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CONTENTS

Chairman: Mr. Abdullah EL-ERIAN (United Arab Republic).

AGENDA ITEM 87

Reports of the International Law Commission on the work of its sixteenth and seventeenth sessions (continued) (A/5809, A/6009; A/C.6/L.557-L.561)

1. Mr. ENGO (Cameroon) noted with pleasure the presence of the Chairmen of the sixteenth and seventeenth sessions of the International Commission who would be of valuable assistance to the Sixth Committee. He also congratulated the International Law Commission on its excellent work, as shown in the high quality of the reports (A/5809, A/6009).

2. Until recently international law had grown out of various traditions without a conscious effort to guide its evolution systematically. In view of the growing intercourse between peoples it had become essential to build up a coherent system. Nevertheless a mere juridical structure would not be enough: the goodwill of the parties concerned and the pursuit of common aims were indispensable conditions for success. An understanding of that nature could be founded only upon the equality of States and on the recognition of the sovereignty of each one. It was not sufficient to place the old principles side by side; a new structure had to be build after consultation with all countries, including the young nations. The agreement which had been reached on certain points was already an encouraging sign.

3. As an example he quoted the history of his own country which in the past had been the subject of many treaties without the populations concerned ever being consulted; the administrative frontiers had been drawn without taking the ethnical and cultural factors into account. He also recalled that when his country instituted proceedings before the International Court of Justice in its dispute with the United Kingdom as Administering Authority of the Trust Territory, the United Kingdom Government had argued that Cameroon had not been a party to the treaties in question and finally the Court had declared its incompetence to adjudicate upon the dispute.[1/]

[1/] See Case concerning the Northern Cameroons (Cameroon v. United Kingdom, Judgment, I.C.J. Reports, 1963, p. 15).

4. He had quoted the case of his own country not with any desire to offend a foreign Power with which his Government maintained the best relations but merely to stress the fact that it was the mission of international law to protect all peoples without distinction and that a treaty which claimed to govern the fate of a population without its consent, even if that population was still subject to colonial rule, could not be embodied in international law. It was regrettable that, so far, no precise definition of "contracting parties" had been arrived at and it was necessary to re-examine completely the question of the application and effects of treaties in particular with regard to third States.

5. In view of the positive results achieved by the recent Seminar on International Law in Geneva his delegation thought that the experiment should be renewed in accordance with the recommendation of the International Law Commission (see A/6009, para. 71). It would be desirable to allow a certain number of nationals of developing countries to participate in future seminars. His delegation reserved the right to make appropriate comments upon the different elements of the reports submitted to the Committee.

6. Mr. NACHABE (Syria) stressed the importance of the work of the Sixth Committee, in particular that relating to the law of treaties and special missions, in carrying out the aims of the United Nations. His delegation had already made certain preliminary comments at the seventeenth and eighteenth sessions of the General Assembly on the first two parts of the draft articles on the law of treaties while reserving the right to submit definitive and detailed comments later. For the time being he would merely make a few preliminary observations on part III—Application, effects, modification and interpretation of treaties (A/5809, chap. II, B).

7. In the first place his delegation thought that the preparation of a single draft convention on the law of treaties combining and co-ordinating the three parts of the Commission's draft was the best procedure so as to bring together in one formal instrument, the provisions of interdependent articles relating to the same subject.

8. With regard to article 62—Rules in a treaty becoming generally binding through international custom, the International Law Commission had pointed out clearly in paragraph (2) of the commentary that those rules would not be binding on third States unless they were recognized by those States as customary rules of international law. Such recognition constituted an essential element which should be expressly

mentioned in the text of article 62 so as to obviate all ambiguity.

9. He pointed out that article 69, para. 1 (b), stipulated advisedly that a treaty should be interpreted "in the light of the rules of general international law in force at the time of its conclusion". It was solely in that context that the wish of the parties could be validly interpreted.

