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Summary record of the 24th meeting

Topic:
Fundamental rights and duties of States

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addition of that word would weaken the text as the use of force was always inconsistent with justice, put Mr. Yepes' proposal to the vote.

Mr. Yepes' proposal was rejected by no votes to 4.

99. The CHAIRMAN then put article 11, as amended, to the vote.

Article 11, as amended, was adopted by 9 votes to none.

The meeting rose at 6 p.m.

24th MEETING

Friday, 20 May 1949, at 10.15 a.m.

CONTENTS

Chairman: Mr. Manley O. HUDSON.

Rapporteur: Mr. Gilberto AMADO.

Present:

Members: Mr. Ricardo ALFARO, Mr. James L. BRIERLY, Mr. Roberto CÓRDOVA, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Vladimir KORETSKY, Sir Benegal N. RAU, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. Jean SPIROPOULOS, Mr. Jesús María YEPES.

Secretariat: Mr. KERNO, Assistant Secretary-General in charge of the Legal Department; Mr. LIANG, Director, Division for the Development and Codification of International Law, Secretary to the Commission.

Draft Declaration on the Rights and Duties of States (A/CN.4/2) (*continued*)

THIRD READING (continued)

Article 12 [9]

1. The CHAIRMAN said that no changes had been suggested by the Drafting Committee (See A/CN.4/SR.23, footnote 1) to the English text previously approved by the Commission. As former article 8 had become article 11 of the draft Declaration, the reference to that article in article12 should therefore be corrected.

Article 12 as amended was adopted by 9 votes.

Article 13 [10]

2. The CHAIRMAN said that the Drafting Committee suggested the deletion of the word " made " from the English text. As in the case of article 12, article 13 should be amended by changing " article 8 " into " article 11 ".

Article 13 as amended was adopted by 13 votes.

Article 14 [11]

3. The CHAIRMAN said that no changes to article 14 were suggested by the Committee.

Article 14 was adopted by 9 votes.

Article 15 [12]

4. The CHAIRMAN said that no changes to the English text of article 15 were suggested by the Committee. He suggested that the word " own " which preceded the word " constitution " in the English text, should be deleted.

That proposal was adopted.

5. Mr. ALFARO thought that the word " limitations " in the English text should be replaced by " provisions ". The Spanish word *disposiciones* meant not only limitations, but also any provisions contrary to the obligations dealt with in that article.

6. Mr. BRIERLY supported that proposal.

Mr. Alfaro's proposal was adopted by 6 votes.

7. Mr. SANDSTROM then suggested that the word " contained " in the English text be deleted, as it became redundant.

That proposal was adopted.

8. The CHAIRMAN put to the vote article 15 in the following wording:

" Every State has the duty to carry out in good faith its obligations arising from treaties and other sources of international law, and it may not invoke provisions contained in its own constitution or its laws as an excuse for failure to perform this duty. "

Article 15 was adopted by 11 votes.

Article 16

9. The CHAIRMAN said that no changes to the English text of article 16 were suggested by the Drafting Committee.

Article 16 was adopted by 10 votes to 1.

Article 1

10. The CHAIRMAN reminded the Commission that it had deferred its decision on article 1 of

the Declaration which, as amended by Mr. Yepes and adopted at the previous meeting, [1] read as follows:

" Every State has the right to exist and to preserve its existence."

11. Sir Benegal RAU said that, in principle, he was against article 1 and article 2 of the draft Declaration which were closely connected. He would, however, be prepared, if necessary, to accept the wording proposed by the Drafting Committee for article 1. He could not agree to the existing text.

12. Mr. ALFARO pointed out that, by proclaiming that every State had the right to exist, the Commission would be reaffirming the principle of the right of peoples to self-determination. Communities which had constituted themselves as States obviously had the right to exist. He was in favour of the wording proposed by Mr. Yepes.

13. Sir Benegal RAU said that if the words " every State has the right to exist " meant that any community which claimed to be a State had the right to exist as a State, he would formally oppose the adoption of article 1 in the form suggested by Mr. Yepes; if, on the contrary, those words meant that every existing State had the right to exist, it would be merely stating a truism.

14. The CHAIRMAN thought that it could only apply to communities which had actually become States. He did not agree with Mr. Alfaro's interpretation of the right set forth in article 1.

15. Mr. ALFARO explained that the article merely " reaffirmed " the right of peoples to self-determination, and that the communities he had spoken of were those which had availed themselves of that right and had become States. In such cases they undoubtedly had both the right to exist and to preserve their existence. The State, like the individual, had the right to exist from the moment of birth.

