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CONTENTS

Chairman : Mr. Manfred LACHS (Poland).

Report of the International Law Commission covering the work of its third session (A/1858), including : (*a*) Question of defining aggression (chapter III) (*concluded*)

[Item 49 (*b*)] *

1. The CHAIRMAN invited representatives to explain their votes on the draft resolution (A/C.6/L.217) adopted at the 294th meeting.

2. Mr. CHAUDHURI (India) said his delegation considered the question of defining aggression, although within the field of international law, a political question, and in view of the existing political situation in the world the time was scarcely propitious for elaborating such a definition. Accordingly, his delegation would have preferred a resolution along the lines of the Greek draft resolution; but that proving impossible, it had been prepared to take the line that the question of whether a definition was important should be left until the views of governments had been received, and had submitted an amendment (A/C.6/L.212) to the joint draft resolution (A/C.6/L.209), to enlist wider support. The Indian amendment had not been voted on, however. Had the joint draft resolution been voted on in unamended form his delegation would have abstained. In its amended form, however, it had been obliged to vote against it.

3. Mr. FITZMAURICE (United Kingdom) said that his delegation had voted against the joint draft resolution as amended because, although it postponed the matter for a year, it also prejudged the question whether a definition was desirable and possible. His delegation took the view that a definition was not desirable because a satisfactory definition was impossible, and that was a fundamental point that would have to be discussed at the seventh session of the General Assembly.

4. His delegation would not, however, have been able to support the joint draft resolution even without the amendments, because one of its sponsors, the representative of Iran, had made a statement at the 293rd meeting which touched on the substance of the Anglo-Iranian oil dispute and demonstrated that it was, and probably would be, impossible to discuss the question of defining aggression without the discussion degenerating into a wrangle about current politics and engendering propagandist speeches totally unrelated to the question. The Egyptian and USSR representatives had also insisted on going into other irrelevancies.

5. The Iranian representative had attempted to justify his remarks on the Anglo-Iranian oil dispute by giving certain facts but, when referring to the right of every country to nationalize property within its territory, had failed to mention the existence of an express and vital clause in the agreement between the Iranian Government and the Anglo-Iranian Oil Company, formally ratified by the Majlis, whereby the Iranian Government had solemnly renounced the exercise of that right in that particular case and had given a pledge that the Company would not be nationalized nor its property expropriated during the period of the concession granted to it, and further that the concession would not be annulled by that Government and that its terms would not be altered either by general or special legislation in the future or in any other way. That altered the whole aspect of the matter and was the chief reason why the United Kingdom Government maintained that the Iranian action had been illegal and indeed a piece of pure robbery.

6. Again, when referring to the question of compensation to the Company, the Iranian representative had failed to explain how his country could pay adequate compensation to a company whose physical installations alone were valued at about 250 million dollars, quite apart from other factors entering into any calculation of adequate compensation.

* Indicates the item number on the General Assembly agenda.

7. The Iranian representative had been bold, to say the least, in offering the United Kingdom Government advice on its future conduct. Nothing in the past or present policies of the Iranian Government appeared to warrant such advice.

8. The statements of the Iranian representative and of certain other speakers also demonstrated that the question of defining aggression had now become and would probably become increasingly involved with the campaign against the so-called colonial Powers, a campaign which was poisoning the atmosphere and sowing malice and distrust between countries. Countries like his own were thus placed in an impossible position in any discussion of the question of defining aggression because, however sincere their approach, they were suspected of acting out of considerations of so-called colonial policy.

9. In the circumstances his Government would have to consider carefully what useful purpose would be served by its taking further part in any discussion of the subject. He felt bound to point out that Assembly resolutions had no mandatory force for Member States. If countries far removed by geography and other factors from the probability of any real danger of aggression, or from having to make any great contribution to resist it, insisted, as a sort of academic exercise, in forcing upon the General Assembly theoretical definitions of aggression which countries exposed to the greatest danger and having to bear the chief burden of resisting aggression regarded as perilous and impracticable, the latter countries would be fully entitled to ignore such definitions and to shape their courses accordingly.

