

# GENERAL ASSEMBLY

## SEVENTH SESSION

## Official Records



## SECOND COMMITTEE, 234th

## MEETING

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Headquarters, New York

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Chairman: Mr. Jiří NOSEK (Czechoslovakia).

## Economic development of under-developed countries (A/2172, chapter III, A/2192, A/C.2/L.155 and A/C.2/L.165/Rev.1) (*continued*)

[Item 25]\*

1. Mr. CUSANO (Uruguay) explained that the informal working group had unanimously agreed on a revised draft resolution (A/C.2/L.165/Rev.1) and had succeeded in eliminating a number of contentious points; as one of the sponsors, he considered the new text to be a great improvement on the original wording.

2. Mr. STANOVNIK (Yugoslavia) said that the fact that the joint draft resolution was a repetition of certain principles embodied in the Charter was not in itself an argument against its adoption.

3. He understood the United Kingdom, Swedish, Netherlands, Canadian and certain other representatives to have asserted that the right of nationalization was incontestable and closely linked to the right of sovereignty, but that there were certain practical reasons for refraining from emphasizing it at the present time as such emphasis might have a harmful effect on private investment. But, in his view, if no State intended to violate the right, there was no harm in reaffirming it. Foreign private investors fully realized that the under-developed countries had the right to nationalize their resources. Recognition of that fact had been quoted as the most cogent reason for the international flow of private capital. The United States delegation had recognized that even its own Government had not always agreed with the practices of certain private companies abroad. To reaffirm the right of nationalization was a way of strengthening the defence of a country against foreign exploitation.

40. Private capital sought protection against nationalization, but every country must be free to exercise its proper rights although it was not necessarily bound

to carry the right of nationalization into effect. The adoption of the draft resolution ought not to impede the flow of foreign private capital. As the right was generally recognized and as various delegations considered it desirable to reaffirm it, there was no reason for postponing a decision until the draft covenant of human rights had been adopted or for referring the question to the Third or Sixth Committees. Nationalization was primarily an economic concept and its urgency was evident. Economic questions had also to be carefully considered in the light of their effects on individual social systems, but the Second Committee was an organ of the General Assembly and its decisions had legal and social as well as economic value.

5. He would vote for the draft resolution, while reserving his right to explain his attitude to whatever amendments were submitted and to intervene at a later stage if necessary.

6. Mr. SILES ZUAZO (Bolivia) welcomed the initiative taken by the Uruguayan delegation in raising the subject of nationalization.

7. For the first time in its history the Bolivian people had fully experienced a feeling of economic independence after the nationalization of its vast tin mines in April 1952. In the past there had been no way of bringing to the attention of the international community the economic, political and social conditions of the smaller countries confronted by powerful financial interests which controlled the main media of information. World opinion had thus been led to judge wrongly or superficially facts on which the lives of millions of human beings depended, and who did not have the means to present their case. That unfortunate phase had now passed, largely due to the establishment of the United Nations, which had emerged from the struggle for a better world in which discrimination, injustice, exploitation and war were to be banned forever. The United Nations was a forum for the smaller and medium-sized countries to keep public opinion informed. It was particularly valuable in promoting respect for an international right. The fact that Bolivia

\*Indicates the item number on the agenda of the General Assembly.

had nationalized its mining industry was directly related to the principle under discussion.

8. Two factors essential to the economic development of backward countries were the desire of their peoples to progress, and the encouragement given by their social, economic, juridical and political institutions. No Latin-American country desired more than Bolivia to adopt modern methods, and he was convinced that Bolivian institutions would eventually be successful in improving living conditions.

9. He had studied with interest the report of the Group of Experts on *Measures for the Economic Development of Under-developed Countries* (E/1986) and had noted in particular paragraph 33. Paragraph 37 referred to the price which backward peoples had to pay to achieve progress. Bolivia had paid more than its price, especially during the past six years when tens of thousands of Bolivians had been persecuted, imprisoned in concentration camps and massacred in the struggle against the political power wielded by the great mining interests through the agencies of government and law. The Group of Experts had rightly pointed to the fact that, in many under-developed countries, economic and political power was monopolized by a small class whose main interest was the preservation of its own wealth and privileges and to impede progress. Since the recent social revolution, the Bolivian Government had been taking active steps to redistribute the national wealth and to abolish privileges and flagrant inequalities.