10. With regard to article 21 of part I, as revised, of the draft articles on the law of treaties, his delegation had noted with satisfaction at the seventeenth session of the General Assembly that in the first draft,[2/] the International Law Commission had limited the effect of objections made by a State to reservations formulated by another State solely to relations between those two States; in other words, the treaty ceased to be in force only with respect to those two countries, whereas according to the practice generally followed in the past, the effect of the objection extended to all States parties to the treaty, and it sufficed for one State to make an objection to a reservation made by another State for the treaty to cease to be in force not only between the State making the objection and the State making the reservation, but also between the latter and all the other States parties to the treaty. His delegation had regretted at the time that the effect of the objection had not been more restricted and had not been limited to the provision or provisions which were the subject of the reservation. There was no justification for extending the effect of the objection to a reservation to all the provisions of a treaty when the controversy between the State making the reservation and the State making the objection referred solely to one or more provisions of the treaty, particularly when the exclusion of that provision or of those provisions did not divest the treaty of its essential content. In taking that position, the Syrian delegation had sought to favour the participation of the greatest possible number of States in general multilateral treaties usually concluded in the interests of the international community.

11. He added that in its revised draft of article 21, the International Law Commission, by limiting the effect of the objection to the provisions to which the reservation had been made, had recognized a welcome development, although it had made the maintenance in force of the other provisions of the treaty between the State making the reservation and the State making the objection contingent upon the express consent of the latter.

12. The articles relating to special missions were being closely studied by the competent services of the Syrian Government which would submit its observations later.

13. He stressed the quality of the work done by the International Law Commission and was of the opinion that it should hold a winter session in 1966 and prolong its 1966 summer session so as to complete its examination of the law of treaties and special missions while it retained its present membership. He noted with satisfaction the co-operation between the Commission and other international legal organizations and was happy to note the organization by the European Office of the United Nations of a Seminar on International Law in May 1965 and hoped that similar seminars would be organized at which representatives of all regions of the world would be able to attend. The Syrian delegation supported the draft resolution submitted by Lebanon and Mexico (A/C.6/L.559).

14. Mr. WERSHOF (Canada) said that among the matters dealt with in the reports of the International Law Commission, the draft articles relating to the law of treaties and special missions were of the greatest importance, since it was urgent that they should be put into final form before the Commission's term of office expired and in time for them to be considered by the Sixth Committee in 1966. His delegation approved the programme of work proposed by the Commission in chapter IV of the report on its seventeenth session (A/6009), and in particular, favoured the holding of a winter session in January 1966 and the extension of the 1966 summer session. Since his Government had already submitted its observations on the first two parts of the draft law of treaties and intended to comment on the third part and on the draft articles on special missions early in 1966, he would not for the moment discuss the substance of those drafts.

15. His delegation approved the International Law Commission's intention to prepare the draft articles of the law of treaties in the form of a single unified convention; such a convention would contribute to the establishment of greater certainty between nations. His delegation also agreed with the Israel representative's suggestion (840th meeting) that the Secretariat should be asked to prepare a paper, for submission to the General Assembly at its twenty-first session, on the concrete questions likely to arise if a diplomatic conference were to be convened to deal with the draft convention. He also wished to refer—notwithstanding the corporate nature of the International Law Commission's work—to the important contribution made by the latest Special Rapporteur, whose labours had done much to convince Governments of the usefulness of the draft articles on the law of treaties.

16. His delegation was pleased to note that the Secretariat had already taken steps to arrange for co-operation between the International Law Commission and other bodies and for the distribution to such bodies of the Commission's documents. It had also noted the suggestion made by the Commission (A/6009, para. 71) that future seminars on international law should be held, and that the General Assembly might wish to consider the possibility of granting fellowships to enable nationals of the developing countries to attend them. Subject to the necessary financial approval the establishment of a limited number of such fellowships seemed most worthwhile. However, the total attendance at future seminars should remain limited, in order to maintain the quality of the work. In conclusion, his delegation supported the draft resolution submitted by Lebanon and Mexico.

17. Mr. N'DIAYE (Mali) said that the purpose of the efforts being made to codify the law of treaties was not so much the drafting of substantive legal rules, such as those drafted for the use of ordinary law courts, as

2/ Official Records of the General Assembly, Seventeenth Session, Supplement No. 9, chap. II.

the establishment of procedural rules; the codification of rules to govern the establishment of a universal rule of law. The International Law Commission had approached that task from the proper angle, keeping in mind, in particular, the fact that international legal norms could not be formulated independently of the political aspects of the problem.