10. The object of his statement was to conserve full liberty of action for his Government on a matter which vitally affected its security and that of the rest of the world. He could only hope that at the seventh session of the General Assembly a wiser and more responsible attitude would prevail.

11. Mr. SASTROAMIDJOJO (Indonesia) recalled that in a previous statement (290th meeting) his delegation had doubted whether the political situation at the time of the seventh session of the General Assembly would be more propitious to the elaboration of a definition of aggression. It had, however, voted for the joint draft resolution as amended since it reflected the general principle, supported by his delegation, that a definition should be achieved. The matter of timing was of minor importance.

12. Mr BUSTAMANTE (Ecuador) said his delegation had maintained its view that the General Assembly should continue to seek to determine the acts which objectively constituted the crime of aggression and the reasons which could not justify the use of force, so as to eliminate the use of force from international relations. The elaboration of a suitable definition would not conflict with the powers of international organs called upon to deal with cases of alleged aggression, but would help them to fulfil their responsibilities and to strengthen the system of international security. He had hoped the General Assembly would adopt a definition at the current session. Nevertheless his delegation had voted for the amendments to the joint draft resolution and for the joint draft resolution as a whole, as amended, for the following reasons : first, in view of the doubts of some delegations the debate had concentrated on the preliminary question of the possibility and desirability of defining aggression, and it had not been possible to give sufficient study to specific texts of definitions; secondly, a substantive text adopted at the present time might perhaps not have been entirely satisfactory, but it would have been capable of being improved in the near future; thirdly, the adoption of the joint draft resolution by the General Assembly would solve the preliminary question of the possibility and desirability of defining aggression because it incorporated the Mexican (A/C.6/L.216) and Syrian (A/C.6/L.215) amendments; fourthly, because the alternative which had been proposed of abandoning all attempts to define aggression was unacceptable to his delegation; fifthly, the resolution made it clear that the question was intimately bound up with international peace and security, quite apart from having a possible bearing on international criminal justice. Lastly, consideration of and a decision on the substance of the matter was not conditioned by the number of Member States that would express their views on it in accordance with the last operative paragraph. Whatever their number or their views, the General Assembly would concern itself without further delay with the substance with the aim of adopting a satisfactory definition. He was confident that owing to the importance of the subject and the interest of delegations, a large number of States would express their views.

13. Postponement of the question would enable the more apprehensive and sceptical among the governments to reconsider the problem in the light of the Committee's debates, and he hoped that such governments would be more favourably inclined at the seventh session to a definition of aggression.

14. Mr. LOCHEN (Norway) said his delegation was aware of the importance of the problem and considered that a definition of aggression should be included in the draft Code of Offences against the Peace and Security of Mankind. Recognizing that the USSR proposal (A/C.6/L.208) contained some valuable elements, he supported the idea that the matter should be given further study by Member States and by the General Assembly when the latter came to deal with the draft Code. His delegation would accordingly have supported the joint draft resolution, but, as it had not favoured the amendments to it, it had felt obliged to abstain from voting on the amended text.

15. U ZAW WIN (Burma) said his delegation had voted for all the amendments to the joint draft resolution which expressed the idea that a definition was possible and desirable. On the other hand, as it regarded the problem as serious and urgent and desired prompt action, he had abstained on those paragraphs of the joint draft resolution which proposed the postponement of consideration of the problem. By abstaining when the joint draft resolution as a whole, as amended, was put to the vote, he had indicated his delegation's desire for prompt action and its fear that within the next twelve months countries might take advantage of the absence of a definition to allow situations arising out of aggression to endanger the peace of the world, or to take or to continue to take unnecessarily extreme defensive action that would equally militate against world peace and aggravate what was already a serious situation. He hoped that its apprehensions would prove to have been unjustified; but if they did not, his delegation would wish to be free to point out and prove at the seventh session of the General Assembly that a definition should have been adopted at the sixth session.

