the convention so as to show clearly that the formulation of the law of treaties was no longer the privilege of certain States. The principle of the sovereign equality of States must be applied in its entirety.

32. The Iraqi delegation thought that it would be advisable to allow all States to become parties to certain multilateral treaties. It would be quite incompatible with the very nature of those treaties to make them closed treaties. The International Law Commission had postponed its decision on the point, but it was to be hoped that it would finally adopt the more liberal solution, above all with regard to certain treaties the nature of which was inconsistent with their being open to some States to the exclusion of others. He would not state his opinion regarding the theory that the opening of treaties to all States was a matter of jus cogens, but it appeared indispensable to admit that if the treaty was silent on the point it should be presumed open, above all in the case of codification treaties.

33. The International Law Commission had done well to submit the draft articles in the form of a single convention as the different parts of the draft were complementary to each other and it would hardly be logical to distribute them among several instruments. The Commission had also been quite right in concentrating its work on treaties between States. Treaties between international organizations were certainly important but they gave rise to special problems. Moreover, it would be easier to undertake the codification of the law of treaties between international organizations or between such organizations and States once that of the law of treaties between States had been completed.

34. There was no need to produce evidence in support of the importance of special missions. That form of diplomacy had been frequently used by the Arab countries for many, many years. It had recently been considerably expanded and the need for regulations governing special missions was being felt more and more for very few rules of general international law related to such missions. It was therefore more a question of the progressive development of international law than of codification in the strict sense, whence the importance and difficulty of the task of the Special Rapporteur, Mr. Bartoš, who in dealing with special missions had acquitted himself of his task most admirably. The draft articles would seem in their general lines already to constitute the foundations for a convention. It would be preferable for them to constitute a separate convention instead of forming an additional protocol to the 1961 Vienna Convention. It should not be forgotten as the International Law Commission had pointed out in its report on the work of its seventeenth session: "Special missions are, both by virtue of their functions and by their nature, an institution distinct from permanent missions" (see A/6009, para. 37). Furthermore, each of those institutions might develop in a different way and their fate might therefore not be the same. To link them with one another might not therefore correspond to reality: it might even unnecessarily hamper their possible development in different ways or in ways which were not exactly the same and it might therefore be harmful to each.

35. The draft resolution of Lebanon and Mexico (A/C.6/L.559) and the amendments submitted by Ghana and Romania (A/C.6/L.560) deserved support. Nevertheless, the Iraqi delegation reserved the right to comment thereon later if necessary.

36. Mr. ALCIVAR (Ecuador) thanked the Chairmen of the sixteenth and seventeenth sessions of the International Law Commission who had brought to the Sixth Committee a message of confidence in the progressive development of international law in addition to their supplementary explanations concerning the documents under consideration. He recalled that the United Nations had been founded on the principles of universality and the ideal of justice which had been expressly laid down in the preamble to the Charter, the second being in response to the special request of the Latin American countries. The rapid pace of history and the desire for justice which was becoming more and more manifest required unceasing adaptation on the part of the United Nations and its specialized agencies to the realities of a world society in constant evolution; for that purpose, the Charter had made provision not only for the progressive development but also for the codification of international law, the necessary foundation of peaceful coexistence of peoples. That task had been entrusted to the International Law Commission which had carried it out with competence and a sense of social responsibility. According to the statute of the International Law Commission the work of development applied to lex ferenda and the work of codification to lex lata, but those two functions fitted closely together in practice.

