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Chairman: Mr. Moraiwid M. TELL (Jordan).

AGENDA ITEM 45

Permanent sovereignty over natural resources (*continued*) (A/5803, chap. III, sect. V; A/6430, E/3840, A/C.2/L.870 and Corr.1 and Add.1, A/C.2/L.871, A/C.2/L.873-876)

1. Mr. RAMAHOLIMIHASO (Madagascar) submitted, on behalf of the sponsors, an amendment (A/C.2/L.875) to operative paragraph 9 (a) of the draft resolution (A/C.2/L.870 and Corr.1 and Add.1).

2. Under the draft resolution, co-ordination at Secretariat level was based on the idea that the exploitation of natural resources was part of industrial development. In the opinion of his delegation, however, the exploitation of those resources was part of over-all economic development, of which industrial development was only one aspect. The activities of all organizations concerned with the harmonious exploitation of natural resources, both agricultural and non-agricultural, should therefore be co-ordinated by the Secretary-General.

3. Mr. SVENNEVIG (Norway) said that one could not expect the flow of public financial resources to increase fast enough to meet even the most essential needs of the developing countries. Consequently, transfers of private capital must continue to play an increasing and vital role. His country had developed its natural resources largely with the help of foreign capital, and was therefore inclined to consider the subject of permanent sovereignty over natural resources in the light of its own experience. His delegation did not, of course, think that Norwegian laws should be copied by others. It was for each country to decide, in the light of its own circumstances, to what degree foreign capital should be allowed to participate in the development of its resources. Those decisions would relate, *inter alia*, to the incentives to be offered to foreign investors and the tax policy to be adopted. The main lesson his country had drawn from its previous experience was that it was possible even for a small country to attract foreign capital and still be master of its own house.

4. Care should therefore be taken not to adopt a resolution which was so restrictive as to make public or private investors hesitate to invest their capital even in countries which had granted, or were prepared

to grant, preferential treatment to foreign capital or conditions that were more favourable than those provided for in the draft resolution. The resolution should contribute to the establishment of harmonious co-operation between the parties concerned. The wording of the draft before the Committee was largely consistent with that aim, but could still be improved upon. For instance, operative paragraph 4 seemed to imply that the countries concerned were entitled to a larger share in the administration and profits of foreign companies regardless of existing agreements, of international law and of the actual level of profit. It was necessary to take account of the diversified relationships which actually existed and which did not always leave room for a larger share of that kind.

5. The draft resolution contained many valuable principles regarding, for example, the training of personnel by foreign firms. Foreign capital could also help to mobilize domestic capital for the development of natural resources. That idea, which was expressed in the Charter of the Organization of American States, was also expressed indirectly by the amendment in document A/C.2/L.871.

6. The increasing supply of capital from multilateral sources reduced the danger of private foreign capital being invested on terms that might infringe the sovereignty of the countries concerned over their natural resources. The Convention on the Settlement of Investment Disputes between States and Nationals of Other States, of the International Bank for Reconstruction and Development, which had been ratified and signed by a great number of developed as well as developing countries, would also help to concord their interests better with those of foreign capital.

7. He concluded by endorsing the Ghanaian representative's proposal (1051st meeting) to adjourn the discussion for further consultations.

8. Mrs. KATIGBAK (Philippines) read out the draft amendment submitted by her delegation (A/C.2/L.876). Her delegation would like to keep the words "industrial development" in operative paragraph 9 (a).

9. Mr. MARTIN WITKOWSKI (France) stated that his delegation whole-heartedly supported the draft resolution. The text reflected the simple idea that, just as there was no real freedom for the individual without a minimum of economic independence, there was no real political freedom for nations unless they had real economic autonomy. It was unrealistic to advocate political liberalism and to hedge it round with economic restrictions and reservations. His country was not opposed in principle to foreign capital, which was playing a major part in the development of its economy and the exploitation of its resources, but it made sure that foreign investments were in keeping

with its general aims and subordinated to the need for ensuring as much autonomy for its economic policy as was desirable. It was therefore only logical and natural for it to expect the developing countries to hold similar views.

10. During the discussion, it had been pointed out that it might not be a good idea to affirm the principle of permanent sovereignty over natural resources too categorically or to draw the logical conclusions from that principle since affirmations of that kind might unnecessarily upset investors of private capital. While it was right to give that factor its full weight and to avoid any action or declaration that might slow down the necessary flow of private capital to the developing countries, it was also important to bear in mind that the Governments of those countries had to answer for their economic policy to a public which had often become sensitive to the problems of independence. It was on those Governments that the decisions of investors ultimately depended. His delegation was prepared to acknowledge each country's right to have the final say on the use made of its natural resources.