16. Mr. CHAUMONT (France) said that the joint draft resolution had reflected the legal position which

his delegation had expressed and its desire to relate the definition of aggression to international criminal law. The amendments to the joint draft resolution which had been adopted had considerably modified the original text and broken the link with that juridical position. Having recognized, however, that many of his delegation's ideas were covered in the final text, he had abstained in the vote on the whole resolution, reserving the position his delegation would take in plenary meetings and at the seventh session of the General Assembly.

17. He drew the Committee's attention to two drafting changes in the French text of the resolution : firstly, the word " a " ought to be inserted after " mais " in the second line of the second paragraph of the preamble and secondly, the word " crime " should be substituted for " délit " in the first line of the fourth paragraph of the preamble. He also believed that, since it was not for the Sixth Committee to decide what items should be included in the final agenda of the seventh session of the General Assembly, the first operative clause of the resolution should refer to " the provisional agenda ".

Mr. Perez Perozo (Venezuela), Vice-Chairman, took the Chair.

18. The CHAIRMAN said those drafting changes could be dealt with by the Secretariat, but the last point made by the French representative might be a matter for further consideration by the Committee.

19. Mr. ABDOH (Iran), recalling that his delegation had been one of the sponsors of the joint draft resolution said that he had voted for certain parts of the Colombian amendment (A/C.6/L.210) and almost all of the Syrian amendment, because they improved the original text.

20. He thought it necessary to reply to the United Kingdom representative, whose attitude toward his earlier statement (293rd meeting) was doubtless due to the fact that the United Kingdom Government did not often hear such statements from a representative of a government of a small State. The present Iranian Government, with the support of the Iranian people, was not prepared to take orders from the United Kingdom and would continue its economic and political policy regardless of the United Kingdom's criticism.

21. True, the contract between the Government of Iran and the Anglo-Iranian Oil Company contained the clause to which the United Kingdom representative had referred, but it was an accepted principle that the right of a State to make laws was inalienable and Iran would not renounce that sovereign right. It was entirely contrary to all principles of modern law to expect a parliament to tie the hands of future generations by the renunciation of such a right in relation to that contract, which was a mere contract under private law.

22. The very existence of the clause in question revealed the circumstances in which Iran had been obliged to yield to the arrangement—the threatening presence of the British Fleet in the Persian Gulf. Such a clause could not keep a people from marching forward on the path of progress, and it was because Iran had decided to modify its political and economic régime for the sake of the higher interests of the State that it had introduced the nationalization law.

23. The United Kingdom representative had described Iran's action as robbery. Yet according to calculations based on the Company's annual report for 1948, the net profits for that year had been 500 million dollars, while the total royalties paid to Iran over fifty years, according to another United Kingdom representative, were 144 million pounds. The fact that the Iranian Government's revenue from oil over a period of fifty years had amounted to no more than two-thirds of the revenue of the Anglo-Iranian Oil Company in a single year adequately demonstrated which side had committed robbery.

24. It was obvious, as a consequence of Mr. Fitzmaurice's statement, that a definition of aggression must take into consideration the motives enumerated in paragraph 2 of the USSR draft resolution, because of the tendency on the part of certain States to rely on ideas contained in old dossiers in justification of aggression against small countries that sought to be economically and politically independent.

25. Mr. VAN GLABBEKE (Belgium) said that his delegation would have preferred the Greek draft resolution (A/C.6/L.206) and had decided to vote against the USSR draft resolution, which was a veritable trap. The USSR representative having failed to reply to any of the specific and pertinent questions he had put to him, the Belgian delegation had found it impossible to change its attitude, and no explanations that the USSR representative might give when explaining his vote would make any difference.

26. His delegation had hoped, as a compromise, to vote for the joint draft resolution since it had not touched on the substance of the question. It had, however, voted against the final text, because of the amendments that had been introduced and particularly the terms of the fourth paragraph of the preamble, which had been adopted by a very narrow majority and probably did not express the opinion of the majority of representatives present.

