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Summary record of the 464th meeting

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Though it was a controversial question whether third States were under the same obligations in the matter as the receiving State, he thought that it was the practice that diplomatic agents should at least enjoy freedom from arrest or detention when passing through third States. This freedom was included in the concept of inviolability as found in article 22.

81. Mr. SANDSTRÖM, Special Rapporteur, remarked that, in view of the provisions adopted in article 28, it would be inconsistent not to require third States to accord the same treatment to all members of the staff of missions who enjoyed full privileges and immunities. He quite agreed, on the other hand, that service staff were in a different category.

82. Mr. YOKOTA was in favour of retaining the reference to inviolability in paragraph 1 and of adding a text on the lines of that suggested by Mr. Zourek as a new sentence or paragraph.

83. Mr. ZOUREK pointed out that any such addendum would have to be closely modelled on the wording of paragraph 1, making it clear, in order to avoid raising the question of freedom of transit, that the facilities were to be accorded only in the specific circumstances outlined.

84. Sir Gerald FITZMAURICE suggested that, since the terms of article 32 had to correspond to those of article 28, it would be advisable to await the Drafting Committee's text for article 28 before taking any decision on the other article.

The meeting rose at 1.10 p.m.

464th MEETING

Monday, 16 June 1958, at 3 p.m.

Chairman: Mr. Radhabinod PAL.

Diplomatic intercourse and immunities (A/3623, A/CN.4/114 and Add.1-6, A/CN.4/116 and Add.1-2, A/CN.4/L.72, A/CN.4/L.75) (continued)

[Agenda item 3]

DRAFT ARTICLES CONCERNING DIPLOMATIC INTERCOURSE AND IMMUNITIES (A/3623, PARA. 16; A/CN.4/116/ADD.1-2) (continued)

ARTICLE 32 (continued)

1. The CHAIRMAN, after recalling the discussion on article 32 at the previous meeting, put to the vote the proposal to retain, subject to drafting changes, paragraph 1 of article 32 as adopted at the ninth session (A/3623, para. 16), and to extend the scope of the paragraph to cover members of families of diplomatic agents as well.

Paragraph 1 as amended was adopted unanimously.

2. The CHAIRMAN put to the vote the proposal that the Drafting Committee be requested to insert a new paragraph 2 stating that, in circumstances similar to those described in paragraph 1, third States should accord to members of the administrative, technical or service staff of missions the facilities required to ensure their transit.

The proposal was adopted by 11 votes to none, with 2 abstentions.

3. The CHAIRMAN put to the vote, as a new paragraph 3, paragraph 2 as adopted at the ninth session, prefaced by the addendum proposed by the Special Rapporteur (A/CN.4/116/Add.1).

The new paragraph 3 was adopted by 13 votes to none, with 1 abstention.

Article 32 as a whole, as amended, was adopted by 13 votes to none, with 2 abstentions.

Planning of future work of the Commission (A/CN.4/L.76)

[Agenda item 8]

4. Mr. ZOUREK, introducing his comments and proposals on the planning of the future work of the Commission (A/CN.4/L.76), said that his decision to submit the paper sprang directly from his participation, as Chairman of the Commission, in the debates, at the twelfth session of the General Assembly, on the Commission's report of its ninth session (A/3623).¹

5. It would be recalled that the Commission had studied at its ninth session the problem set by the increase in its size and the question of ways and means of speeding up its work, and had included in its report on that session several paragraphs outlining the various considerations involved (A/3623, paras. 26 to 29).

6. From paragraphs 2 to 8 and 10 to 18 of his paper, it would be seen that the Sixth Committee had debated the working methods of the Commission at the eleventh and twelfth sessions of the General Assembly. On the latter occasion, a number of delegations had expressed, in one form or another, the desire that the methods of work of the Commission be improved. Four delegations had supported the suggestion of the representative of Sweden that in future the Commission should divide itself into two or even more sub-commissions working independently or along parallel lines on different topics. Two delegations, while approving that suggestion in principle, feared that it might have disadvantages, for example, a loss of unity of views. Several delegations, including those of Belgium and the Soviet Union, had opposed the Swedish suggestion, considering that the Commission should not press on too fast with the work of codification, which by its very nature required a considerable amount of time. However, the great majority of delegations seemed to agree that the Commission should be left to organize its work according to its needs and experience. He himself, in his reply as Chairman of the Commission, had