16. In reply to a question by Mr. HSU, he admitted that there would be no danger in deleting article 1 of the Declaration, but feared that that might have an unfortunate psychological effect on the peoples of the world.

17. Sir Benegal RAU, supported by the CHAIRMAN, unreservedly approved the principle of the right of peoples to self-determination, but distinctly disagreed with the interpretation according to which any community could claim statehood by unilateral action. He feared that that was how article 1 would be interpreted.

18. Mr. ALFARO, supported by Mr. CORDOVA and Mr. SCELLE, thought that such an interpretation was impossible, as article 1 said " every State " and not " every community ".

19. Mr. YEPES explained that, in submitting his wording, he had had in mind actually existing States. If the Commission thought that form of words ambiguous, the words " to exist and " should be deleted and the previously adopted wording used.

20. Mr. KORETSKY stressed the question's political aspect. The principle of a State's right to exist had been put forward to offset the fascist conception that one State had the right to make others disappear. It would be good to reaffirm that principle in the Declaration which the Commission was drafting.

21. The CHAIRMAN put to the vote Mr. Yepes' proposal to delete the words " to exist and " in article 1.

Mr. Yepes' proposal was not adopted, 5 votes being cast in favour and 5 against.

22. The CHAIRMAN then put to the vote article 1 in the following wording: " Every State has the right to existence and to preserve its existence ".

There was an equal vote, 6 being cast in favour and 6 against.

23. The CHAIRMAN asked the Commission to vote on the interpretation to be given to the last vote.

It was decided by 6 votes to 5, with 1 abstention, to consider adopted article 1 in its last wording. [2]

Article 2

24. The CHAIRMAN recalled that the Commission had reserved its decision with regard to article 2 of the draft Declaration.[3] He pointed out that his objections to the article which set forth, as it were, the duty of States to recognize the right to existence proclaimed in article 1, had been strengthened in view of the decision of the Commission to retain article 1 in the draft Declaration.

25. Sir Benegal RAU observed that he had always objected to the inclusion of article 2 in the draft Declaration. He felt that the provisions of article 2 were all the less necessary since article 1 had been adopted.

26. Mr. SCELLE pointed out that, as in the case of article 1, the State referred to was one which had a legal existence. Since it was incumbent upon other States to recognize that existence, it should be clearly stated that it was the right of every State to have its existence recognized by other States.

27. The CHAIRMAN observed that in stating such a right to the advantage of the State, the Declaration would imply that other States had the

[1] A/CN.4/SR.23, para. 37.

[2] See A/CN.4/SR.25, para. 4.

[3] A/CN.4/SR.23, para. 38.

corresponding duty to recognize its existence. Mr. Alfaro had clearly specified that the recognition mentioned in article 2 was not aimed at the positive act of recognition, but at the corresponding duty arising out of the right referred to in article 1. It did not appear necessary, therefore, to set forth that duty as a separate right, namely, the right of the State to recognition of its existence.

28. Mr. ALFARO drew the attention of members of the Commission to the comments of the United Kingdom Government (A/CN.4/2, p. 53). According to that Government, it was the duty of States to recognize as a State a community fulfilling the conditions of statehood and it was also their duty not to recognize as a State a community which did not fulfil those conditions. The United Kingdom Government had agreed that the recognition or non-recognition of States was a matter of legal duty and not of policy, Recognition or non-recognition of a State would therefore depend upon whether or not the other States were convinced that the State seeking recognition of its existence fulfilled the conditions of statehood.

29. The CHAIRMAN and Mr. BRIERLY observed that the comments quoted by Mr. Alfaro dealt with the matter of recognition of States, whereas article 2 referred to the recognition of the existence of a State. Mr Brierly added that in its comment on article 1 (A/CN.4/2, p. 50) the United Kingdom Government had pointed out that it was necessary, in the Declaration on the Rights and Duties of States, to define a State. Mr. Brierly felt that since the Commission had decided not to include in the Declaration a definition of the State, article 2 was out of place in the Declaration.

30. Mr. SCELLE supported the views expressed by Mr. Alfaro. It was incumbent upon States, in all good faith, to recognize communities effectively constituted as States, but they could not be compelled to recognized as a State any political entity claiming statehood unless they were convinced that it fulfilled the conditions of statehood.