27. His delegation's vote had been based on all the arguments which he had developed in the course of the debate and which, although based on legal, political and historical foundations, appeared to have displeased the USSR representative.

28. When casting its vote, his delegation had not been able to forget Germany's attack on Belgium in 1940, which had been approved by the Soviet Union in the field of diplomacy when the Soviet authorities had terminated the Belgian, Norwegian and Netherlands diplomatic representations in Moscow.

29. His delegation's vote had not been in any way based on colonial considerations, as the Polish representative (293rd meeting) had alleged. To show how grotesque such an allegation was, he recalled that the only military operations carried out in the Belgian Congo which could have been considered, in certain quarters, as being of an aggressive nature, had been undertaken some fifty years before in order to fight the slave traffic.

30. His delegation's negative vote had also been based on the view that at the seventh session of the General Assembly, as at the sixth session, the undesirability and the impossibility of a generally acceptable definition of aggression would be confirmed, as well as the dangers inherent in the USSR draft resolution.

31. It was with a strong sense of attachment to the maintenance of peace and in keeping with the Charter's intention that the aggressor should be determined and punished that his delegation had voted against the resolution which the Committee had adopted and which

could in no way serve the cause of international peace and security.

32. Mr. BARTOS (Yugoslavia) explained that although he had stated during the general discussion that he was prepared to vote for the Bolivian draft resolution (A/C.6/L.211), which most nearly of all the documents before the Committee reflected his delegation's views, he had, after consulting the Bolivian representative, voted for the Colombian and Syrian amendments (A/C.6/L.214/Rev.1 and A/C.6/L.215) to the joint draft resolution (A/C.6/L.209), because the joint draft resolution had been put to the vote first and the amendments, by ensuring that a definition could in all probability be adopted at the seventh session, brought the joint draft resolution nearer to what his delegation desired.

Mr. Lacks (Poland) took the Chair.

33. Mr. ITURRALDE (Bolivia) explained that he had voted for the Colombian and Syrian amendments because he hoped they might ensure a definition of aggression being adopted at the seventh session. The object of his delegation's draft resolution (A/C.6/L.211) had been to contribute to international peace and security and to ensure respect for the integrity of States in accordance with the Charter, and he hoped that that draft would be adequately taken into account. He thanked the Yugoslav representative for his support.

34. Mr. MOUSSA (Egypt) said he had voted for the joint draft resolution because the majority of the Committee had not been in favour of adopting a definition at the current session. He had thereby made a considerable sacrifice in order to help the Committee to achieve positive results.

35. In his previous statement he had not dealt with the substance of the question because the joint draft resolution was a procedural one. In that statement he had wished to give an example of a resort to force on the part of a big State against a small one. He regretted that the representative of a Member State which had been one of the sponsoring Powers of the San Francisco Conference should have declared that his country would not be bound by the decisions of a major United Nations organ.

36. Mr. DONS MOLLER (Denmark) observed that the question of a definition was of the greatest political and legal importance, concerning the life and death of States. None of the proposals submitted had been perfect, and in view of doubts as to the possibility of a satisfactory solution his delegation had deemed it unwise to adopt a final decision in haste, and had wanted governments to be allowed an opportunity to consider the matter in the light of the Committee's discussion. He had therefore been prepared to vote for the joint draft resolution.

37. Since, however, the joint draft resolution had been amended in a manner which tended to prejudge the issue and which was inconsistent with the fundamental idea underlying the original text, he had abstained from voting on the resolution in its amended form.

38. Mr. MAJID ABBAS (Iraq) said he had been in favour of the Syrian amendment, especially its operative paragraphs. Operative paragraph 2 was a logical part of the preamble and not, as some delegations believed, prejudicial to the substance. In adopting his position he had taken into account the political aspects of the question and the existing political situation, particularly that in the Near East. He hoped, however, that the political situation might eventually improve, and therefore reserved his Government's future position.