¹ See *Official Records of the General Assembly, Twelfth Session, Sixth Committee*, 509th to 513th meetings.

expressed the same view, and had undertaken to convey the views of the Assembly to the Commission.²

7. His paper was not only a fulfilment of that promise but was also inspired by his sense of the importance of reorganizing the Commission's method of work to ensure satisfactory progress. Some idea of the importance of the question could be obtained from the state of certain of the Commission's topics. On the law of treaties, which had been on the Commission's programme since the first session, no definite decisions, apart from the adoption of a few provisional articles, had been taken, or seemed likely to be taken at the current session, despite the production of three thorough and well-documented reports by the Special Rapporteur. Again the Commission's study of the immense subject of State responsibility — begun in 1955 following a decision taken by the General Assembly in 1954 — had not progressed beyond the stage of a preliminary general discussion and was also unlikely to make further headway at the current session. And the topic of consular intercourse and immunities, on which he had submitted a report and draft articles in 1957, had not as yet been seriously discussed, although several delegations to the General Assembly had expressed the wish that the draft be studied in the closest possible conjunction with the draft on diplomatic privileges and immunities. He realized, of course, that much of the slowness of the procedure was inherent in the nature of the Commission's work which called for a great deal of preparation, and considerable work on the part of the Special Rapporteur, the secretariat and all members of the Commission; in addition, the Commission had to submit provisional drafts to Governments and to re-examine them in the light of their observations.

8. The considerable increase in its membership made it not only desirable but positively necessary that the Commission adopt a new method of work. The Commission had in fact quite a problem to solve: it had been asked to speed up its work, but, unless it changed its methods, the increase in membership must necessarily slow up its work. In his paper he drew attention (paras. 22-23) to three possible ways of expediting the work of the Commission and to the reasons for which they were unacceptable to the Commission or to most of its members.

9. In paragraph 22, sub-paragraph (c) and paragraphs 24 to 26 of his paper he outlined his own suggestion and set forth supporting arguments. It could be summarized as follows: any draft prepared by a Special Rapporteur should be the subject of a general discussion in plenary meeting, followed by a review of the articles of the draft and the amendments submitted by members, without any votes being taken at that stage unless absolutely necessary. After preliminary discussion, the draft would be referred to a sub-commission of not more than ten members, comprising the Special Rapporteur, representatives of all the world's principal legal systems, and those members most interested in the particular subject. The sub-commission, whose meetings

would be conducted in the same way as plenary meetings, with simultaneous interpretation and summary records, would discuss fully the Special Rapporteur's proposals and the amendments thereto and prepare draft articles which would then be submitted to the full Commission for possible discussion and adoption. However, the Commission could also reserve a particularly important or urgent draft for discussion in plenary meeting only.

10. Such a procedure, while increasing the output of the Commission, would place no extra burden on the members of the Commission, since one sub-commission would meet in the morning and one in the afternoon at times when the full Commission was not sitting. The suggestion should also have the advantage of enabling the Commission to submit one draft regularly to the General Assembly every year, instead of no draft at all or two drafts at once as was sometimes the case. The regular submission of drafts was a very important consideration, for the Commission's draft was often the major item on the Sixth Committee's agenda.

11. A further suggestion was that drafts should be reviewed afresh in the light of observations of Governments not at the session immediately following their adoption but at the subsequent one. Such a procedure would give all concerned — Governments, the Special Rapporteur, the secretariat and the members of the Commission themselves — more time in which to play their respective parts in the process. Under the existing procedure, Governments were hardly in a position to begin to study drafts submitted to them until September, when the General Assembly began. Since the draft came up for reconsideration in the following April, there were only seven months in which to complete the whole process of study and transmission of comments by Governments, translation of the comments, study of the replies and preparation of his conclusions by the Special Rapporteur, translation and distribution of his memorandum and study of his memorandum by the individual members of the Commission. As a result, the number of replies from Governments was relatively small, and many were received so late that they could not be considered either by the Special Rapporteur or by the Commission during the session when the draft articles were examined in the light of the comments by Governments. Though his second suggestion would at first slightly retard the Commission's work, that disadvantage was of a fleeting nature and would be far outweighed by the fact that the Special Rapporteur would be able to take all replies of Governments into account, that the Secretariat would have more time in which to translate the documents and prepare any necessary studies, and that the members of the Commission would have time in which to formulate new proposals.