31. Mr. Scelle shared the view of Mr. Brierly that recognition of the existence of a State was declarative and not attributive. It did not grant existence to a recognized State, but merely took note of it. Mr. Scelle felt that it would have been preferable to include in the Declaration on the Rights and Duties of States a definition of the State. He was fully aware of the difficulties such a definition would entail and that it would not be easy to reach an agreement; he considered, nevertheless, that article 2 should be retained even in the absence of such a definition in the draft Declaration.

32. The CHAIRMAN asked Mr. Scelle whether, in his opinion, it would be incumbent upon a State, under the provisions of article 2, to declare its stand on the question whether or not a political entity claiming statehood fulfilled the necessary conditions of statehood. Personally, he felt that there was no such obligation.

33. Mr. CORDOVA observed that article 2 might deal with tacit recognition of the effects of the existence of the State. Even without entering into the question whether or not a political entity fulfilled the necessary conditions of statehood, it was clearly incumbent upon the other States to recognize the very fact of the existence of that political entity. The question might arise in the case of warships or other assets belonging to a community claiming statehood yet not recognized by all the other States.

34. Mr. SCELLE pointed out that recognition of a State implied recognition of the competence of the rulers of that State to engage in certain activities. It stood to reason that the competence of rulers of States differed from that of rulers of political entities which were not States, such as insurgents. International law had no means other than recognition whereby to distinguish between States and political entities which were not States. Real international anarchy would be the result if the idea of recognition were cast aside. Personally, he would prefer collective recognition to separate recognition by each State, but as long as there existed no super-State organization able to determine whether or not a political entity constituted a State, it would be up to each State itself to decide on the matter.

35. Mr. Scelle observed, in conclusion, that the duty of States to recognize other States was one way of bringing some order into so disorderly a group as existing international society.

36. Mr. CORDOVA understood Mr. Scelle to mean that the recognition of a State and the recognition of a Government were identical. However, even if the Government of the State was not recognized, it was impossible not to recognize the existence of the State itself. If, for instance, a Spanish warship entered Mexican territorial waters, Mexico could not refuse to grant it the status of a ship flying the Spanish flag, even if it did not recognize the current Spanish Government.

37. The CHAIRMAN stated that it was precisely that interpretation of article 2 which should be avoided. He was therefore against the adoption of the article, which might give rise to a prolonged debate in the General Assembly.

38. Sir Benegal RAU asked Mr. Alfaro if, in his opinion, article 2 gave a community calling itself a State the right of recognition in each of the four following cases:

(1) When it was not yet recognized by any other State;

(2) When it was recognized by a single State;

(3) When it was recognized by the minority of the community of States;

(4) When it was recognized by the majority of the community of States.

39. Mr. ALFARO replied in the negative to the first three questions. With regard to the fourth, he stated that the fact that a community was recognized as a State by the majority of States, was a factor in favour of its recognition by the minority of the community of States. Every State had nevertheless the right, in the exercise of its sovereignty, of refusing to recognize a State which, in its opinion, did not fulfil the conditions of statehood.

40. Sir Benegal RAU pointed out that, in those conditions, article 2 merely stated a truism, and was equivalent to saying that only a community calling itself a State, and universally recognized as a State, was entitled to have its existence recognized.

41. Mr. SPIROPOULOS considered that article 2, as it was drafted, lent itself to several different interpretations. Nevertheless that should not prevent its being retained. It was known that the question of recognition was not definitely settled in positive international law, and there was no objection to letting each State interpret that article in its fashion.

42. Mr. ALFARO stressed that recognition could be express or tacit. It happened that States which refused to recognize a State expressly, were led, nevertheless, to recognize it tacitly. Such was the case of the Arab States, which had to recognize the vote taken with regard to the State of Israel in the United Nations and, consequently the existence of that State, although they refused to recognize Israel expressly as a State.

43. The CHAIRMAN pointed out that the Arab States were Members of the United Nations, of which one of the principles was that of obligatory collective recognition. Would non-member States, such as Switzerland or Portugal, be obliged to recognize the State of Israel in the same way?

44. Mr. ALFARO stated that those States were obliged to recognize it, if they considered that the State of Israel fulfilled all the conditions of statehood.

45. Mr. SCELLE proposed drafting article 2 thus:

" Each State has the duty of recognizing, in good faith, the existence of other States ".

46. On the suggestion of Mr. FRANÇOIS, Mr. SCELLE accepted the deletion of the words " in good faith ".

47. The CHAIRMAN put Mr. Scelle's proposal to the vote.

That proposal was rejected by 5 votes to 4.

48. Mr. CORDOVA pointed out that it was not desirable to retain article 2, the purport of which would be difficult to explain to the General Assembly.