39. Mr. J. M. CORTINA (Cuba) said he would have preferred the Committee to consider in detail the terms of a definition instead of devoting so much time to a general debate. However, the resolution adopted—the result of an attempt to harmonize the Committee's views—declared a definition to be both desirable and possible and made sure that it would receive further study.

40. He had been among the minority which had voted for the establishment of the special committee proposed by Colombia (A/C.6/L.214/Rev.1) because the work of such a committee would have been helpful to the General Assembly at its seventh session.

41. The debate had confirmed his delegation's view that it was necessary to define aggression, since the examples given by the opponents of a definition had failed to take into account the setting in which international law was developing. The international organ which would determine the aggressor had to be taken into account. The suggestion that political factors should be considered by that organ was highly dangerous, and meant that States would be left at the mercy of political factors which might run counter to the most elementary international justice.

42. His delegation had therefore voted for the resolution which recognized the urgent need for a definition.

43. Mr. LERENA ACEVEDO (Uruguay) said he had been in favour of the joint draft resolution in its original form, which had been substantially altered by the amendments. The Bolivian draft resolution and the USSR draft resolution, together with the Egyptian (A/C.6/L.213) and Colombian amendments thereto, were not satisfactory. Standards of international penal justice concerning aggression could, nevertheless, be valuable in preventing international criminal acts. When the question of a definition came to be re-examined the entire international security system ought to be reviewed and strengthened.

44. Mr. TARAZI (Syria) explained that be had accepted the Mexican amendment, as amended by the Egyptian oral amendment, in order to maintain the necessary balance between the two factors which had to be taken into account in a definition, namely international peace and security on the one hand, and international criminal law on the other. His delegation had been in favour of the French delegation's proposal for the establishment of an international criminal jurisdiction, which was in harmony with the idea of an international criminal code. Some delegations had wished to separate the criminal code aspect from the security aspect, but he had been unwilling to do so and the fourth paragraph of the preamble in its final form accordingly mentioned both factors.

45. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics) said he had believed it both possible and necessary to adopt a definition at the current session. During the debate, however, it had become clear that many delegations which were in favour of a definition as likely to contribute to the maintenance of international peace and security felt that the question required more thorough study. As a conciliatory gesture and to be co-operative, he had therefore been prepared to consider amendments to his delegation's draft resolution. However, the majority had been in favour of the joint draft resolution,

and he had voted for that resolution in its amended form, since it declared a definition to be possible and desirable. He thanked those representatives who had supported ideas contained in his delegation's draft resolution. Their attitude was the best guarantee that at the seventh session it would be possible to adopt a definition which would become one of the means of maintaining international peace and security. He hoped that delegations would study his draft resolution and the amendments thereto before the seventh Assembly session.

46. He would only reply to the Belgian representative's attack on the USSR, that anger was a poor counsellor, and that slander did not take the place of argument.

(*b*) Review of the Statute of the International Law Commission with the object of recommending revisions thereof to the General Assembly (chapter V)

[Item 49 (*c*)]*

47. The CHAIRMAN invited debate on the next item, with particular reference to paragraph 70 of chapter V of the International Law Commission's report (A/1858) [1].

48. Mr. ROLING (Netherlands) said that General Assembly resolution 94 (I) of 11 December 1946 had created a Committee on the Progressive Development of International Law and its Codification to consider methods of giving effect to Article 13 of the Charter. On 13 May 1947, the United States representative on that Committee had suggested appointing a United Nations commission of experts on international law, the members to serve for three years and work on a full-time basis, on conditions that would secure the services of the most highly qualified persons (A/AC.10/11). Ten days later the United States and China had made a formal proposal to that effect (A/AC.10/33). The Committee had thereupon recommended the establishment of an International Law Commission. A passage of the Rapporteur's report on that question (A/AC.10/40) [2] read: "The Committee hopes that the International Law Commission may be a permanent body, but they also feel that it may be desirable, in the first instance, to establish it on a provisional basis", that is to say for three years. Two-thirds of the Committee had pronounced in favour of full-time service. The General Assembly had referred the Committee's report to the Sixth Committee, which referred it to its second Sub-Committee, and the latter had unanimously rejected the idea of full-time service "in view of the imperative necessity for the greatest possible reductions in the United Nations budget" (A/C.6/193).[3] The Sixth Committee had accordingly established the International Law Commission as a body meeting for a short time every year. Its Statute was silent on the length of its sessions, but they had in practice lasted for some nine weeks every year.

