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Chairman: Mr. Edvard HAMBRO (Norway).

Expression of thanks by the representative of Spain

1. Mr. LOPEZ-SCHUMMER (Spain) said he wished to thank all the delegations that had asked him to convey to the Spanish Government their condolences on the death of Mr. de Luna.

AGENDA ITEM 86

Law of treaties (concluded) (A/6309/Rev.1, A/6827 and Corr.1 and Add.1 and 2, A/C.6/376, A/C.6/L.619, A/C.6/L.623/Rev.2)

2. Mr. STAVROPOULOS (Under-Secretary, Legal Counsel) said, with regard to the financial implications of draft resolution A/C.6/L.623/Rev.2, that the recruiting of additional interpreters for simultaneous meetings of the drafting committee or working groups and the committee of the whole would entail costs amounting to about \$30,000.

3. The CHAIRMAN noted that no amendments had been proposed to draft resolution A/C.6/L.623/Rev.2 and invited the Committee to vote on the text as a whole.

Draft resolution A/C.6/L.623/Rev.2 was adopted by 91 votes to none, with 1 abstention.

4. Mr. O'CLERIGH (Ireland) said that he had not been present when the vote was taken, and requested that his delegation should be considered to have voted in favour of the draft resolution.

5. The CHAIRMAN said that that request would be complied with.

6. Mr. DE BRESSON (France) said he would like to explain why his delegation had abstained.

7. The draft articles on the law of treaties (A/6309/Rev.1, part II, chap. II) were exceptionally important, in that they were designed to establish the body of legal rules governing all future international agreements concluded between States. It was therefore essential, first, that the future convention should conduce to a strengthening of the commitments

entered into by States and should not have the opposite effect of introducing an element of instability into inter-State relations; second, that the convention should be drawn up in a calm atmosphere, with an objective eye to the future and not in the light of temporary political considerations; and, lastly, that it should be capable of commanding the support of the entire international community. However, detailed study of the draft articles, and the discussions concerning them, had led his delegation to the twofold conclusion that the articles did not fully meet the requirements which he had stated and that there were still serious differences of opinion among States concerning the best means of remedying the omissions, imperfections or ambiguities they contained. His delegation feared that an inadequately prepared diplomatic conference might end in failure and regretted that States had not been allowed a two-year period for reflection and for unhurried and very careful preparation of the conference through appropriate diplomatic contacts. That was why his delegation had not been able to vote for the draft resolution which had been before the Committee.

8. Mr. SMEJKAL (Czechoslovakia) said that his delegation and the Polish delegation, which had also been a sponsor of draft resolution A/C.6/L.623/Rev.2, appreciated the merits of the changes made to the original text of the draft, which had certainly improved it. He wished to emphasize that the words "participating States" in operative paragraph 2 did not imply that any restrictive decision had been taken concerning participation in the conference. Together with the Polish delegation, the Czechoslovak delegation wished to reiterate its view that all States must participate in the work on the law of treaties. His delegation unreservedly supported the decision which had been taken regarding the date and place of the first session of the conference.

9. Mr. SAMMUT (Malta) stated that his delegation had voted for the draft resolution, which was in accord with General Assembly resolution 2166 (XXI). He was concerned to note, however, that many of the seventy-five draft articles had given rise to criticism and that the question of participation in the conference was still very controversial. The conference might therefore not be able, in the time at its disposal, to eliminate all the existing differences of opinion. His delegation accordingly appealed to States to try to reconcile their views before the opening of the conference.

10. Mr. SYLLA (Mali) said that his delegation had voted in favour of the draft resolution, which represented an important step towards the conclusion of an international convention on the law of treaties. The

convocation of the conference was in keeping with the international community's wish that the codification of the law of treaties should progress to the active stage. However, his delegation thought that to restrict participation in the conference would run counter to its objectives. Since all States would be affected by the results of the conference, all of them, including those which were not Members of the United Nations, should be given the opportunity to submit their comments on the draft articles.

11. Mr. KHLESTOV (Union of Soviet Socialist Republics) said that his delegation had voted for the draft resolution, operative paragraph 1 of which supplemented resolution 2166 (XXI) with respect to the place and date of the first session of the conference. Paragraph 2, which was of a purely technical nature, related simply to the material arrangements for the conference and had nothing to do with the number of States that would be participating. As his delegation had indicated on a number of occasions, all States had the right to participate in the conference and should be invited to do so, and many other delegations agreed that the principle of universality must be respected. In any event, the question had not been finally settled and could be reconsidered in the future.

12. Mr. DARWIN (United Kingdom) said that his delegation had voted for the draft resolution, although it had doubts about the advisability of holding the conference of plenipotentiaries barely three months after the closure of the current session of the General Assembly. In the belief that extensive informal consultations could contribute greatly to the result which was sought by all, namely, the elaboration of a sound and generally acceptable text, the United Kingdom would have preferred a postponement of the opening of the conference for one year. That position had been supported by a number of delegations at the twenty-first session of the General Assembly, including some which now found fault with it. His delegation had consulted many other delegations during that session and had found sympathy with those arguments in favour of postponement among delegations from many quarters of the world. Doubts and misgivings had also emerged concerning the manner in which the conference would be able to conduct its work. But the majority did not wish for a postponement, and his delegation on that point of procedure accepted the views of the majority. It had therefore voted in favour of the draft resolution, in keeping with the United Kingdom's policy of doing everything possible to ensure the success of the conference on the law of treaties.