18. International law, whose importance grew with the growing interdependence of peoples and the increasingly intensive effects of world problems of an economic, social and cultural nature, was of particular importance for the newly independent countries, for it ensured their freedom to deal with any country whatsoever with maximum security. It also provided less powerful countries, which rich countries might often be able to force to sign any sort of economic treaty, thus reducing them to a state of concealed economic dependency, with a means of redress. The law of treaties was one of the principle elements of international law, and its codification would be one of the main pillars of international co-operation and peaceful coexistence, provided that the contracting parties accepted it as a basis and frame of reference for their agreements.

19. While they recognized those facts, the countries of the Third World, in particular, the African countries, still felt certain misgivings in regard to the draft articles before the Committee, misgivings that were only natural on the part of peoples long bound by treaties which, despite their one-sidedness, had been unhesitatingly defined as international, and threatened even today by colonialism, neo-colonialism and imperialism. That being so, the countries in question would direct their efforts to ensuring that the articles were drafted in terms as clear and objective as possible.

20. The International Law Commission was right in wishing to embody the rules of the law of treaties in a general multilateral convention rather than a code. It was also right to concern itself not only with the codification of that branch of law but, concurrently, with the elaboration of a dynamic juridical system designed to promote the progressive development of international law.

21. Again, in view of the growing importance of special missions in the life of the international society, the International Law Commission was justified in contemplating a codification of the rules on that subject separate from that contained in the 1961 Vienna Convention on Diplomatic Relations[3/] yet based on an adaptation of its provisions and those of the 1963 Vienna Convention on Consular Relations[4/]. However, given the large number of missions and their varied nature, it would be wise to limit the application of the relevant rules to a clearly defined category of missions.

22. His delegation approved the Commission's recommendations concerning the development of co-operation with other bodies such as the Inter-American Council of Jurists and the Asian-African Legal Consultative Committee.

23. It also approved the proposals concerning the exchange and distribution of the Commission's documents, and hoped that the competent organs of the General Assembly would take appropriate measures along those lines.

24. The European Office of the United Nations had taken commendable action in organizing a seminar on international law, and it was to be hoped that more such seminars would be held and that their benefits would be extended to the developing countries through the granting of fellowships to their nationals.

25. His delegation was in favour of the 1966 winter session and extension of the 1966 summer session requested by the International Law Commission.

26. Mali would vote in favour of the draft resolution submitted by Mexico and Lebanon (A/C.6/L.559) and the amendment proposed by Ghana and Romania (A/C.6/L.560).

27. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) said that the development of international law and the codification of its various branches was of great importance in the present state of the world. Far from being a simple matter of compiling rules, such codification was intended to serve the purpose of unifying the principles underlying the rules in a complete and coherent whole meeting the needs of the modern world. That was an even more difficult task for international law than for domestic law, for the principles of international law rested on political and economic systems, ideologies and religions which varied from country to country. Moreover, the International Law Commission, like other international bodies, was split between two points of view. While some States, such as the USSR, were trying to ensure strict observance of the rules of international law, others, in particular the imperialist States, were violating its rules and usages. It was thus hard not to wonder whether it would not be better if international jurists temporarily renounced their task of codifying the future law and devoted themselves to trying to ensure respect for the existing principles, to defending the rights of the victims of aggression and putting an end to systematic murder, destruction and vandalism. Even if they failed to go as far as that, jurists should not confine themselves to promoting the progressive development of international law by codifying, for instance, the law of treaties, but should try at the same time to ensure respect for the obligations arising from the treaties already in force, and should protest strongly against the violation of such treaties. However old it might be, the principle pacta sunt servanda remained valid, and it was the duty of organs such as the Sixth Committee and the International Law Commission to ensure its observance by all States, great and small.

28. It was unfortunate to find no agreement in the draft articles submitted to the Sixth Committee on questions such as that of the universality of multilateral general conventions. It had been claimed that the participation of all States in a treaty was an exclusively political problem. But even if a distinction could be

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3/ See United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, vol. II., Annexes (United Nations publication, Sales No.: 62.X.1).