37. He said that it was in the light of justice, the final and supreme aim of the law that he viewed article 55 of the draft codification of the law of treaties, which set out the rule of pacta sunt servanda in the words "A treaty in force is binding upon the parties to it and must be performed by them in good faith". That rule of customary law must be considered with particular attention today, for while it remained fully in force as a guarantee that obligations entered into by the parties to international treaties would be carried out, its application was subject, by law and by necessity, to the provisions of the Charter of the United Nations. He recalled the principle expressed in paragraph 2 of Article 2 of the Charter, mentioned by the International Law Commission in the corresponding commentary, which laid down that: "All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter". He analysed the element of good faith as an incontestable principle of contract law which was an essential prerequisite in the conclusion of contracts and stated that good faith was a condition sine qua non in the conclusion of international treaties and indivisible; if it were lacking in the act which created the obligations it could not be partially invoked in order to demand their fulfilment; lack of good faith compromised the honour of States, and honour was not divisible. A more careful examination of the paragraph of the Charter referred to showed that the duties imposed on Members of the United Nations were subject to the condition that the obligations in question must have been assumed in accordance with the Charter. The prohibition of the threat or use of force, respect for the territorial integrity and political independence of States, the principle of the self-determination of peoples, the sovereign equality of States, the prohibition of intervention in matters which were essentially within the domestic jurisdiction of States, respect for human rights and for fundamental freedoms—all those were peremptory rules of international public policy, embodied in the Charter to which there could be no exceptions and which had acquired the character of jus cogens and the status of constitutional precepts. Consequently, the rule of pacta sunt servanda could not redeem an international agreement which violated the provisions of the Charter of the United Nations, Article 103 of which stated: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail". Legal authorities were generally agreed that that precept, as well as radically changing the principles which had previously held sway in classical international law, could give rise to four distinct hypotheses: (1) treaties concluded between Members of the United Nations before the Charter came into force; (2) treaties concluded between Members of the United Nations since the Charter came into force; (3) treaties concluded between Members and non-members of the United Nations before the Charter came into force, and (4) treaties concluded between Members and non-members of the United Nations since the Charter came into force. In the first and third cases the rule of lex posterior derogat priori applied, while in the second and fourth cases the contrary rule of lex prior derogat posteriori applied. The provisions of Article 103 were based on the constitutional character of the Charter, the provisions of which prevailed over any other international convention concluded before or after the Charter came into force, although some treaty experts considered that the application of the provisions of the Charter to treaties concluded between Members and non-members of the United Nations was subject to certain limitations. He considered that it was not the moment to stir up again all the theories to which the study of that article had given rise, but he stated that the interpretation generally accepted by commentators was that which he had just outlined. It was on that basis, then, that the International Law Commission had formulated part II of the draft codification of the law of treaties in such a way as to give the effect of total nullity to treaties incompatible with the provisions of the Charter, thus applying the Latin legal axiom quod ab initio vitiosum est non potest tractu temporis convalescere. Those who clung to the past might consider that the acceptance in positive law of defects vitiating consent, violations of norms of law which had the character of jus cogens, and the principle of rebus sic stantibus as causes of nullity of treaties would mean the total destruction of the principle of pacta sunt servanda as a sacrosanct institution. He wished to make it clear that he had no intention of disavowing that principle; on the contrary he would say that the recognition of those causes of nullity would strengthen, rather than weaken, it. Contracts under the internal law of the contracting parties could be annulled when the requirements of substance and form prescribed by that law had not been complied with, but that did not weaken the authority of contract law. In the international sphere, the theory of the sanctity of treaties was not and could not be absolute. Treaties imposed

by force, those procured by deceit or fraud, those conflicting with peremptory norms of general international law, those which could not be carried out because of supervening unforeseen situations or through fundamental changes in circumstances—in a word, unjust treaties—could not be considered sacrosanct nor could the rule of pacta sunt servanda apply in their case unless injustice was to be made sacrosanct in the eyes of international public opinion.

38. The International Law Commission had preferred to gather together the various elements of the law of treaties into a convention, whereas certain delegations had shown their preference for a code. The choice between those two formulae raised a delicate problem and the special Rapporteurs had also expressed differing opinions on the matter. It was difficult to reject the arguments put forward by one of them in favour of the second formula, in particular the fact that the law of treaties was not of conventional origin as recognized by the Commission itself. He queried whether during the task of codification it was necessary to retain solely those provisions which laid down obligations or should the rules that constituted and declared rights also be retained. In the end it would be for the General Assembly to solve that question which was of major importance.