10. Under the leadership of Patiño the international tin monopoly had amassed tremendous wealth from the soil of Bolivia as well as of Thailand, the Belgian Congo, Nigeria, Burma and Malaya. Patiño had created for himself and his successors a vast cartel which had originated in the Salvadora tin mine and which he had extended to incorporate important tin corporations in the United States, the United Kingdom, Germany, Thailand, Switzerland, Panama, Indonesia and elsewhere. That world-wide tin empire had been built up at the expense of the misery of Bolivian workers and at the cost of Bolivia's development. The resultant wealth had not helped Bolivia's advancement, but had merely added to the riches of the already industrialized and prosperous countries.

11. In addition to that system of private monopoly, there existed a tin-purchasing monopoly controlled by the State. Although the latter form of monopoly was based on government intervention which fixed prices and introduced measures to reduce consumption, the countries producing raw materials had to purchase the manufactured goods sold by the highly-industrialized countries at free market prices. Technical experts had recognized that Bolivia produced very expensive tin, but the purchasing agencies had fixed the price of tin at \$1.12 per pound c.i.f. New York. Yet the United Kingdom had shortly afterwards obtained the price of \$1.215 for tin from the Far East where it was cheaper. According to estimates made at La Paz in 1947 by the Department of Mines and Oil, Bolivia had lost over \$80 million as a result of the price control imposed by the consumer countries.

12. Bolivia had waged a long struggle to secure fair and just terms of international trade in order to finance

its development. During the Second World War, when Bolivia had become the main tin producer of the democratic world, it had been unable to obtain reasonable prices for its minerals. Immediately after the war a purchasing agency of one of the industrialized countries had fixed the price of tin unilaterally. In 1951 the United States had sent a commission to Bolivia to investigate production costs. The commission's recommendations had been that the price of tin should be based on the lowest production cost plus a minimum profit. In order to produce tin at the price dictated by the purchaser, the monopolies had forced the miners to work at a starvation wage. Thousands of workers had been shot by the henchmen of the mining monopolies.

13. The only fair way to balance costs and prices was by bringing the most important mines under the control of a single body devoted to the interests of the entire population. The Bolivian people had solved the problem, not without certain tragic developments, by nationalizing the groups of mines essential to logical progress.

14. The world's tin resources were limited and were governed by certain unvarying economic principles. The general trend of prices being inflationary, if world trade were based on voluntary and mutual co-operation, the price of tin, the production cost of which was rising constantly, would head the general price index. But actual figures showed that the trend had been quite the opposite. In their desire to secure raw materials at low prices, the industrialized countries were endangering the world's tin resources. According to *The Journal of Commerce* of 4 December 1952, the general price index had increased by 274.1 per cent as compared with 1939, whereas the current price of tin was only 241.6 per cent of that of 1939. The increase in the price of tin was thus less than the general increase in prices and much less than that of grain and food, although Bolivia had to pay dollars for the food and machinery which it imported.

15. According to a report of 16 July 1952 by the United States Senate Armed Forces Committee, it was recommended that "the most-favoured-nation" clause should be deleted from all future agreements. Particularly since the announcement of the non-convertibility of the pound, that clause, which had been the mainstay of liberal economy and private enterprise, had been in a precarious position although it had continued to be an important element in trade agreements. It would be unjust to abolish the clause in the case of tin agreements while retaining it in agreements for the sale of United States manufactured goods for consumption in the tin-producing countries. Such inequality would reduce capital formation and prevent the undeveloped countries from raising their living standards; it would thus nullify the principles of Article 55 of the Charter.

16. He then expatiated on the universality of the legal principles on which the nationalization of the Bolivian mines had been based. To ensure the welfare and social advancement of its inhabitants was an essential duty of the modern State, especially when reasons of public utility, in its widest social and national meaning, were involved. Recommendation VII of the Inter-American Conference on Systems of Economic and

Financial Control, held at Washington in July 1942, had recognized that as an international principle. It was in the interests of its survival as a political and international entity that his country had had to nationalize its basic economic resource.

17. The nationalization had been carried out in strict accordance with international and domestic law. The nationalization decree had reaffirmed two universally accepted principles. The first was that compensation for expropriation should not be based on the value of the concession granted, a principle expressly affirmed in the United States Federal Act of 11 August 1888 and in Article 7 of the Bolivian Mining Code. The second principle was that of the legality of expropriation, against compensation, of the property and installations belonging to the undertakings, if it was in the public interest. Although in some cases provision was made for payment of compensation before taking over, in the case of mines, the amount of compensation payable had to be exactly determined in accordance with certain essential conditions. First, the amount was calculated from accounts presented by the undertakings on 31 December 1951, subsequent transactions up to the actual date of nationalization being also taken into account. Secondly, Bolivia was entitled to receive the long-outstanding taxes, customs duties and other charges owed to it by the undertakings.