12. Mr. FRANÇOIS said that he could agree with most of the considerations put forward by Mr. Zourek and in particular with his statement that it would be impossible to have meetings of the full Commission twice a day. He had some doubts, however, concerning the advisability of the Commission's splitting up into two

² *Ibid.*, 513th meeting, paras. 36-38.

sub-commissions. When the Commission had consisted of only fifteen members, it was thought that it did not adequately represent the principal legal system of the world. Yet it was now argued that adequate representation of those systems could be obtained with a sub-commission of ten members. In that case, it was difficult to see why the membership of the Commission had been increased to twenty-one. As the sub-commissions — and on that point he fully agreed with Mr. Zourek — would have to be provided with full conference services, including simultaneous interpretation and summary records, and could meet only when those services were available, he failed to see how the proposed new system would really result in much saving of time or money. It would admittedly be useful and time-saving if questions of detail relating to matters already discussed by the Commission could be referred to a subsidiary body. But such a procedure was already being followed at the current session. Unlike the drafting committees of the United Nations Conference on the Law of the Sea, which had confined themselves strictly to questions of form, the Commission's Drafting Committee frequently had to consider points of substance as well. Thus, the existing Drafting Committee appeared to correspond already to what Mr. Zourek had in mind and there seemed to be no need to experiment with innovations. It would, however, be necessary to provide, in some cases, for simultaneous interpretation in these sub-committees.

13. He was not entirely convinced that an increase in the length of the Commission's sessions was entirely out of the question. After all, half the membership of the Commission had managed to attend both the Conference on the Law of the Sea and the current session, involving a total absence of five months from their other occupations.

14. One way of advancing more rapidly would be for the Commission to confine itself to limited subjects (e.g., diplomatic and consular privileges and immunities, and sections of the law of the sea) and not to broach such vast and almost inexhaustible subjects as the law of treaties or State responsibility, which could not be properly dealt with except by a virtually full-time body.

15. With Mr. Zourek's suggestion that there should be a longer interval between the first and second reading of the various drafts he was in entire agreement, as also with the considerations that Mr. Zourek had advanced in support of the suggestion. In particular it would relieve special rapporteurs of the need to study in detail, in the full meeting, all the observations of Governments — an unsatisfactory procedure which the Commission had been forced to adopt at the current session.

16. In short, he said he was not in favour of any drastic change in the methods of work of the Commission, which, to judge from the praise bestowed on it at the United Nations Conference on the Law of the Sea, had not been unsatisfactory. Undue weight should not be attached to the critical observations of the United Nations bodies concerned with administrative and budgetary matters which did not take account of

the special character of the work of the Commission.

17. Sir Gerald FITZMAURICE said that his views were similar to those expressed by Mr. François.

18. Some of the observations made in the Sixth Committee at the eleventh session of the General Assembly might have created the impression that the Commission was working extraordinarily slowly and producing practically nothing. That was a mistaken impression. Mr. Zourek had suggested that the method he proposed would enable the Commission to produce one complete piece of work every session. The fact was, however, that the Commission's completed works on the rights and duties of States, the definition of aggression, reservations to treaties, codification of the Nürnberg principles, the draft code of offences against humanity, statelessness, the law of the sea, arbitral procedure, diplomatic immunities, and ways and means of making international law more generally known, represented an average of more than one completed work per session.

19. Much of the demand for speeding up the Commission's work had been based on a misconception. The impression that the Commission was not working fast enough was, he thought, partly due to the fact that the General Assembly itself was not always able to take action on the drafts which the Commission produced. Even if the Commission did produce more work it was questionable whether Governments and the General Assembly would be able to keep pace.

20. The Commission's critics presumably had the idea that the Commission should provide texts which could be submitted to international conferences. The time available, however, imposed a limit on the number of such conferences which could be held, and the organization of international conferences to deal with any marked increase of output by the Commission would be a difficult matter.

21. Furthermore, the Commission could have made much quicker progress with its regular work on the subjects it had listed for codification at its first session if the General Assembly had not from time to time asked the Commission to report, in some cases to the Assembly's next session, on special problems. This was not intended as a criticism, but it was a fact. Mr. Zourek had mentioned, as examples of topics on which the Commission's progress was slow, the study of treaties and of State responsibility. It was particularly such time-consuming studies, however, which had had to be interrupted in order that the Commission could carry out the special tasks referred to it from time to time by the General Assembly.