49. The CHAIRMAN put to the vote the original text of article 2 (A/CN.4/W.8).

There were 6 votes in favour and 6 against.

50. After a short discussion, the Commission decided by a large majority to defer the final vote on article 2 until the return of Mr. Amado, (Rapporteur) who was prevented by business elsewhere from attending the meeting.[4]

Article 7 [5]

51. On the proposal of the CHAIRMAN, the Commission decided also to defer the question of the deletion of the words " without distinction as to race, sex, language or religion ", until Mr. Amado's return.

Preamble

52. The CHAIRMAN wondered whether the words " as a standard of conduct " which had been inserted after the word " formulate " in the fifth recital were in keeping with the nature of the Declaration.[6] It was his opinion that the insertion of those words would weaken the preamble which in its first four recitals stated positive rules as did the body of the Declaration which set forth rights to be claimed and duties to be fulfilled, for example, article 11. In his opinion the Declaration should set rules of conduct and not a standard of conduct. The latter expression would remove the obligatory character of the Declaration and would tend to limit its scope. He therefore proposed deletion of the words " as a standard of conduct ".

53. Mr. FRANÇOIS stressed that the General Assembly had no legislative powers and could not in any case adopt a binding Declaration. The Declaration would have only moral force. The insertion of those words was therefore unnecessary since the Declaration merely proclaimed an ideal of conduct.

54. Mr. YEPES concurred in the view of the Chairman that the Declaration should set forth positive rules and not merely define the ideal to be pursued.

55. Mr. HSU also shared the view of the Chairman and felt that those words should be deleted. He therefore proposed that the fifth recital should be reconsidered.

56. Mr. CORDOVA, after recalling that those words had been inserted because of difficulties which has arisen in connexion with the expression " certain basic rights and duties ", admitted that the Declaration should not merely indicate a standard of conduct but should set forth juridical

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[4] See A/CN.4/SR.25, para. 3.

[5] See A/CN.4/SR.23, para 90.

[6] *Ibid.*, para. 33.

rules. He therefore proposed that the words " as a standard of conduct " should be replaced by the words " as legal rules of conduct ".

57. Mr. SANDSTROM supported that proposal.

58. Mr. SCELLE was also of the opinion that the Declaration should set forth legal rules and not merely define a standard of conduct. It should be specified that the Declaration on the Rights and Duties of States was in the field of positive law.

59. Mr. ALFARO favoured the proposal to delete the words " as a standard of conduct ". During the voting of the preceding day he had considered that expression as an equivalent of the " rules of conduct " since he was under the impression that the English word " standard " corresponded to the Spanish word *norma* which meant " rule ".

60. The CHAIRMAN put to the vote the proposal to delete the words " as a standard of conduct ".

The Commission decided by 10 votes to delete those words.

61. Turning to the proposal of Mr. CORDOVA to insert the words " as legal rules of conduct ", the CHAIRMAN stated that that expression would not be completely accurate because, while a duty might be considered as a rule of conduct, a right could not be so considered. Thus it could not be said that the " right to independence " was a rule of conduct.

62. Mr. SPIROPOULOS recalled that the expression " as a standard of conduct " had been inserted because of difficulties which had arisen in connexion with the words " certain basic rights ". Since the Commission had decided to delete the words " as a standard of conduct " there was no reason for substituting other words.

63. Mr. BRIERLY did not consider it necessary to change the original text of that recital, but, if absolute precision was sought, the word " legal " might, if necessary, be added before the word " duties ".

The Commission decided to retain the original text of the fifth recital as drawn up by the Drafting Committee.

Order of articles

64. The CHAIRMAN, supported by Mr. SANDSTROM, proposed that the Commission should agree to retain the articles in the order proposed by the Drafting Committee.

It was so decided.

65. The CHAIRMAN stated that the vote on the Declaration as a whole would have to be deferred until the Commission had reached a decision on articles 2 and 7. H3 proposed that two or three French and Spanish language experts should meet to draft the French and Spanish texts of the Declaration as amended.[7]

It was so decided.

PROCEDURE TO BE FOLLOWED AFTER THE ADOPTION OF THE DRAFT DECLARATION

66. The CHAIRMAN asked the members of the Commission to reach a decision on the procedure to be followed after the adoption of the draft Declaration.