18. In accordance with universally accepted principles, and because of their importance as its main wealth and most important source of foreign exchange, Bolivia had taken over the mines before paying the compensation, but had made certain provisional payments as a guarantee, pending final settlement of accounts.

19. The public relations offices of the foreign mining companies had tried to persuade world public opinion that the nationalization had been an act of confiscation. They had asserted that, whereas the total value of the investments in the nationalized undertakings was about 60 million dollars, Bolivia had assessed their value for compensation purposes at only \$22 million. That was a false picture, for it omitted the necessary explanations, which were clearly set out in the decree relating to nationalization. Account had to be taken of the assets which the undertakings retained either outside Bolivia or in activities other than mining, as well as the amounts owed by them to the Bolivian Government; that fully accounted for the difference between the two figures. The value taken as a basis for calculating compensation was much higher than the international market value of the shares. Attempts had also been made to impress the public with the alleged disproportion between the total value of the undertakings and the amount claimed by the Bolivian Government in the form of export duties, taxes on capital not retained in Bolivia, profits taxes and other charges. After outlining the grounds for that claim, he further pointed out that the foreign companies had consistently failed to comply with Bolivian laws dating back as far as 1939, under which they were required to account for the use made of certain parts of the profits from their operations.

20. In conclusion he referred to the bitter experiences of Iran and Mexico in the nationalization of their petroleum resources. The Iranian representatives had described the manoeuvres of the dispossessed foreign

company to boycott Iranian oil and ruin their country's economy (204th, 209th and 231st meetings). Bolivia had had to suffer terrible bloodshed in the revolution and counter-revolution in 1945-46, before it had finally managed to secure control of its mining industry, and in the same way the expropriated companies had since threatened to boycott its national production. Their power had been destroyed, however; the march of the peoples on the road to independence could not be halted, and Bolivia now had the support of other countries in Latin America and elsewhere.

21. He had dealt at some length with the history of the nationalization of the mining industry in his country and its economic and political implications, merely in order that Bolivia's dramatic experience might prove useful in the study of the revised draft resolution on the exploitation of national resources.

22. Mr. TOUS (Ecuador) said it was a pleasure for his delegation to associate itself with the noble efforts of the delegation of Uruguay in support of the cause of under-developed countries.

23. The fact that Uruguay had nationalized its public services without injury to the rights of foreign investors, and was managing them efficiently for the collective benefit, gave it undeniable moral authority in the submission of such a draft resolution as that before the Committee. Uruguay's culture, democratic practices, advanced social legislation and strong financial position had given it a position of authority in international gatherings. All who knew the people of Uruguay knew that the aim of its delegation in submitting a draft resolution on the nationalization of natural wealth and resources was entirely disinterested; it wished only to improve the lot of less fortunate peoples who were striving to acquire possession of their own natural wealth in order to mitigate the wretchedness of their populations.

24. His delegation was inspired by a similar sentiment in its support of the joint draft resolution. Although, in his country, nationalization of public services had not proceeded to such an extent as it had in Uruguay, his Government could not ignore the needs of the economically weak nations, many of whom were still suffering from foreign exploitation.

25. Moreover, in view of the exorbitant claims for compensation made by some foreign proprietors when their property was nationalized, his delegation could not but consider it opportune to reaffirm the right of nationalization. Originally, his delegation had had some doubts as to the desirability of such reaffirmation, but those doubts had been removed by the fact that in recent years that inherent right of every State had appeared to be in some danger, and by the Uruguayan representative's declaration in favour of the application of the principle of just compensation in accordance with the law of the country.

26. In that connexion, the Uruguayan representative had quoted Article 32, paragraph 2 of his country's Constitution, which established the principle of just and prior compensation in cases of expropriation. In his own country, the Constitution established very similar provisions with regard to expropriation. Article 183, paragraph 1 of the Constitution of Ecuador guaranteed the right to private property, and paragraph 2

of that article stated that expropriation could only take place if in the public interest. It was further laid down by special legislation that in case of expropriation there must be just and prior compensation.

27. The principle of prior compensation might cause difficulties in countries whose economy was based on a single product and where the State could only obtain the necessary compensation funds from the exploitation of the natural wealth which it wished to nationalize. He believed, however, that once a government had decided to nationalize a specific source of natural wealth it would always be possible to find means of compensating private investors. The actual machinery of the taking over of the property might be affected, but the State's ultimate right to nationalize it would not, nor would the right of private investors to prior compensation.