4/ See United Nations Conference on Consular Relations, Official Records, vol. II, Annexes, (United Nations publication, Sales No.: 64.X.1).

drawn between the political and the specifically legal aspects of such a question, the task of the Sixth Committee and of the International Law Commission, since they were endeavouring to construct an up-to-date system of international law applicable to all States, was precisely that of reconciling those two positions. The accession of new States to national independence, far from rendering the principles of international law obsolete, had only confirmed their international character and the need for universality. In the development of international law the goal must therefore be both to express the juridical values of all peoples and to establish principles governing all States, whatever their political or social system. The law of treaties was by its very nature international, and it was essential that multilateral general conventions, including any possible future convention on the law of treaties, should be universal. There already existed treaties, such as the treaty banning nuclear weapons tests in the atmosphere in outer space and under water, signed at Moscow on 5 August 1963, which were open to all States without creating any special difficulties for the depositary. Furthermore, the fact of its participating in a multilateral convention did not necessarily imply, as had been argued, a signatory State's recognition of all the other signatories; it sufficed in that connexion to recall the 1954 agreements on Viet-Nam[5/] and the 1962 agreements on Laos.[6/] In addition, the principle of universality constituted a guarantee of the sovereignty and equality of States which were parties, or potential parties, to treaties. Among the most elementary rights of a State was that of taking part in discussions relating to international problems and acceding to international treaties whose aims affected its existence.

29. International treaties, on which international life was largely based, must, even if they contained innovations, be founded on principles of international law recognized in theory or in practice, and must bind their signatories to respect for those principles. One of the first articles of any general convention on the law of treaties should proclaim the illegality and nullity of any treaty incompatible with the principles of modern international law, particularly those relating to the equality and sovereignty of States, prohibition of the use of force, peaceful coexistence and non-interference in the domestic affairs of States—a principle on which the USSR delegation had submitted a draft declaration to the twentieth session of the General Assembly (A/5977).

30. The International Law Commission enjoyed a number of advantages in its work. In the first place there already existed a coherent body of modern international law, to which the socialist countries had made a considerable contribution, resulting from the progressive development of international relations. The experience of the countries which had recently acquired national independence had prompted them to formulate general principles, at the Conference of African and Asian States, held at Bandung in 1955 and the second Conference of Heads of State or Government of the Non-aligned Countries, held at Cairo in 1964 on the prohibition of the threat or use of force, the elimination of relations based on inequality, the promotion of international co-operation, and respect for justice and for international obligations based on the sovereign equality of all States; those principles could and should be taken into account in any codification of international law. Again, the Commission, composed as it was of eminent jurists, was able to draw on all the advances achieved in legal doctrine in the various countries. Finally, from a more general point of view, the Sixth Committee and the International Law Commission enjoyed the assistance and support of the United Nations, and their endeavours were enriched by the achievements of science, technology and human thought resulting from the development of relations among the peoples.

31. Thanks to all those factors there was ground for hope that the rules of international law, and of the law of treaties in particular, would be formulated with the clarity and precision necessary to safeguard the sovereign rights of all countries and all peoples in the face of attempts at aggression and interference in their domestic affairs. The United Nations would thus contribute, as provided in the Preamble to the Charter, to the establishment of "conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained," and to the promotion of "social progress and better standards of life in larger freedom".

32. Mr. KRISPIS (Greece) said that he would confine himself to a few preliminary remarks on part III of the draft articles on the law of treaties, without prejudice to his delegation's final position.

33. Article 55 dealt with the principle pacta sunt servanda, which was really the very foundation of international law at the present time, when international customary law was losing ground to written law. It was nevertheless a moot point whether by including that solidly established and highly flexible principle in a binding text States might not do it some harm. The phrase "a treaty in force is binding upon the parties" was a mere statement of the obvious. Even where the treaty provided for the lapse of a certain period between entry into force and coming into operation, it was nevertheless binding from the moment of entry into force, and if a party declared that it would not fulfil its obligations when the time for the operation of the treaty came, it would be violating the treaty and possibly incurring international responsibility. It was equally obvious that a treaty "must be performed ... in good faith". It was impossible to see how a treaty could be carried out in any other way, and how acts or missions in bad faith could be deemed to be within the meaning of the treaty. Such actions would not be the performance but the violation of the treaty. There might be some use in stating in a treaty a rule of customary international law such as the freedom of the high seas, for instance, which was not necessarily self-evident; it could help to clarify and even to stabilize such rules, and thereby to promote the development of international law. On the other hand, the usefulness of stating obvious truths in such treaties was questionable; even the internal laws of countries possessing

5/ See Further documents relating to the discussion of Indo-China at the Geneva Conference, June 16-July 21, 1954, London, H.M. Stationery Office, Cmd 9239.

