



SUMMARY RECORD OF THE 67TH MEETING

Chairman: Mr. FERRARI-BRAVO (Italy)

CONTENTS

AGENDA ITEM 114: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS THIRTIETH SESSION (continued)

AGENDA ITEM 116: IMPLEMENTATION BY STATES OF THE PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961: REPORT OF THE SECRETARY-GENERAL (continued)

AGENDA ITEM 119: REGISTRATION AND PUBLICATION OF TREATIES AND INTERNATIONAL AGREEMENTS PURSUANT TO ARTICLE 102 OF THE CHARTER OF THE UNITED NATIONS: REPORT OF THE SECRETARY-GENERAL (continued)

AGENDA ITEM 124: DRAFT CODE OF OFFENCES AGAINST THE PEACE AND SECURITY OF MANKIND (continued)

COMPLETION OF THE COMMITTEE'S WORK

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 114: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS THIRTIETH SESSION (continued) (A/33/10, A/33/192; A/C.6/33/L.4 and L.16)

1. Mr. GAVIRIA (Colombia) introduced draft resolution A/C.6/33/L.16 on behalf of its sponsors. The text was the result of extensive negotiations in which the participants had worked in a laudable spirit of co-operation to produce a wording that would prove generally acceptable. He hoped that, in accordance with tradition, the Committee would adopt the draft by consensus.

2. The CHAIRMAN announced that Algeria, Sierra Leone and Zaire had joined the sponsors of draft resolution A/C.6/33/L.16. If he heard no objection, he would take it that the members of the Committee wished to adopt the draft by consensus.

3. Draft resolution A/C.6/33/L.16 was adopted by consensus.

4. Mr. OMAR (Rapporteur) drew members' attention to a matter relating to the form of the report which, on behalf of the Committee, he was to submit to the General Assembly on item 114, entitled "Report of the International Law Commission on the work of its thirtieth session". In the past, the reports of the Committee on that item had contained not only the texts of the proposals and amendments submitted and of decisions taken but also an analytical summary of the views expressed by representatives during the debate in the Committee. He assumed that the Committee wished the report on the item to contain, as in the past, an analysis of the views expressed and that it wished to take a decision to that effect in view of the provisions of General Assembly resolution 2292 (XXII) of 8 December 1967 concerning publications and documentation of the United Nations.

5. On the basis of the experience of the previous year's report and in the light of the debate which had taken place at the current session on the item concerned, it might be estimated that an analytical summary of the main observations made in the course of the debate on the various matters dealt with in the report of the International Law Commission would cover approximately 137 pages. On the basis of information furnished by the Secretariat concerning the current calculated value of the internal services of translation, typing and reproduction of a document of that type in the six languages of the General Assembly, the cost of including such a summary in the report of the Committee would be in the order of \$41,100.

6. Mr. ROSENNE (Israel) recalled that, in a statement he had made during the general debate on the item on the Commission's report, he had suggested that the question of the usefulness of the report should be dealt with by the Commission itself in order to determine whether the latter really needed such a costly report every year.

7. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to include an analytical summary of the views expressed in the course of the debate in the report to be submitted to the General Assembly on agenda item 114.

8. It was so decided.

AGENDA ITEM 116: IMPLEMENTATION BY STATES OF THE PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961: REPORT OF THE SECRETARY-GENERAL (continued) (A/31/145 and Add.1; A/33/264; A/C.6/33/L.17)

9. Mr. KOSTOV (Bulgaria), introducing draft resolution A/C.6/33/L.17 on behalf of its sponsors, drew the Committee's attention in particular to preambular paragraphs 5 and 6 and to operative paragraph 2, in which all States were called upon to observe and strictly implement the provisions of the Vienna Convention on Diplomatic Relations of 1961, especially to ensure better security of diplomatic missions and safety of their personnel, provided for in that Convention. The draft was the result of difficult negotiations in which the participants had sought to find common language so as to produce a text which would be generally acceptable; he hoped that it would be adopted by consensus.

10. The CHAIRMAN announced that Afghanistan had joined the list of sponsors of draft resolution A/C.6/33/L.17 and that Argentina and Kenya should also be included in the list. If he heard no objection, he would take it that the members of the Committee wished to adopt the draft by consensus.

11. Draft resolution A/C.6/33/L.17 was adopted by consensus.

12. Mr. BOUZIRI (Tunisia) said that his delegation had decided to join in the consensus despite the reservations which it had expressed. The Vienna Convention on Diplomatic Relations was not at all clear in certain respects and, indeed, contained serious omissions. For example, the term "family" was not given a precise definition. His delegation had requested that the draft resolution should mention and identify certain inadequacies in the Convention and that the International Law Commission should take account of them. It had also requested that the Commission should periodically review the Vienna Convention precisely for the purpose of bringing it up to date and adapting it to current needs.