22. It should not be thought that the Commission's work was necessarily wasted if a complete draft was not produced. The reports of the special rapporteurs, for example, were useful in themselves, and the Commission's discussions, even if, in a given session and on a given topic, they could only be short ones, were of great value.

23. International lawyers were naturally keenly interested in further material, but he was inclined to

think that some of them did not realize what a novel situation had been created by the establishment of the Commission and the amount of work actually being done. Previous efforts of codification had been private ventures by eminent lawyers or private bodies, such as the Institute of International Law. Never before had there been a body like the Commission, which was official in the sense that it had been set up by an intergovernmental institution. The impact of the quantity of real codification which the Commission was producing was now perhaps being felt for the first time. That was a matter for congratulation, and neither the General Assembly nor Governments should feel that the Commission's work was wasted.

24. As Mr. François had pointed out, the results desired in some quarters could be achieved only by a more or less permanent body. The establishment of such a body would, however, produce a plethora of texts and it would be impossible for Governments to spare time for comments and for the multitude of international conferences which would be necessary.

25. In his opinion, no fundamental change could or should be made in the Commission's method of work. He did not deny that some improvements might be introduced and, as United Kingdom representative in the Sixth Committee of the General Assembly, he had at one time been attracted by the idea of dividing the Commission into two sub-commissions. He had now come to doubt the wisdom of that proposal, for it might result in the Commission's losing the *esprit de corps* which by restraining prolixity and in other ways contributed so largely to the success of the work. Mr. Zourek had mentioned the success of the Drafting Committee in support of his thesis but the success of that Committee was largely due to the fact that before any matter was referred to the Committee it was thoroughly discussed in the full Commission. It was true that the Drafting Committee was sometimes asked to resolve difficulties for which the Commission itself had been unable to find a solution, but such requests were made only after full discussion in the Commission itself. If matters were referred to sub-commissions without such previous discussion, the likelihood of a repetition of the whole discussion when the matter was referred back to the full Commission would be much greater. That did not mean that reference of a matter to a sub-commission might not in some instances be useful, but that method should be used only on an *ad hoc* basis.

26. He agreed with Mr. François that one concrete measure which could be taken to improve the situation would be to institute a longer session, say twelve weeks instead of ten. In addition, more extra meetings could be held periodically in the afternoons, and the length of the main meetings could be extended by starting at 9.15 a.m. instead of 9.45 a.m. Slightly more use might perhaps be made of the method of referring particular subjects to sub-commissions. What really mattered, however, was the quality of the work, and the Commission should always remember that even if it

produced more work the General Assembly might be unable to take action on it.

27. Mr. AMADO said that though he sympathized with Mr. Zourek's motives in submitting his proposals, he doubted whether the proposals would serve their purpose.

28. He questioned the statement in paragraph 20 of Mr. Zourek's paper that the 40 per cent increase in the Commission's membership would be bound to slow down the work if the Commission adhered to its previous methods.

29. He also thought that in Mr. Zourek's paper, too much importance was attached to the idea that the members of the Commission represented the world's principal legal systems. The fact was that each member spoke for himself without any intention of acting as spokesman of a particular system.

30. He doubted whether it would be feasible to establish sub-commissions to deal with limited aspects of the Commission's work. Even the Drafting Committee, whose work should presumably be fairly narrowly defined, found it impossible to confine itself to purely drafting questions, and it would be even more difficult for sub-commissions to limit the scope of their discussions.

31. It had been amply demonstrated that the Commission had no reason to be discouraged at the progress of its work, for in fact it had accomplished a great deal during the ten years of its existence.

32. The only way of increasing the Commission's output would be to extend the length of its sessions. A permanent body would not be desirable, for it would tend to be unenterprising, but the extension of the length of the Commission's session by another month would, he thought, be helpful. The Commission should state its opinion on that point quite frankly to the General Assembly.

33. Mr. LIANG, Secretary to the Commission, said that in accordance with practice he had to point out the financial implications of Mr. Zourek's proposal. He was informed by the Director of the European Office of the United Nations that if a sub-commission of the Commission met on half days when the Commission itself was not meeting, so that the same interpreters could be used for the meetings of both the sub-commission and the Commission, additional staff would be required for producing summary records and the total extra cost would be \$21,356 for a ten-week session. The extra cost would of course be smaller if the sub-commission did not meet on the same day as the full Commission; but on the other hand the extra cost would be greater if the proceedings of the sub-commissions were printed in the *Yearbook*.