6/ See Declaration and Protocol on the Neutrality of Laos, Geneva, July 23, 1962, London, H.M. Stationery Office, Cmd 2025.

a considerable body of written law avoided doing so. If a formal text was considered necessary, a provision that the parties to a treaty must abstain from acts tending to frustrate its objects and purposes would be more appropriate. Such a provision would be in harmony with that contained in article 17. Finally, in article 55, the words "in force" should be deleted, since it was obvious that to be binding upon the parties a treaty must be in force. That article might be better drafted along the following lines: "A treaty is binding upon the parties to it, which must fulfil their obligations and exercise their rights under it in good faith". That wording was closer to that of Article 2, paragraph 2, of the Charter, and had the advantage of referring not only to the obligations but also to the rights of the parties.

34. Article 56 dealt with the temporal application of a treaty. Paragraph 1 laid down the principle of the non-retroactivity of treaties, but its usefulness lay rather in its emphasis on the exception to that principle, i.e., the provision that the parties might, if they so desired, give the treaty retroactive effect. The rule of non-retroactivity was rightly declared to be de jus dispositivum. With regard to paragraph 2, it was true that in point of time, no treaty went beyond the date of its expiration, so that acts or facts or situations post-dating its expiration, did not come within the scope of the treaty. It was hard to see any exception to that rule. Yet the words "unless the treaty otherwise provides" seemed to indicate that it was a rule arising from the jus dispositivum and not from jus cogens.

35. That was tantamount to saying that the treaty could provide that it should apply to acts etc. occurring "after the treaty has ceased to be in force", which seemed illogical, for if a treaty was applicable, it was in force. If the parties decided that the treaty should be in force for twenty years, for instance, and that after that it should apply to one or another situation (a case in point was article XIX of the Convention on the Liability of Operators of Nuclear Ships, signed at Brussels on 25 May 1962) their intention in reality was to extend the force of the treaty beyond that twenty-year period, in whole or in part, for another period of specified or unspecified duration. Hence, the words "unless the treaty otherwise provides" should be deleted. Nor did article 56 settle the question whether the provisions of the treaty applied to facts, acts, etc. falling partly within the period when it was in force. The commentary on article 56 replied in the affirmative (paragraph (4)). However, that was not sufficient, and the International Law Commission should consider drafting an explicit provision to cover that point.

36. Article 57, which dealt with the territorial scope of a treaty, purported to create a refutable legal presumption. The question arose, however, whether it was useful to include such a provision in a formal text. Every treaty had an object and a purpose which were related to various elements (territory, population, situation, etc.). It was not clear why reference should be made only to the territorial element.

37. Article 58 ("A treaty applies only between the parties and neither imposes any obligations nor confers any rights upon a State not party to it without its consent") stated a very simple rule too forcefully. It would be enough for article 58 to state the positive aspect of the principle, namely, "a treaty applies only between the parties". The word "only" in such a text would be the basis for the so-called interpretatio a contrario, which would plainly give the negative aspect of the rule.