AGENDA ITEM 119: REGISTRATION AND PUBLICATION OF TREATIES AND INTERNATIONAL AGREEMENTS PURSUANT TO ARTICLE 102 OF THE CHARTER OF THE UNITED NATIONS: REPORT OF THE SECRETARY-GENERAL (continued) (A/33/258; A/C.6/33/5 and Add.1)

13. The CHAIRMAN invited the members of the Committee to adopt by consensus the draft resolution appearing in document A/C.6/33/5, which contained the report of the Informal Working Group set up at the beginning of the session to consider the item. If he heard no objection, he would take it that members wished to adopt the draft by consensus.

14. The draft resolution contained in document A/C.6/33/5 was adopted by consensus.

15. Mr. BOUZIRI (Tunisia), speaking in his capacity as Chairman of the Informal Working Group, thanked the Committee on behalf of the Group for the confidence it had shown in the Group in adopting by consensus the draft resolution contained in the report (A/C.6/33/5). The adoption of the draft represented an important step towards a solution of the serious crisis which had arisen with regard to the registration and publication of treaties and international agreements. The system proposed by the Group was a rational one which would permit the United Nations to continue to perform its work in that sphere effectively.

AGENDA ITEM 124: DRAFT CODE OF OFFENCES AGAINST THE PEACE AND SECURITY OF MANKIND  
(continued) (A/33/247; A/C.6/33/L.15)

16. The CHAIRMAN suggested that the meeting should be suspended to enable delegations to hold consultations on draft resolution A/C.6/33/L.15.

The meeting was suspended at 11.20 a.m. and resumed at 12.55 p.m.

17. Mr. MONTEMAYOR CANTU (Mexico), speaking on behalf of the sponsors of draft resolution A/C.6/33/L.15, said it was to be regretted that during the informal discussions which had just been held it had not been possible to reach agreement on a text of the draft resolution which would be acceptable to all delegations.

18. Nevertheless, in a spirit of compromise and with the desire to obtain the widest possible support for the draft resolution, the sponsors had decided to amend it as follows: in the last preambular paragraph, to replace the words "the debate" by "the debates"; in the first line of operative paragraph 1, to insert "and relevant international intergovernmental organizations" after "Member States"; in the third line of that paragraph, to insert "including comments on the procedure to be adopted" after the word "Mankind"; in the same line, to replace "30 June 1979" by "31 December 1979"; and in the fourth line of that paragraph to replace "thirty-fourth" by "thirty-fifth". Thus, operative paragraph 1, as amended, would read as follows:

"1. Requests the Secretary-General to invite Member States and relevant international intergovernmental organizations to submit their comments and observations on the 'Draft Code of Offences against the Peace and Security of Mankind', including comments on the procedure to be adopted, not later than 31 December 1979 and to prepare a report to be submitted to the thirty-fifth session of the General Assembly;"

19. The sponsors had also agreed to insert a new paragraph 2, worded as follows:

"2. Also requests the Secretary-General to circulate to Member States and relevant international intergovernmental organizations reports prepared for and by the International Law Commission, the summary records of the relevant debates in the General Assembly and all other relevant official documentation on the item;"

20. Similarly, they had agreed to replace the words "thirty-fourth" by "thirty-fifth" in the former operative paragraph 2 and to add the words "and to accord it priority and the fullest possible consideration" at the end of the paragraph. The paragraph would then read as follows:

"3. Decides to include in the provisional agenda of its thirty-fifth session the item entitled 'Draft Code of Offences against the Peace and Security of Mankind', and to accord it priority and the fullest possible consideration."

21. Mr. MUSEUX (France) said that since the item was a complicated one which had been submitted to the Committee late in the session, there had not been time to prepare and discuss the draft resolution sufficiently for general agreement to be reached on it. The amendments submitted by the sponsors of the draft were evidence of their goodwill and improved the text considerably. Nevertheless, he believed that further improvements could be made in the preamble of the draft, which, according to the statements made by its sponsors during the informal discussions, was designed to provide information on the history of the item on the draft Code of Offences against the Peace and Security of Mankind in the General Assembly. Other delegations believed that the historical background had been presented in a selective manner. Accordingly, his delegation, recalling other questions which had been analysed in a related manner, such as the question of an international criminal jurisdiction, wished to suggest that the preamble should be amended so as to reflect more concisely, but at the same time more comprehensively, the history of the item. The amendment would consist in replacing the second and third preambular paragraphs by the following paragraph:

"Recalling further General Assembly resolutions 897 (IX) and 898 (IX) of 4 December 1954, 1186 (XII) and 1187 (XII) of 11 December 1957 and 3314 (XXIX) of 14 December 1974,".