67. He recalled that the Panamanian draft had been distributed to Members of the United Nations immediately after the first part of the first session of the General Assembly (A/CN.4/2, p. 20). Governments therefore had had ample time to study it before the second part of that session during which the Assembly, in resolution 38 (I) had requested the Secretary-General to transmit immediately to all Members of the United Nations and to national and international bodies concerned, the text of the Panamanian draft (*ibid.*, p. 23). Thereafter, both the Commission for the Progressive Development of International Law and its Codification in its report (A/CN.4/2, p. 27) and the General Assembly in resolution 178 (II) (*ibid.*, p. 33) had stated that only a limited number of comments and observations had been received. Accordingly, the Secretary-General had been requested to call to the attention of States the importance of submitting comments and observations as soon as possible. Only seventeen Governments and a few non-governmental organizations had replied to those repeated requests. It should be noted in that connexion that most of the comments from Governments had been helpful in the work of the Commission.

68. That brief review of past events proved that, even before instructing the Commission to draft the text, the General Assembly had already consulted Governments and organizations on the draft Declaration on Rights and Duties of States. It therefore seemed that the Commission had been seized of the question in a somewhat unusual way. It could also be considered that that question was not linked to progressive development covered by article 16 of the Statute of the Commission or to the codification of international law covered by article 18. Accordingly there was no reason to apply to it articles 16 and 17 or article 21 which provided for consultation by the Commission with Governments.

69. The General Assembly had instructed the Commission to draw up a draft declaration. It could therefore be held that, once that draft had been adopted by the Commission, it could be submitted directly to the General Assembly which would take appropriate action, particularly consultation with Governments and organizations if such action was deemed useful. By following that procedure, the Commission would give the Assembly tangible proof of the work it had accomplished during its first session.

[7] See A/CN.4/SR.29, paras. 1-11.

70. Mr. SPIROPOULOS concurred in the views of the Chairman. The case under consideration was of a kind which was not covered by any provision of the Commission's Statute. In fact the Governments, which had been approached on several occasions, had had sufficient time to submit their comments concerning the draft Declaration. It was regrettable that all had not done so, but it could not be said that the formality concerning consultation had not been observed. All that remained to be done, therefore, was to transmit the draft to the General Assembly.

71. The draft was not perfect, but, despite Mr. Koretsky's opinion, it did not seem that it could be further improved by the Commission, which had devoted so much time and thought to it. It was therefore useless to reopen the discussion of the draft at the following session. Moreover, it was not a final text. It was possible that the General Assembly would adopt it without amending it, but it was also possible that the Assembly might treat the draft as a mere working paper concerning which it would wish to consult the Governments. Nothing therefore prevented the Commission's following the proposal of the Chairman that the draft should be transmitted to the General Assembly without further formality.

72. Mr. KORETSKY, without reconsidering the serious imperfections of the draft Declaration, which he did not consider to be in a proper condition to be presented to the General Assembly, confined himself to discussing the question of procedure raised by the Chairman, namely, the question whether the draft, if it were adopted by the majority of the Commission, could be submitted directly to the General Assembly, or whether the Commission must observe certain formalities in advance.

73. Mr. Koretsky could not come to the conclusion reached by the Chairman that the question did not fall within any of the categories provided for in the Statute of the Commission. The Statute, which had been granted at the same time as its terms of reference, must be observed unless quite exceptional circumstances and special reasons intervened; that was not so in the case under discussion.

74. Doubtless there might be some question as to whether the draft concerned the progressive development or the codification of international law, although its preamble clearly referred to a new orientation and to the progressive development of international law; such a controversy would have only academic interest because, in either case, the same result would be attained.

75. If the matter were classified under the heading of progressive development, sub-paragraph (*g*) of article 16 provided that the draft should be issued as a working-paper of the Commission together with the replies to the questionnaire mentioned in sub-paragraph (*c*), and that the Secretariat should give it all the necessary publicity. In addition, in accordance with sub-paragraph (*h*) of the same article, the Commission should invite Governments to submit their remarks on the document within a reasonable time. Lastly, under sub-paragraph (*i*), the Commission must appoint a Rapporteur and a group of members to prepare the final text on which it, in turn, should come to a decision. Only then was the draft to be submitted to the General Assembly through the Secretary-General.

76. If, on the contrary, the question related to codification, article 21, which was applicable in the matter, provided for approximately the same procedure concerning publication, publicity and consultation. The Statute therefore gave the Commission a choice between two procedures; it should choose one or the other, for it could not put forward any serious reason for deviating from the provisions of its rules of procedure.