38. Articles 59 and 60, relating to treaties which established obligations and rights for third States, formulated a principle in a negative way. They provided for exceptions which were possible under two conditions: the first was the intention of the parties to the treaty to establish rights or obligations for one or more third States; the second was the consent of the third State or States to acquire those rights or assume those obligations. The two articles could have been combined in a single article or, at the very least, worded in more similar fashion. Moreover, paragraph 2 of article 60 added nothing to the principles stated in paragraph 1. The provisions concerning treaties in favour of or against third parties might more appropriately be included in article 58 in a single but separate paragraph. Furthermore, the inclusion of such provisions in a convention on treaties was necessary only if it was assumed that, at least in so far as treaties in favour of third parties were concerned, they created rights for the third party even without its consent. However, the authors of the draft seemed to reject that assumption, since they required the consent of the third State for the purpose of either acquiring a right or assuming an obligation. In essence, then, regardless of the procedure employed, the third State became a party to the treaty. The procedure adopted might have an essential meaning, that was to say, it might be the basis for interpreting the treaty between the original parties and the third State as having retroactive effects (as far as the third State was concerned) as from the time the treaty between the original parties came into force. Depending on the procedure employed, experts in international law might be led to consider that there was a collateral agreement between the original parties to the treaty and the third party; but collateral or not, that inter-State agreement was actually a treaty. If that was so, article 61 of the draft was superfluous. The same applied to article 62, which, since it dealt with the free creation of new rules of international law, might even be dangerous. A case might arise where a number of States concluded a treaty which was freely accepted by other States and in time became customary law for the latter. If the States parties to the treaty were to terminate it, would that mean that they were no longer bound by its rules whereas the other States would continue to be? The article, as drafted, provided no solution to the problem which would arise from that curious situation.

39. Article 64, paragraph 2, stated the principle impossibilium nulla est obligatio. It would be preferable for the International Law Commission to consider that important principle in a more general way instead of including it in a provision concerning the severance of diplomatic relations.

40. Since an agreement amending another agreement was a treaty, article 65 appeared superfluous. On the other hand, the draft should include some provision

for taking account of any proposal to amend a treaty. A number of agreements in the matter of arbitration, for example, provided for the possibility of negotiations before resorting to arbitration. There was an analogy to be drawn between such provisions and proposals for amending a treaty.

41. Article 68 provided three means of modifying a treaty, but it was not clear whether they were means of modifying the operation of the treaty or the treaty itself. The second hypothesis seemed to be the correct one. The first means (by a subsequent treaty) had been dealt with in article 65, and there seemed no reason to refer to it again. The second means (by subsequent practice) constituted, in principle, the oral modification of a written treaty. That type of modification could not be excluded, since, even if the parties to a treaty stipulated that no oral modification was permitted, that stipulation itself could be modified orally, thus opening the way to the oral modification of other provisions of the treaty. Moreover, it was difficult to distinguish between modification of a treaty and interpretation based on subsequent practice. in that regard, it seemed almost impossible to reconcile article 68 (b) with article 69, paragraph 3 (b), and the International Law Commission would be well advised to examine those provisions more closely. The third means (by the subsequent emergence of a new rule of customary law) might best be omitted. The treaty was binding upon the parties; if all of them did not abide by its terms, it could be assumed that they had modified their agreement orally. However, the question arose how opinio juris resulting in the establishment of customary rules contrary to or different from the provisions of the treaty could be created, since the behaviour of the parties would be contra legem. Perhaps it was only in theory that a custom could destroy a treaty; in practice, what theory called a custom was nothing more than an oral modification of the treaty, and the practical difference between a rule resulting from a treaty and a customary rule was, of course, very great.

42. Articles 69, 70 and 71 related to the interpretation of treaties. It was difficult to agree that priorities should be established among the various means of interpreting a treaty. Since a treaty was nothing more than an expression of the common intention of the parties, there was only one basic rule of interpretation: to ascertain the intention of the parties by every possible means, in every possible way. The Permanent Court of International Justice in its Advisory Opinion of 15 November 1932 [7] on the interpretation of the 1919 Convention concerning the employment of women during the night, relied upon the "natural meaning of the words", but it discovered that meaning by studying the travaux préparatoires of the Convention. Article 69 spoke of the ordinary meaning to be given to each "term" ("word" would be preferable). However, words did not always have an "ordinary" meaning, and in treaties the intention of the parties was the only thing that mattered. Article 69, para. 1 (b), which provided that the ordinary meaning to be given to each word could be determined in the light of the rules of general international law in force at the time of the treaty's conclusion, had the effect of excluding so-called evolutionary interpretation, for instance, the term "exchange control", which appeared in the Articles of Agreement of the International Monetary Fund, was now interpreted in the light of the evolution which, as far as exchange control was concerned, had taken place since 1944 when the Fund had been established.