39. The delegation of Ecuador wished to stress the importance of the work of codification that had been carried out with regard to special missions; although they had existed much longer than permanent diplomatic missions, their operation had not been governed by any customary practice before the Conference on Diplomatic Intercourse and Immunities, held in Vienna in 1961. He would reserve his comments on that subject until his Government had given its final opinion.

40. The delegation of Ecuador, being always desirous of facilitating the work of the International Law Commission was in favour of organizing a winter session in 1966 and the prolonging of the 1966 summer session. It also approved the organization by the European office of a Seminar on International Law and hoped that further seminars would be held. The delegations of Israel and Brazil deserved thanks for their generous offers in that connexion. It should be remembered that the General Assembly had set up at its eighteenth session the Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law. Ecuador was a member of that Committee which for some considerable time had recommended the organization of regional and world seminars. It would therefore be advisable to co-ordinate the efforts of the various organizations for that purpose.

Organization of work (A/C.6/369, A/C.6/L.558)

41. The CHAIRMAN recalled that at the 838th meeting the Committee had decided to discuss first the question of the reports of the International Law Commission and to take no decision on the organization of its work until the delegations had held private consultations. In view of its heavy agenda, it was now important for the Committee to decide without delay the order in which it would consider the various items. In accordance with the recommendation of the Ad Hoc Committee on the Improvement of the Methods of Work of the General Assembly, which had been approved by the General Assembly in resolution 1898 (XVIII), each of the Main Committees was to establish its programme of work as soon as possible in order to transmit it to the General Committee. Moreover, delegations wished to know in advance the order in which the items were to be discussed, so that they could make their arrangements accordingly.

42. It appeared from the private consultations which had taken place among the delegations that there were two prevailing views. Some delegations would like the Committee to consider agenda item 90 (Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations) immediately after item 87 (Reports of the International Law Commission). Others would prefer the Committee to consider the other agenda items before turning to item 90. All delegations were, however, in agreement that that question, the most important one before the Committee, deserved very special attention.

43. It might be possible to reconcile those two viewpoints by following the order adopted in the letter from the President of the General Assembly to the Chairman of the Committee (A/C.6/369). In that case, the Committee would discuss agenda items 88 (General multilateral treaties concluded under the auspices of the League of Nations) and 89 (Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law) following its consideration of item 87.

44. He also wished to call the Committee's attention to the vote by the Secretariat (A/C.6/L.558) proposing that item 90 and item 94 (Observance by Member States of the principles relating to the sovereignty of States, their territorial integrity, non-interference in their domestic affairs, the peaceful settlement of disputes and the condemnation of subversive activities) should be considered jointly because of the close link existing between them, and to the fact that several delegations were of the opinion that the starting date for consideration of those two items should be set at 5 November.

45. Thus, the Committee could discuss the items in the order in which they appeared in the letter from the President of the General Assembly. It would consider items 88 and 89—and others, if possible—before 5 November, and on 5 November it would take up items 90 and 94.

46. The Committee could also give thought to the possibility of establishing, in accordance with General Assembly resolution 1898 (XVIII), sub-committees or working groups of limited size to deal with such questions as the draft Declaration on the Right of Asylum (item 63) and the consideration of steps to be taken for progressive development in the field of private international law with a particular view to promoting international trade (item 92).

47. Replying to questions by Mr. CHAMMAS (Lebanon) and Mr. WERSHOF (Canada), the CHAIRMAN stated that if the Committee completed its consideration of items 88 and 89 before 5 November it would go on to item 103 (Amendments to the rules of procedure of the General Assembly consequent upon the entry into

force of the amendments to Articles 23, 27 and 61 of the Charter of the United Nations) and that it did not have to take an immediate decision on the question of working groups, to which he had referred merely in order to permit delegations to give the matter some thought.

48. Mr. HAMID (Ethiopia) said that his delegation had not been among those consulted on the organization of further work. It would like to have an opportunity to think the question over before taking a position.

49. The CHAIRMAN said that the conversations had taken place between delegations and not between the Chair and delegations. He felt that he had allowed the members of the Committee sufficient time to enable them to take a decision now without further delay.