34. With reference to the suggestion that the length of the Commission's session should be extended to twelve weeks, he pointed out that the additional two weeks would have to fall in March, since the General Assembly at its twelfth session had reaffirmed, in resolution 1202 (XII), its previous decision that there

should be no overlapping between the session of the Commission and that of the Economic and Social Council.

35. If the Commission considered that it really needed a twelve-week session, it should have no hesitation in making the appropriate suggestion to the General Assembly, though he thought such a suggestion would have a better chance of being accepted if the General Assembly had expressed, in either the preamble or the operative part of one of its resolutions, the desire that the Commission should work more quickly or increase its output. No such desire had, however, been expressed in any of the decisions of the General Assembly.

36. The criticisms of the Commission's work could, he thought, be traced to a number of misconceptions. First, there was the idea that the Commission was responsible for drafting a whole code of international law. To those who had that idea the Commission's progress must naturally seem slow if it produced only one complete text a year. That was a mistake because international law had developed so rapidly in practice and doctrine that it could only be codified, subject by subject and that had been the view of the Commission from its very inception. Secondly, it was a mistake to think of the Commission as comparable to a national codification commission, the members of which could be divided into various sections dealing with such well-defined branches of the law as civil law, criminal law, mercantile law, etc. That was again a mistake for the reason that in the case of a national codification commission the members would work on the basis of a common legal tradition and it would be easier to achieve agreement regarding particular problems. In addition they would usually be paid by the Government and work on a full-time basis. The difference between the codification of national law and that of international law escaped the attention of persons familiar with the codification of national law but not with the work of the League of Nations and the United Nations in the matter of codifying international law. The third misconception was that of regarding the Commission as a kind of juridical consultative organ of the General Assembly. It had often been suggested that legal questions arising out of the debates in the General Assembly could be referred to the Commission and that the Commission was a kind of legal adviser to the political organs. That was again an error, as the functions of the Commission clearly did not include that of giving legal advice. If the Commission had to deal with requests for *ad hoc* legal advice, its own work, which had been carefully planned by itself, would be necessarily delayed.

37. The criticisms of the Commission had not, however, found expression in decisions and resolutions. He thought that the General Assembly would be satisfied if the Commission reviewed from time to time its method of work, as it had done in 1957 and again at the current session. He further suggested that the Commission's report covering the work of its current session should contain a section showing that the Commission had carefully considered the statements

made in the Sixth Committee during the twelfth session and Mr. Zourek's paper on the future work of the Commission.

38. Mr. AGO observed that in the opinion of the majority of the members of the Commission who had experience of other international bodies the Commission, all things considered, worked very satisfactorily and often more satisfactorily than many other bodies. It was noteworthy that opinions expressed to the Sixth Committee were by no means unanimous: on the one hand, for example, it had been said that the Commission should increase its output; on the other it had been authoritatively stated that it should be given all the time required for its work. It seemed obvious that some delegations in the Sixth Committee did not always realize how much time was spent on codification in general; obviously, the codification of international law took even longer than the codification of national law, for if it were hurried it would inevitably be badly done. The difficulties of the work entrusted to the Commission should be made clear in the Commission's report.

39. With regard to the means suggested for speeding up the work of the Commission, he subscribed to the views of Mr. Amado and Sir Gerald Fitzmaurice, who had advanced clear technical arguments against splitting the Commission. He had advanced those arguments himself during a previous discussion. The delicate and difficult task of codification involved the adjusting of old principles to the expanding community of nations and to the new international situation. In that undertaking, all the members of the Commission had to co-operate and there could be no question of dividing the Commission into two.

40. Again, the quality of the Commission's work was more important than its quantity. It had been said that its drafts were often — and quite rightly — examined word by word. In a few years' time it would not matter how long the Commission had spent on any one draft; but it would matter whether the draft was sound or not. It seemed to him, therefore, that the only practicable method of increasing the Commission's output — if that were really considered useful — would be to extend its session by two or three weeks.