13. Mr. GONZALEZ GALVEZ (Mexico) said that his Government had not yet completed its study of the draft articles to be considered at the conference but that, even now, it could appreciate the impact that such an instrument could have on the future of the international community. In its view, the draft constituted an excellent working basis for the conference, and it was impossible to speculate on the outcome of the latter's deliberations until it set to work.

14. He wished that he had had time, before the adoption of the draft resolution, to propose the inclusion of a provision similar to that contained in

operative paragraph 11 of General Assembly resolution 1105 (XI) on the convocation of the United Nations Conference on the Law of the Sea, which had called upon the Governments invited to the Conference and groups thereof to utilize the time remaining before the opening of the Conference for exchanges of views on the controversial questions relative to that branch of the law. He reserved the right to propose such an addition when the draft resolution was taken up by the General Assembly in plenary meetings.

15. Sir Kenneth BAILEY (Australia) said that, despite some misgivings with regard, for instance, to operative paragraph 1 of the draft resolution, which in view of the many differences of opinion that still existed set too early a date for the conference on the law of treaties, his delegation had voted in favour of the draft resolution, on the clear understanding that it was in no way intended to alter the decisions taken by the General Assembly in its resolution 2166 (XXI). His delegation's attitude had also been affected by the considerable encouragement it derived from the prospect raised at the previous meeting by the Legal Counsel, that during the nine weeks of its first session the conference would have more extensive working facilities. It appreciated the comments made on that point by the delegation of Kenya (982nd meeting), but it hoped that, if the facilities in question were secured, all the participating Governments would do their best to enable their delegations to make the best use of them.

16. Mr. EL-ERIAN (United Arab Republic) said that, although his delegation had voted in favour of the draft resolution, the United Arab Republic strongly supported the principle of universality in regard to participation in the conference, both as a matter of conviction—participation in the formulation of general law being a right inherent in sovereignty—and for practical reasons, in that universal participation would further the aims of the convention. His delegation was fully aware of the complexity of the task to be accomplished and hoped that consultations would be held with a view to reducing the areas of disagreement.

17. Mr. MUSA (Somalia) said that his delegation had voted in favour of the draft resolution in the hope that all States would participate in the conclusion of a convention which, if prepared in that way, would place international law on the widest possible basis. He took the opportunity of thanking the Swedish Government, on behalf of his country, for the Seminar on the Law of Treaties held at Uppsala, Sweden, from 2 to 30 June 1967 under the auspices of the Dag Hammarskjöld Foundation, from which a number of developing countries, including Somalia, had benefited.

18. Mr. YANKOV (Bulgaria) said that, because his Government attached great importance to a convention on the law of treaties, it considered that such a convention should be open to accession by all States, without any discrimination; for capacity to conclude treaties and ability to participate in conferences convened for the purpose of drafting a general multilateral treaty was an attribute of State sovereignty. In accordance with the principle of the sovereign equality of States and the universality of the future convention, his delegation had stated, during the

general debate, that the conference of plenipotentiaries on the law of treaties should be open to all States, without exception. Its vote in favour of the draft resolution certainly did not mean that Bulgaria had changed its attitude on that point; in fact, it would have preferred an express provision to that effect to be included in the draft resolution. In any event, his delegation reserved the right to raise the question again at the conference of plenipotentiaries.

19. Mr. HERRERA (Guatemala) said that his delegation had voted in favour of the draft resolution.

20. In view of the extremely difficult task with which the conference of plenipotentiaries would be confronted, it would be most helpful if, as the representative of Mexico had just suggested, delegations would use the time between the end of the twenty-second session and the opening of the conference to exchange their views on controversial points. He hoped that the proposal made by the representative of Mexico would be duly noted in the Committee's report to the General Assembly.

21. Mr. HARGROVE (United States of America) said that his delegation had voted in favour of the draft resolution, which ushered in the final stage of the codification and progressive development of the law of treaties. The conference would undoubtedly have to resolve some highly complex problems, and his delegation supported the suggestion made by the representatives of Mexico and Guatemala. He wished to point out that the question which States should be invited to participate in the conference had been settled by the General Assembly in its resolution 2166 (XXI), paragraph 4, and that any changes in the decision it had taken would require new action by the Assembly itself.

22. Mr. SILVEIRA (Venezuela) said that his delegation had not taken part in the general debate because it had already had an opportunity to state its views, and also because it intended to join in the debates of the conference of plenipotentiaries. His delegation had voted in favour of the draft resolution, but it hoped that the General Assembly, in plenary meetings, would add a provision inviting States to hold exchanges of views between the end of the twenty-second session of the Assembly and the opening date of the conference, as suggested by the representative of Mexico.