28. His delegation did not view the principle of nationalization of natural wealth and resources as implying any commitment to follow the policy which had been so successfully adopted by Uruguay. It was merely the reaffirmation of a right which each country might exercise or not as it saw fit. If nationalization was understood as a discriminatory policy against foreign investors, his Government could not support it, since his country's Constitution guaranteed foreigners equal rights with nationals, except political rights. Nor could his delegation support the principle of nationalization if its application were to be considered compulsory. The representative of Uruguay had admitted that at one time the system of nationalization had been opposed in his country because it had been considered of greater importance to attract foreign capital to strengthen the country's nascent economy. His delegation believed that nationalization should only be applied when the time was ripe and that, in some cases, it might never be necessary.

29. In brief, his delegation was fully prepared to support the original Uruguayan draft resolution. It believed, however, that there might still be room for improvement in the revised version of the draft, without affecting the integrity of the statement of the principle of nationalization in the operative paragraph. It was also essential that the corresponding principle of just and prior compensation should be included so as to remove any apprehensions which might be felt by certain delegations. Since those two principles were enshrined in the laws and constitutions of both developed and under-developed countries, both should be stated in the draft resolution.

30. Mr. LEA PLAZA (Chile) said his delegation had been gratified by the effort made and the spirit of understanding and conciliation shown in the submission of the revised version of the draft resolution by the delegations of Bolivia and Uruguay. The revised draft met many of the objections which had been raised to the original.

31. His Government, recognizing the validity of the principles on which the draft resolution was based, had instructed his delegation to support it. It might seem strange that it was necessary to discuss the subject at all at that stage in world history, since the principles involved were already stated in Article 1, paragraph 3, and Articles 55 a and 56 of the Charter. The adop-

tion of the revised draft resolution might also appear superfluous in view of the fact that article 10 of his country's Constitution provided for the possibility of expropriation in the public interest after payment of just and prior compensation. His Government had, however, wished to support the reaffirmation of certain concepts it considered essential to the just and harmonious co-existence of nations since there appeared at times to be a tendency to neglect those principles.

32. His delegation believed it necessary to emphasize once more the differences in the economic and social levels of many countries, as well as the fact that that disproportion was to a large extent independent of the will of governments and was due to complex historical, geographical, ethnic and other factors. The idea of solidarity between nations had gained much ground, but governments were frequently hindered in their efforts to give expression to that solidarity by the pressure of private interests.

33. It would clearly be difficult to guide the aspirations for betterment of the under-developed countries to free and legal expression, if the peoples of those countries did not perceive a firm determination to translate into facts the declarations incorporated in the Charter. It was for that reason that his delegation supported the revised draft resolution submitted by Bolivia and Uruguay, which provided a concrete statement of principles his country had always supported in the United Nations. His delegation had submitted to the Commission on Human Rights a proposal dealing with related principles, which had been adopted as article 1, paragraph 3 of the draft covenant on economic, social and cultural rights and the draft covenant on civil and political rights.

34. When governments became convinced that the recovery of their natural wealth was necessary in order to raise the economic and cultural level of their peoples, the exercise of that right could only be a source of mutual confidence and harmony. On the other hand, if foreign governments attempted to interfere with it, such action could only lead to antagonism between the peoples for the benefit of ideological interests. His delegation emphasized the difference between the attitude of the under-developed countries and that of the countries of the Soviet bloc in that connexion. While the under-developed countries proceeded with prudence and dignity, frequently postponing the satisfaction of their economic needs, the Soviet bloc, both in the United Nations and through its world organization, was carrying on a demagogic propaganda designed to worsen economic relations between the under-developed and the industrialized countries.

35. The democracy of the free world must weigh the importance, for the maintenance and development of ideas of human liberty and solidarity, of the abolition of economic colonialism. Public opinion must appreciate the full intensity of the problems of the under-developed countries and realize that the existing situation, which was contrary to the most elementary principles of justice, could not be maintained.

36. The United Nations was the most appropriate organ in which those matters could be discussed. It was the only body in which due recognition could be

achieved of the fact that the recovery and free disposal by the under-developed countries of their natural wealth and resources was a historical necessity which could no more be disregarded than could man's inevitable growth from childhood to maturity.

37. Mr. BAKR (Iraq) said his delegation believed that States had an unquestionable right to nationalize their natural resources. That right was as directly related as the right to levy taxes to the sphere of domestic action of States. Since, however, it had been considered opportune to reaffirm it, his delegation would support the revised draft resolution submitted by

Bolivia and Uruguay. The draft did not confer any new powers on States or limit any previous rights, so he saw no reason why it should discourage the investment of private capital. Investors were already aware that countries enjoyed the right to nationalize their natural wealth, subject to appropriate measures for compensation and economic adjustment. The way in which the revised version of the draft resolution was phrased made it unnecessary for his delegation to enlarge further on the subject.

The meeting rose at 12.50 p.m.