41. Mr. SANDSTRÖM agreed that the Sixth Committee had misconceived the nature of the Commission's work. It was a fallacy to think that international law was something ready-made which could be brought to light by mere diligent research; the reality was that systems and practices differed through the world and authorities disagreed, so that the Commission's work had to take into account such variations, as well as to envisage in what way the development of international law could be furthered constructively.

42. Something could nevertheless be done to increase the Commission's output. The practice could be extended of leaving drafting problems to a sub-commission and reducing the discussions in the Commission, but such delegation had to be done with

care. In that respect, he agreed with Mr. Zourek that a membership of ten would be very suitable for a sub-commission. The Commission's sessions might also be extended to twelve weeks, although he recalled that on the one occasion on which a session had lasted for eleven weeks the general consensus of opinion had been that it had been extremely tiring. Other proposals that had been made were worth consideration, such as the lengthening of the time between the first and second readings. The work of preparation for the sessions and the projects could also be speeded up.

43. Mr. GARCIA AMADOR said that the idea that the Commission's sessions should be extended in length was eminently acceptable, but it was open to objection on technical grounds. Furthermore the General Assembly had decided that the Commission's sessions should not overlap those of the Economic and Social Council. Nor would it be easy to schedule the beginning of the Commission's sessions for an earlier date than was now customary, for then the session might conflict with the academic term.

44. The proposal that sub-commissions should be appointed had encountered the objection that the full Commission would be unable to go into each problem thoroughly. On the other hand it was almost universal practice for international bodies to appoint sub-committees, a practice which had not only had no adverse effect, but had indeed done a great deal towards clarifying problems and expediting work. The proposal seemed a most logical way of increasing the Commission's output of work.

45. Greater efforts should be made to plan and prepare the Commission's work in advance. Reports and memoranda could be produced earlier, and each subject taken up should be carefully surveyed, if necessary by a small group of members meeting before the beginning of the session, so that it could be examined in a planned and co-ordinated manner.

46. Mr. TUNKIN said that in the Sixth Committee only a few delegations had criticized the Commission; the majority had spoken highly of its work. It was advisable that the Commission should from time to time review its methods of work, and he was therefore grateful to Mr. Zourek, whose proposals in general followed the practice of the Commission. The Commission's Drafting Committee was, as he had pointed out, practically a sub-committee, which considered substantive questions as well as mere drafting problems. Mr. Zourek had, however, gone a step further in proposing that the Drafting Committee should become a sub-commission provided with simultaneous interpretation and summary records. He (Mr. Tunkin) was unwilling to accept such a proposal, since nearly all questions of importance were discussed at the Commission's plenary meetings; it seemed unnecessary to provide summary records for the Drafting Committee.

47. It was inadvisable to suggest that the Commission's session be extended by another two weeks, for owing to technical and financial difficulties the General Assembly was unlikely to agree to the suggestion. In the

circumstances, it would be better to restrict the session to ten weeks.

48. One method of increasing the Commission's output of work would be to arrange for the Special Rapporteur's reports and the Secretariat memoranda to reach members about two months before the session opened, in order to give them time to study the documents and come to the session fully briefed.

49. He approved of the proposal for a longer interval between the first and second reading. The primary duty of the Commission was to produce work of high quality, and at present the second reading was done too hurriedly.

50. Mr. ZOUREK said that his comments and proposals had not been submitted purely on his personal initiative. He had drafted them because he felt that he should inform the Commission of what had happened at the Sixth Committee, where, he emphasized, no formal decisions had been taken. He also felt that the Commission should keep the initiative in its own hands and maintain its own prerogatives and rights where the organization of its work was concerned.

51. It was generally agreed that the Drafting Committee's work went beyond the mere task of drafting; often, in fact, the Committee dealt with questions of substance. For that purpose the services at the Drafting Committee's disposal were inadequate; he referred in particular to the lack of simultaneous interpretation. If the Commission did not propose that the Drafting Committee be provided with such services, obviously there would be no chance of any budgetary provision for them.

52. To simplify and to expedite the work of the Commission, a distinction should be made between the two kinds of questions with which it dealt: on the one hand, the important questions which would invariably be examined by the Commission as a whole; on the other, the minor questions and the drafting questions which would be examined by a sub-commission. Obviously, any questions discussed by the sub-commission could be raised again later in the plenary session of the Commission.