23. Mr. VEROSTA (Austria) said that his delegation had voted in favour of the draft resolution. He wished to thank the members of the Committee for accepting his Government's invitation to hold the conference on the law of treaties in Vienna. The Austrian Government would do all in its power to facilitate the work of the conference.

AGENDA ITEM 89

Draft Declaration on Territorial Asylum (A/6570, A/6698)

24. The CHAIRMAN introducing item 89 entitled "Draft Declaration on Territorial Asylum", recalled that it had been included in the provisional agenda of the twenty-second session pursuant to General Assembly resolution 2203 (XXI). The subject of the right of asylum had been before the United Nations for

many years and had been first examined by the Commission on Human Rights since December 1947. Although the Universal Declaration of Human Rights contained a provision on the right of asylum,^{1/} no corresponding article appeared in the International Covenants on Human Rights which, after more than twenty years of work, had been adopted by the General Assembly in its resolution 2200 (XXI). France, noting that the earlier drafts of the Covenants did not include any provisions on the right of asylum, had proposed to the Commission on Human Rights, in 1957, that the right of asylum should be the subject of a separate declaration.^{2/} In 1960 the Commission, after three years' consideration of the question, had adopted a text^{3/} which had been transmitted to the Economic and Social Council, and then to the General Assembly. At the seventeenth session, in 1962, the Third Committee had adopted the preamble and article 1 of a draft declaration.^{4/} In subsequent years the heavy load of work of the Third Committee had prevented it from continuing its consideration of the question, which had then been referred to the Sixth Committee. At the twenty-first session, the Sixth Committee had begun a substantive consideration of the question, and after a general debate had established a Working Group to prepare a preliminary draft declaration on the right of territorial asylum. The draft declaration prepared by the Working Group was contained in the annex to document A/6570,^{5/} and he hoped that it would be possible at the current session, using that text as a basis, to finalize a draft declaration to be submitted to the General Assembly for adoption.

25. Mr. SEATON (United Republic of Tanzania) said that the draft declaration prepared by the Working Group over which he had had the honour to preside was a balanced text, representing a compromise between the many different views which had been advanced on the question.

26. The Working Group had met at the last session and had given thorough consideration to the text of the preamble and article 1 of the draft declaration, as adopted by the Third Committee, and to articles 2-5 adopted by the Commission on Human Rights. It had also taken into account all proposals and amendments introduced both in the Sixth Committee and in the Working Group itself. It had submitted the results of its work to the Committee, but the latter, as it had not had time to consider them in detail, had recommended to the General Assembly that it should adopt a draft resolution^{6/} referring the draft declaration and the report of the Sixth Committee to Governments for their further consideration and placing an item entitled "Draft Declaration on Territorial Asylum" on the provisional agenda of the twenty-second session (See A/6570, para. 47). On the basis of those recom-

^{1/} See General Assembly resolution 217 A (III), article 14.

^{2/} See Official Records of the Economic and Social Council, Twenty-fourth Session, Supplement No. 4, para. 208.

^{3/} Ibid., Thirtieth Session, Supplement No. 8, para. 147.

^{4/} See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 46, document A/5359, para. 33.

^{5/} Ibid., Twenty-first Session, Annexes, agenda item 85, p. 11.

^{6/} The text is the same as that of General Assembly resolution 2203 (XXI).

mendations; the General Assembly had adopted its resolution 2203 (XXI). He hoped that the text prepared by the Working Group would provide a useful basis for the drafting of a final text.

27. The Tanzanian Government, having considered the text, believed that it represented a valuable contribution which should enable the Committee to finalize very speedily the declaration on territorial asylum. The adoption of the declaration, which had been pending for so long, would constitute a landmark in the history of the important humanitarian declarations adopted by the United Nations.

28. Mr. SOLHEIM (Norway) observed that, although the subject of the right of asylum had been before the General Assembly since 1960, the Sixth Committee had needed only two sessions to work out a text which should make it possible for the declaration to be proclaimed at the current session. In view of the fact that the present draft represented a compromise, the members of the Committee would have to exercise some restraint if they wished to help in achieving that result. The debate might indicate a need for some small changes in the present text—changes which would be beneficial to the humanitarian aims

that all would like to see reflected in a declaration on the right of asylum.

29. His own delegation and the delegations of Denmark, Finland, Iceland and Sweden were prepared in principle, despite some serious misgivings, to accept the present draft, with such few improvements as might result from the debate, because they believed that the declaration would help to gain new adherents for a liberal policy on the right of asylum and would be a valuable follow-up of the Convention relating to the Status of Refugees adopted in 1951.^{7/} The five Scandinavian States wish to make it clear that the declaration to be adopted must not be taken as placing limitations on their Governments with regard to the policy that they had followed over the years in the matter of the right of asylum. Since that policy might, in some respects, go further than was provided for in the draft declaration in safeguarding the interests of persons seeking asylum, the countries in question considered that the declaration would represent, not a maximum, but a minimum.

The meeting rose at 4.40 p.m.

^{7/} United Nations, Treaty Series, vol. 189 (1954), No. 2545, p. 137.