49. During the Sixth Committee's debate on the Commission's report on the work of its second session (A/1316) [4] the United Kingdom representative had suggested the introduction of full-time service for a part only of the Commission's members. The USSR representative had strenuously opposed that suggestion, on the grounds that thereby members of the Commission would become staff members, whereas under article 8 of the Statute they were required to be representatives of the main forms of civilization and of the principal legal systems of the world; that members would be excluded from daily international practice; and that governments would not allow their best jurists to serve. It was finally decided, in General Assembly resolution 484 (V) of 12 December 1950, that the Commission should be requested to review its Statute and make recommendations to the sixth Assembly session concerning revisions thereof.

50. In its report on the work of its third session, which was before the Committee, the Commission had recgnized that its record had given rise to doubts whether its conditions of work were such as to enable it to "achieve rapid and positive results"; it had suggested that its members should be appointed for up to nine years on a full-time basis, and declared itself prepared to suggest alterations in its Statute to the seventh session of the Assembly. The 1953 election of members could, accordingly, be made on the basis of the new statute.

51. The crux of the matter was whether it was felt that the speeding up of the Commission's work was sufficiently important to warrant the expense of establishing it on a full-time basis. The primary purpose of the United Nations was to maintain international peace and security, which according to the Charter was to be effected by co-operation between the great Powers. Owing to the absence of such co-operation the United Nations, in one instance, was engaged in fighting for its principles, and in others was prevented from taking decisions. Peace appeared to be based rather on the balance of power and on fear than on fulfilment of Member States' obligations under the Charter. However, the more spectacular of its activities, and its acrimonious and distressing political debates, which caught the limelight most, did not constitute all the Organization's activities. Its humanitarian, economic and cultural decisions were of considerable importance, and so too was its work on law, the least spectacular of all.

52. The United Nations had no organ which could act as a legislator. General Assembly resolutions were not laws. Treaties, custom, judicial decisions, general principles of law and the teaching of jurists were the sources of international law. It developed unobtrusively and the United Nations could foster its development through decisions on practical matters and through resolutions, particularly through those in which the General Assembly declared what it considered to be the law. Indirectly, too, the General Assembly had a law-making capacity through the work of the International Law Commission in codifying existing international law and its progressive development. Since the frontier of existing international law was indistinct, any codification tended to amount to law-making.

53. If the fifteen authorities in the International Law Commission, representing the main forms of legal systems, were to recognize a code as the formulation of existing law, writers on international law and international courts pronouncing on the subject might adopt

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* Indicates the item number on the General Assembly agenda.

[1] *See Official Records of the General Assembly, Sixth Session, Supplement No. 9.*

[2] See *Official Records of the General Assembly, Second Session, Sixth Committee, Annex 1,* page 175.

[3] *Ibid., Annex 1g,* page 189.

[4] *Ibid., Fifth Session, Supplement No. 12.*

the rules thus formulated as rules of law. Such a clarification of international law would be as great a result as could be achieved at the present stage, and a highly important one. It was a question of formulating principles for use later, when it might become possible to establish the rule of law on more controversial and important issues.

54. Such unostentatious and seemingly secondary developments were, perhaps, the real justification for the United Nations at the present time.

55. The existing organization and working conditions of the International Law Commission, however, prevented it from performing its function properly. Having members who were real authorities on the subject, and consequently of mature age, it could not work in a hurry; it needed the entire year to work in. The cost to the United Nations budget would be small in proportion to the work's importance.

56. Full-time membership would not, contrary to what the USSR representative had asserted, alter the fact that its members represented the main forms of legal systems, and it would actually be an advantage for its members to be prevented from acting at the same time as legal advisers to their governments. They would no more become staff members than the members of the International Court had done.