53. The financial implications of his proposals should be considered not by the Commission but by the General Assembly. He added, incidentally, that the Secretary had, in speaking of the financial implications, envisaged the sub-commission as sitting at the same time as the Commission; he (Mr. Zourek) had never intended, however, that the two bodies should sit at the same time, but rather that the sub-commission should meet only when the Commission was not sitting.

54. He thought that before the current session ended the Commission might agree in principle that the interval between two readings should be extended. There seemed also to be general agreement that the Drafting Committee could and should deal with questions of substance, but there was no unanimity on the question whether it should have full services or not. A decision on the question might therefore be postponed to a later session. On the other hand, he felt that the

Commission was in agreement that a passage should be inserted in the report stating that the Commission had discussed the criticisms made in the Sixth Committee, and ways and means of increasing its output of work ; it should stress the special kind of work it did and set out any practical conclusions it had adopted on the basis of the memorandum submitted by Mr. Zourek (A/CN.4/L.76).

55. The CHAIRMAN considered that preferably the Commission should not take a formal decision. He suggested that an account of the discussion might be included in the report of the Commission.

It was so agreed.

56. Mr. LIANG, Secretary to the Commission, replying to points raised by Mr. Zourek, said that in the practice of United Nations bodies a drafting committee as a general rule was not provided with full technical services. His only reason for mentioning the financial implications of Mr. Zourek's proposals had been that he felt that the Commission should have all the facts before it. In any case, if the Drafting Committee did not meet at the same time as the Commission, the cost would be correspondingly reduced.

57. Mr. AMADO said that on reflexion he was not prepared to support the idea that the Drafting Committee should have full technical services, for if it was provided with such services the Committee would acquire a special status, which would be an undesirable precedent.

Representation at the thirteenth session of the General Assembly

58. Mr. LIANG, Secretary to the Commission, suggested that the Commission should, as in past years, depute its Chairman to represent it at the thirteenth session of the General Assembly.

It was so agreed.

Date and place of the eleventh session

[Agenda item 7]

59. Mr. LIANG, Secretary to the Commission, said the dates suggested for the opening and closing of the eleventh session at Geneva were 20 April and 26 June 1959.

60. After some discussion, the CHAIRMAN proposed that members should discuss the possible dates among themselves and reach agreement at the next meeting.

It was so agreed.

The meeting rose at 6.15 p.m.

465th MEETING

Tuesday, 17 June 1958, at 9.45 a.m.

Chairman : Mr. Radhabinod PAL.

Date and place of the eleventh session (continued)

[Agenda item 7]

1. Mr. LIANG, Secretary to the Commission, explained that, as the Commission's eleventh session would be preceded by a conference of plenipotentiaries to draft an international convention for the elimination of statelessness and followed by a session of the Economic and Social Council the dates of which were in effect fixed by the Council's rules of procedure, any dates other than those he had mentioned at the previous meeting would involve a conflict with the other meetings. Accordingly, the Commission had no other choice but to hold its eleventh session from 20 April to 26 June 1959.

It was so decided.

Diplomatic intercourse and immunities (A/3623, A/CN.4/114 and Add.1-6, A/CN.4/116 and Add.1-2, A/CN.4/L.72, A/CN.4/L.75) (continued)

[Agenda item 3]

DRAFT ARTICLES CONCERNING DIPLOMATIC INTER-COURSE AND IMMUNITIES (A/3623, PARA. 16; A/CN.4/116/ADD.1-2) (continued)

ARTICLE 33

2. Mr. SANDSTRÖM, Special Rapporteur, drew attention to the observations of the Governments of Belgium, Luxembourg, Switzerland (A/CN.4/114) and Italy (A/CN.4/114/Add.3) and to his own comments (A/CN.4/116). He was not proposing any amendment to the article. The Italian Government's proposal might be dealt with by the Drafting Committee.

3. Mr. AGO said that the Italian Government's proposal was, he believed, based on the idea that it was the duty of all diplomatic agents to respect local laws, whether or not they were entitled to privileges and immunities.

4. Mr. SANDSTRÖM, Special Rapporteur, said it was an implied term of article 33 that persons enjoying privileges and immunities were not subject to the jurisdiction of the receiving State. For that reason, it was desirable to leave its wording unchanged. The Italian Government's proposal was less comprehensive, and less concise.

5. Mr. BARTOS said that when diplomatic privileges and immunities were granted all those enjoying them should be, as a corollary, under the duty to respect the laws and regulations of the country which granted them. It was an obligation of the sending State to see that