50. Mr. HAMID (Ethiopia) observed that the Committee had decided that members would have an opportunity to hold private consultations and not simply conversations. Since those consultations had not taken place, it might be desirable to hold formal consultations for the purpose of deciding the priority to be given the various agenda items.

51. Mr. SINCLAIR (United Kingdom) appealed to the Ethiopian representative to agree to the programme of work suggested by the Chairman. Delegations could reflect further on the possibility of establishing working groups.

52. Mr. CHAMMAS (Lebanon) said that although his delegation, too, had not participated in any consultations or conversations, it felt that the Committee should be able to take a decision now.

53. Mr. LAMRANI (Morocco) said that he would like some further information so that his delegation could take a decision. He did not have sufficient facts and was not familiar with the arguments put forward during the conversations in favour of amending the programme of work submitted by the Secretariat.

54. Mr. VANDERPUYE (Ghana) said that he appreciated the Secretariat's efforts to organize the programme of work since item 94 had been included in the agenda at the request of the delegation of Madagascar, it would be appropriate to consult the representative of that country before deciding whether it should be considered jointly with item 90.

55. The CHAIRMAN pointed out to the representative of Morocco that he had merely followed the suggestions made by the President of the General Assembly in his letter of 27 September. The arguments presented on each side were well known. Some delegations had also thought it necessary to do preparatory work before the debates, and it was for that reason that a date had been set for consideration of agenda item 90.

56. Mr. STAVROPOULOS (Legal Counsel) said that the key to the problem was to be found in the document on the organization of work (A/C.6/L.558). Since the Committee could not hold more than sixty meetings and twenty-eight of them had to be devoted to agenda item 90, it had not been possible to set aside a meeting for item 94; however, it had always been intended that those items should be considered jointly. In reply to the representative of Ghana, he wished to point out that the decision had been taken after consultation with the delegation of Madagascar, whose representative would not arrive until the following week and would be able to provide any necessary explanation himself. Since it was essential either to begin consideration of item 90 without delay or to complete consideration of all the other items and devote the subsequent meetings to that item, an effort had been made to combine the two approaches by deciding to consider the reports first, then whichever items the Committee was ready to discuss, and after that items 90 and 94, the most important ones, starting 5 November at the latest, so that a sufficient number of meetings could be devoted to them. He therefore suggested that consideration of the reports should be completed on the following day, 14 October, following which the Committee would take up item 88, which should require fewer than three meetings, and then go on to item 89, to which six meetings at most would be devoted. In that way, fifteen meetings could be set aside for items 90 and 94, after which the Committee could turn to the amendments to the rules of procedure of the General Assembly (item 103) and the other items. That distribution of work seemed most advisable, unless one of the delegations had a better arrangement to suggest.

57. Mr. HAMID (Ethiopia) thanked the Legal Counsel for his explanation. However, he still found it difficult to take a position when he did not know the precise reasons for the arrangements which had been made.

58. Mr. TUKUNJOBA (United Republic of Tanzania) said that he shared that point of view; many delegations including his own, had not taken part in the conversations to which reference had been made.

59. The CHAIRMAN said that while it had not been thought advisable to hold actual consultations, since there had seemed to be no difficulty, such consultations could be arranged if necessary.

60. Mr. JACOVIDES (Cyprus) recalled that following the General Assembly's adoption at its seventeenth session of resolution 1815 (XVII), which listed seven principles concerning friendly relations among States, the Secretariat had reproduced in a single document the texts of treaties, decisions of international tribunals, and so forth relating to four of those principles; that document had proved very useful. He wondered whether the three other principles could be dealt with in a similar document, which would be particularly valuable for the small countries; his delegation would make an official request to that effect if the Secretariat was receptive to the idea.

61. Mr. STAVROPOULOS (Legal Counsel) replied that the Secretariat could prepare such a document. He also agreed that item 88 should be considered next.

62. The CHAIRMAN suggested that, in accordance with the wishes of the Secretariat, the Committee should take up item 88 after it had completed its consideration of the reports of the International Law Commission.

It was so decided.

The meeting rose at 1.10 p.m.

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