57. A full-time International Law Commission would be a most valuable subsidiary United Nations organ, working calmly outside the field of politics. It should devote itself in the first place to such parts of international law as did not give rise to political controversy. His delegation would support any resolution which invited the Committee to draft amendments to its Statute with a view to establishing it as a full-time body.

58. Mr. COHEN (United States of America) said that his delegation had given careful consideration to the question of setting up a full-time International Law Commission and, while it did not reject the idea finally, it had come to the conclusion that it was somewhat premature to make such a fundamental change.

59. In view of prevailing world conditions, he felt that it would probably be difficult and at times even impossible to achieve rapid results in the codification and development of international law. The Commission itself had recognized as much in its report. Paragraph 61 of the report stated that hopes for rapid results should be " indulged only with appreciation of the magnitude of the task of developing or codifying international law in a satisfactory manner ". Furthermore, paragraph 65 of the report referred to the difficulties encountered by the members of the Commission who served as rapporteurs in giving up sufficient time to carry out their task. It was only quite recently that the Assembly had authorized the Commission to ask its members to act as rapporteurs on the various subjects which came up for discussion, and he thought it would be a pity to abandon what had proved to be a valuable experiment. If the rapporteurs were handicapped by lack of time even under the existing method, they would have no time at all at their disposal if the Commission were to remain in permanent session.

60. It was the practice where matters of codification were concerned for the Commission to invite comments from governments. In the past, governments had often been rather slow in submitting their comments, and if the Commission were to work on a full-time basis governments would never be able to keep pace with its work and their comments would become more perfunctory and less binding. It was also the practice for the Sixth Committee to review the Commission's work and there again, if the Commission became a standing body, the Sixth Committee would probably have to work on a full-time basis too in order to carry out its reviewing functions properly.

61. The political atmosphere in the world had changed since the Commission had first been established. In view of the deep political divisions and ideological conflicts which had arisen since 1945, the codification of international law was becoming more and more difficult. It was even difficult to work on questions previously regarded as non-controversial. The representatives of different countries, having different ideological backgrounds, were apt to interpret the same text in different ways and, while his delegation was very interested in the development of international law, he thought it would be unwise to try to proceed too rapidly in the existing circumstances. Progress could not be achieved simply by giving the Commission extra time if the political atmosphere was inimical to progress.

62. To make the Commission a standing body would be to change its character fundamentally. Instead of being appointed on a part-time basis for three years, its members would in future be appointed on a full-time basis for nine years. The members would naturally remain eminent international lawyers, but if they were appointed on a full-time basis they would lose contact with their homes and their universities and would have to give up all outside activities. The International Law Commission should not become an extra department of the Secretariat, and it could not carry out its work without any reference whatever to political considerations. There had been valuable co-operation between the Commission and the Legal Department of the Secretariat in the past, and their relationship should be considered before any decision was taken to make the Commission a full-time body. It might perhaps be helpful if the Commission could have the services of a full-time rapporteur attached to the Secretariat to deal with certain subjects, and there might be other ways of expediting its work without making such a fundamental change as that proposed. The Commission had itself emphasized that much of its time was taken up with special assignments from the General Assembly. It might be helpful if the Assembly were to bear that point in mind when making special assignments in the future, and the Commission itself might review its own order of priorities.

63. For all those reasons, his delegation felt that it would be premature to change the Commission's Statute. He had not referred to the question of additional expenditure, which should however be taken into account in the light of all the other considerations. Perhaps the Assistant Secretary-General could give the Committee some idea of the financial implications of the suggestion that the Commission should operate on a full-time basis.