43. Subject to the comments he had made, he wished to observe that the International Law Commission had done especially constructive work and should be congratulated upon it.

44. The question had been raised in the Committee whether a conference of plenipotentiaries should be convened to prepare a convention on the law of treaties. That was an important problem. At the present time, treaties were the main source of international law. However, a treaty on the law of treaties would never have the same significance as a constitution had in many States, because a constitution established a higher authority whereas any convention that was adopted would only be one treaty among others and could, in principle, be modified by any subsequent treaty. Before a decision was taken regarding the proposed conference, an effort should be made to determine whether the advantages of such a convention from the standpoint of State practice would outweigh the disadvantages. In that connexion, a declaration on the law of treaties might be preferable. A treaty on the law of treaties would be a very special kind of instrument, since it would add the various uncertainties it would inevitably contain to the uncertainties of each treaty to be interpreted. Moreover, a dualistic system would be created under which the treaty on treaties would apply between the parties to it whereas the customary law of treaties would apply to other States. That dualism would continue to exist even if all States became parties to the treaty on treaties, since that treaty would have to be interpreted by applying the customary rules. For those reasons, his delegation reserved its opinion for the time being regarding the desirability of convening such a conference and of drafting a single convention rather than three separate instruments corresponding to parts I, II and III of the present draft articles. The example of the Treaties on the Law of the Sea, signed at Geneva in 1958, was a good one.

45. He felt that the International Law Commission had done truly pioneering work in the draft on special missions. His delegation would like to see the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations supplemented. Historically, special missions had originally been the only means of maintaining relations between States. After a period of eclipse, they were now once again taking their place beside permanent missions. Both those areas of law should be codified.

46. The Seminar on International Law held in May 1965 in Geneva had been based on an excellent idea. His delegation would be the last to object to the establishment of a new centre for the teaching of international law. However, if the centre was to yield fruitful results, a programme would have to be drawn

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[7] Publications of the Permanent Court of International Justice, Collection of Judgments, Orders and Advisory Opinions, Series A/B, No. 50—Interpretation of the Convention of 1919 concerning the employment of women during the night: Advisory Opinion.

up. It would be desirable for the International Law Commission or the Secretary-General to prepare a working paper on the centre, if possible for 1966, in order to give the Committee a clearer idea of how it should be organized and indicating whether the centre would be similar to a school, an academy or a university.

47. Mr. ORSO (Mongolia) congratulated the International Law Commission on its work on the law of treaties and on special missions. He was confident that the Commission would make every effort to complete its work in time, since that work represented a substantial contribution to the task of codifying international law. His delegation shared the view of many other delegations concerning the usefulness of the two drafts.

48. The time was past when States could impose their will on other States, and any international treaty must be in harmony with the accepted rules of law and the principles of the Charter. In that connexion, articles 35, 36 and 37 of the draft on the law of treaties, which dealt with the conclusion of a treaty procured by the threat or use of force, were especially important, for many States were still bound by unequal treaties which had been imposed on them.

49. His delegation also attached great importance to the participation of the largest possible number of States in treaties, as it had stressed as early as 1962, and it was to be regretted that the International Law Commission, having failed to reach agreement, had had to defer a decision on articles 8 and 9, which dealt respectively with participation in a treaty and the opening of a treaty to the participation of additional States.

50. The idea of combining the various parts of the draft articles on the law of treaties in a single convention of a binding character was an interesting one. His delegation would submit written comments on the matter.

51. In preparing draft articles on special missions (see A/6009, chap. III, B), the International Law Commission had also done useful work. His delegation would submit written comments on that subject as well.

52. Although he favoured the idea of holding seminars on international law, he wished to point out that an effort should be made to increase the participation in those seminars of representatives of the developing countries.

53. Lastly, his delegation had no objection in principle to the draft resolution submitted by Lebanon and Mexico (A/C.6/L.559) or the amendment to that resolution proposed by Ghana and Romania (A/C.6/L.560). It reserved the right to speak again if necessary.

The meeting rose at 1 p.m.

Litho in U.N. 77601—December 1965—2,000