77. It had been stated that Governments had already been consulted. Mr. Koretsky pointed out, on the one hand, that it had been a question of the Panamanian draft, which the Commission had reworded to such an extent that it had almost become a new text and, on the other hand, that too few Governments had replied to the requests for consultation, doubtless because they did not know at that time what would be the fate of the draft. No doubt could remain in their minds: the International Law Commission had been set up and it had prepared a draft Declaration which would soon be submitted to the General Assembly. In those circumstances, they would not fail to be interested in the new draft, concerning which they would wish to submit their commentaries and remarks. It was therefore imperative to consult them, firstly, in order that the General Assembly might know the opinion of the various Governments, when the draft was submitted to it, and might come to a decision with full knowledge of the facts in the case; secondly, because, if the Commission failed to hold such a consultation the Governments and the General Assembly itself would be justified in reproaching it for having acted in violation of its Statute, which expressly set forth the steps to be taken before a draft was to be sent to the Assembly.

78. The importance of those publicity measures had already been pointed out to the Committee on the Progressive Development of International Law and its Codification. It must not be forgotten that the work of the existing Commission must be carried out under the supervision of world opinion, for its results directly concerned all mankind. The Press and specialized publications had not at least so far made news items of that work. It was therefore imperative not to neglect any publicity measures. Moreover, the progressive development and codification of international law must be effected in close co-operation with

Governments. Mr. Koretsky asked the Commission not to create a precedent inconsistent with the two-fold principle of supervision and co-operation. As for the Commission's prestige, it would be protected, since the publication of the draft would show the extent of the work which the Commission had accomplished.

79. The CHAIRMAN remarked that, in regard to the progressive development of international law, under sub-paragraphs (*b*) and (*c*) of article 16, the Commission must first establish a plan of work and send a questionnaire on the topics included therein to the Governments. The fact that that formality had not been observed, and that no member had suggested it, seemed to indicate that the Commission had not considered the draft Declaration as falling within the scope of article 16.

80. Again, the request for documents provided for in article 19, paragraph 2, in regard to codification, had not been addressed to the Governments either, doubtless because the Commission had thought that that was a special case and that the stage concerning application of that article had already been passed.

81. The Chairman pointed out that the procedure concerning direct transmission of drafts would not in any way prevent the General Assembly from consulting Governments, if it deemed it advisable. The latter would have received the text of the draft from the Secretariat before the opening of the session; they could therefore submit detailed comments during the discussion in the Assembly. If it decided to wait until they had submitted their comments, it would then be in a position either to take an immediate decision or to refer the draft to the Commission in order that the latter might reconsider it in the light of those comments. In any case, the General Assembly's freedom of action would in no way be hampered by the proposed procedure.

82. Mr. ALFARO supported the suggestion of the Chairman and pointed out that the draft Declaration constituted an exceptional case, which did not fall within the scope of progressive development or codification as they were defined in article 15 of the Statute. Moreover, it could be concluded from the juxtaposition of General Assembly resolutions 175 (II), 177 (II) and 260 (III) that three special questions were involved which were outside the field of the progressive development and codification of international law and with which it was the Commission's duty to deal.

83. Sir Benegal RAU asked if article 1 of its Statute did not strictly limit the competence of the Commission to the progressive development of international law and its codification.

84. Mr. HSU supported the Chairman's proposal. The draft declaration was a special question, to which the procedure of the Statute did not apply. However, if that treatment of the matter were insisted upon, it must be concluded, since it was principally a question of codification and considering the circumstances in which it had been submitted to the Commission, that the draft was at the stage mentioned in article 22, in other words suitable for transmission to the General Assembly. If the Assembly was not satisfied with the procedure followed, it could, in accordance with article 23, paragraph 2, always refer the draft back to the Commission for reconsideration. In any case, nothing prevented the transmission of the draft, as soon as it was adopted, to the General Assembly without further formality.

The meeting rose at 1 p.m.

25th MEETING

Monday, 23 May 1949, at 3 p.m.

CONTENTS

Chairman: Mr. Manley O. HUDSON.

Rapporteur: Mr. Gilberto AMADO.

Present:

Members: Mr. Ricardo J. ALFARO, Mr. James L. BRIERLY, Mr. Roberto CÓRDOVA, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Vladimir M. KORETSKY, Sir Benegal RAU, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCELLE, Mr. Jean SPIROPOULOS, Mr. Jesús María YEPES.

Secretariat: Mr. KERNO, Assistant Secretary-General in charge of the Legal Department; Mr. LIANG, Director of the Division for the development and codification of international law, Secretary to the Commission.