22. Mr. MONTEMAYOR CANTU (Mexico) said that the sponsors had already been familiar with the amendment just proposed by the representative of France, which had been proposed by other delegations in the contact group, and had rejected it in the belief that the link which it attempted to make between the definition of aggression and an international criminal jurisdiction was inappropriate. The reference to the definition of aggression was justified because it was the absence of such a definition that had prevented the General Assembly from considering the draft Code earlier. However, there was no such causal and chronological link between the draft Code and an international criminal jurisdiction, even though the two were interrelated.

23. Mr. ROSENSTOCK (United States of America) recalled that, in fact, the preamble of resolution 898 (IX) mentioned the link between the question of defining aggression, the draft Code of Offences against the Peace and Security of Mankind, and the question of an international criminal jurisdiction. It was wrong to select part of the background of an item; instead, delegations should be permitted to become completely familiar with its background as a point of departure for consideration of the item.

24. The CHAIRMAN invited the Committee to vote on the amendment proposed by France.

25. The French amendment was rejected by 41 votes to 25, with 32 abstentions.

26. The CHAIRMAN invited the Committee to vote on draft resolution A/C.6/33/L.15, as orally amended by Mexico.

27. Draft resolution A/C.6/33/L.15, as orally amended, was adopted by 79 votes to none, with 23 abstentions.

28. Mr. ROSENSTOCK (United States of America) said that his delegation had not been able to support the draft resolution because, in its opinion, it was not appropriate to open the consideration of a Code of Offences against the Peace and Security of Mankind as though the definition of aggression constituted its only antecedent and because it believed that it was highly improbable that any agreement could be reached.

29. He also believed that it was not advisable to give the impression that the definition of aggression adopted by the General Assembly could open the way to overcoming the various obstacles which had in the past prevented the success of efforts made in that area. His delegation had abstained in the vote instead of voting against the draft resolution in the hope that Governments, when considering the background of the item, which included General Assembly resolutions 898 (IX) and 1187 (XII), which had not been mentioned in the draft adopted, would overlook the tendentious approach that was apparent in the preamble.

30. Mr. KATEKA (United Republic of Tanzania) said that his delegation had seen positive elements in the French proposal but had been obliged to abstain in the vote in view of the absence of a precise definition of the international criminal jurisdiction which the amendment had sought to link with the Code of Offences against the Peace and Security of Mankind.

31. In his opinion, the draft adopted was, in general, positive and the extension of the time-limit accepted by the sponsors would provide greater opportunities for the drafting of a code when its consideration was resumed after the lapse of 20 years.

32. Mr. FIFOOT (United Kingdom) said his delegation believed that the draft which had been adopted represented merely a procedural decision. It had abstained in the vote because, although almost all the amendments to the operative part improved the text, a balanced wording had not been arrived at in the preamble. That fact added to his doubts as to the usefulness of considering the substantive aspect of the item.

33. Mr. GRÖNWALL (Sweden) said that his country had always supported efforts to overcome the inaction on the present item. Although he welcomed the new efforts made in that regard, he regretted that no reference had been included to the link between the Code of Offences and an international criminal jurisdiction, which was one of the fundamental aspects of the question.

34. He hoped that the documentation which the Secretary-General had been requested to distribute would contain full information on the work of the International Law Commission and other bodies with regard to the establishment of an international criminal jurisdiction.

35. Mr. FRANCIS (Jamaica) said that the effectiveness of the Code of Offences was inseparable from the existence of a jurisdiction competent to apply it. Nevertheless, his delegation had voted against the amendment proposed by France because in its opinion the question would more appropriately be considered during the General Assembly's discussions on the item.

36. Mr. ROSENNE (Israel) said that his delegation had voted in favour of the amendment proposed by France, which would have placed the draft resolution in its appropriate historical context. After the amendment was rejected, his delegation had abstained in the main vote, even though it had appreciated the spirit of conciliation shown by the sponsors of the draft, because it did not believe that the preamble was properly worded. His delegation still hoped that it would be possible to find a formula acceptable to all when the item was considered by the plenary Assembly.

37. Mr. KIRSCH (Canada) said that his delegation fully supported efforts towards the progressive development and codification of international law and appreciated the initiative taken by the sponsors of the draft which had been adopted. His delegation had abstained because of its reservations as to the appropriateness of continued consideration of the item. The lack of consensus was due, in the opinion of his delegation, to the fact that the amendments made, although positive, were insufficient in that the preamble had not mentioned all aspects of the item's background.

#### COMPLETION OF THE COMMITTEE'S WORK

38. The CHAIRMAN observed that the completion of the Committee's work roughly coincided with the thirtieth anniversary of the adoption of two basic international instruments, the Convention on the Prevention and Punishment of the Crime of Genocide and the Universal Declaration of Human Rights. Together with the Charter of the United Nations, they had great symbolic value because they had marked a turning point in the ceaseless search for equality and in the dismantling of colonialism.

39. After the customary exchange of courtesies, the CHAIRMAN announced that the Committee had completed its work at the thirty-third session.

The meeting rose at 2.10 p.m.