64. Mr. KERNO (Assistant Secretary-General in charge of the Legal Department) replied that it was very difficult to give an accurate estimate of the financial implications since the Commission itself had framed its suggestion in very general terms. It could be inferred from paragraph 69 of the report that the Commission wished all its members to serve on a full-time basis. The only other indication of the nature of the proposed full-time

Commission was the reference to the Statute of the International Court of Justice in paragraph 67 of the Commission's report, indicating that it was envisaged that membership in the Commission would preclude other professional activity. If the new Commission was to be a body similar in importance and standing to the International Court, which was one of the possibilities, he could easily give some indication of the possible financial implications. In 1951, the Court's expenditure on salaries had amounted to $333,000 and its total budget had been slightly less than $600,000. The total budget for 1952 was approximately $640,000. The 1951 budget for the International Law Commission had amounted to $56,000.

65. Mr. MOUSSA (Egypt) pointed out in the first place that the Commission was a subsidiary organ of the United Nations and not one of the principal organs specifically referred to in the Charter. He would not dwell on the financial implications of the suggestion that the Commission should work on a full-time basis, because that was a matter which would be dealt with in due course by the Fifth Committee and would inevitably be taken into account before the Assembly came to any decision.

66. His experience of the work of the United Nations and, consequently, of the International Law Commission was limited. He had, however, participated in the discussion on two chapters of the Commission's report at the current session of the Assembly. Without wishing in any way to underestimate the importance of the Commission's work or to criticize its members, he felt that, for reasons which were probably beyond its control, it was apt to isolate itself from the political realities of the modern world. With regard to the question of defining aggression, it had been suggested that there might have been some lobbying to influence the Commission's decision. In his opinion, the Sixth Committee's work on the question of defining aggression went well beyond the contribution made by the International Law Commission. That was perhaps due to the great variety of States and policies represented in the Committee and because each representative was politically responsible to his Government as well as being responsible for the legal cogency of his arguments.

67. As the United States representative had intimated, more use might be made of the services of the Legal Department of the Secretariat, which the Sixth Committee might equally profitably draw on. Accordingly, he did not favour the suggestion that the Commission should become a full-time body and would vote against any such proposal.

68. Mr. AMADO (Brazil) said that the representative of the Netherlands had very clearly summarized the whole background history of the subject. When the International Law Commission had first been set up, the international atmosphere had been one of friendship and co-operation among the great Powers. It was in such an atmosphere that the Commission had been called upon to fulfil one of the highest purposes of international co-operation, namely to study the codification and progressive development of international law. However, when the Commission itself had reviewed its Statute he had voted against the suggestion that it should be established on a full-time basis. He had done so because, to his deep regret, the atmosphere in the world had changed since 1945. If there had been no such change and if the codification of international law had remained one of the Assembly's most urgent purposes, he would certainly have favoured the proposal to turn the Commission into a standing body, because that was the only way in which it would be able to do justice to its work. However, as the political atmosphere seemed unfavourable for intensive work on codification, it did not seem advisable to adopt such a proposal at that stage.

69. The representative of Egypt had been somewhat disparaging in his remarks about the Commission. He should, however, bear in mind how difficult it was for the Commission to do any constructive work in the short time allotted to it, especially when its basic work was constantly interrupted by special assignments from the General Assembly. He should also remember that the members of the Commission were all eminent international lawyers who did their work with sincerity and good faith.

70. Mr. MOUSSA (Egypt) said that he had in no way intended to criticize the International Law Commission or its members, for whom he had the highest respect. He fully recognized the difficulties which the Commission encountered in its work and had in fact referred to some of them himself. In mentioning that the members of the Sixth Committee were politically responsible to their Governments, he had simply meant to point out that in spite of its great respect for the Commission, there was no reason why the Assembly should necessarily agree with all the Commission's conclusions.

71. Mr. AMMOUN (Lebanon) felt that representatives should be free to criticize the Commission's work on some occasions just as they praised it on others. It was in fact the General Assembly which had first questioned whether the Commission was working under the best possible conditions. The Commission itself had then replied that unless it was set up on a full-time basis it could not really do its work satisfactorily. Any criticism of the Commission's work should therefore be regarded as a criticism of the difficult working conditions or as the result of a difference of conception rather than as a personal criticism of the Commission's members.

The meeting rose at 6.10 p.m.

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