11. The text of the draft resolution struck a reasonable and realistic balance between the various tendencies, a balance which had been further improved by the sponsors' agreeing to include the amendment in the original document A/C.2/L.871. His delegation would be prepared, if necessary, to have the text made even more precise along those lines, on condition that any additions made were acceptable to the sponsors.

12. The draft resolution as a whole expressed the ideas that France was endeavouring to put into practice in its new relations with the developing countries. Recent agreements were evidence of that trend. Whenever it had an opportunity to do so, his country tried to win acceptance for association arrangements which would give the countries with which it was negotiating a direct interest in the rational and systematic exploitation of their natural resources for the general good of their own economy and that of his own country. Its aim was thus to bring about genuine joint management of the economic and technical assistance it was granting to those countries. Some provisions of the draft resolution before the Committee, particularly operative paragraphs 5 and 6, were worth singling out in that connexion. It was an interesting idea and one which offered new possibilities in the relations between foreign investors and recipient countries. The contracts, besides enabling the parties to share in the exploitation of resources, could usefully contain provisions whereby foreign investors would be more closely associated with the over-all economic development of the recipient countries, in connexion either with the training of specialized personnel or with the establishment of processing industries even if existing natural resources were insufficient, where the establishment of such industries seemed economically feasible.

13. Mr. FIGUEROA (Chile) pointed out that the fundamental principle of international law was that national sovereignty was one and indivisible. Consequently every State, as such, had a permanent right to utilize and develop its natural resources, to exploit

them and to market them, and could enact in that connexion whatever legislation it considered most appropriate for safeguarding its interests and maintaining control of its resources. His delegation therefore thought it preferable not to risk challenging the principle of the sovereignty of States by linking it with the entirely different problem of the way in which natural resources should be exploited, which was the real subject of the draft resolution.

14. Chile, which was well aware of the advantages and the disadvantages of the exploitation of natural resources by foreign investors, realized that such exploitation had not always been in the best interests of the countries in which the investments were made and had thus helped to retard the development of those countries. However, foreign investment in Chile had always been subject to domestic legislation, and the principal resources of the country were now exploited by mixed companies in which both the Chilean State and private foreign enterprises took part. Chilean legislation provided sweeping guarantees for foreign investors, whose interests it safeguarded as well as those of Chile.

15. The Chilean delegation supported amendment contained in document A/C.3/L.871, as well as the draft resolution, with the reservations which had just been entered. It welcomed the reference in the draft resolution to the importance of having the developing countries market their products themselves and to the need for having the foreign enterprises which exploited the resources to train national personnel. If felt that reference should also be made to the latter's right to receive the same pay for the same work as foreign personnel.

16. Since it believed that the sovereignty of States over their natural resources could in no circumstances be called in question, it proposed that, in the fifth preambular paragraph and operative paragraphs 7 and 8, the expression "permanent sovereignty" should be preceded by the words "the exercise of".

17. Finally, his delegation supported the Ghanaian representative's suggestion to set up an informal working group so that the sponsors of the draft resolution and of the amendments could try to work out a text which would muster the votes of at least the great majority of the Committee members.

18. Mr. CHAMMAS (Lebanon) said that a State's sovereignty, whether cultural, social or economic, was indivisible. In the economic sector, as in the others, sovereignty was inseparable from its exercise and only the forms of such exercise, which were a matter of national policy, could be the subject of debate—not the notion of sovereignty as such. Obviously, permanence was one of the essential attributes of sovereignty, whatever the agreement concluded or the nature of the capital invested. It did not relieve any country of the duty to carry out obligations freely entered into and to comply with the rules of international law. The draft resolution, which stressed the need to safeguard permanent sovereignty over natural resources, did not sufficiently emphasize the overriding importance of exercising that right. It was necessary to distinguish between the colonialist practices of the past, which had consisted in imposing

obligations on States incapable of exercising their sovereignty, and the present action of sovereign States which were free to invite foreign companies to exploit their natural resources or to develop them themselves.

19. The amendment proposed by the United States to the last preambular paragraph (A/C.2/L.873) seemed to raise a purely formal question in that regard, since the right of freely choosing the manner in which the natural resources of the developing countries should be exploited was synonymous with the exercise of sovereignty. Without submitting a formal amendment, the Lebanese delegation would prefer the paragraph to be worded as follows:

"Considering further that this aim can be better achieved if the developing countries are in a position to exercise fully their sovereignty over their natural resources and in particular to undertake the exploitation and marketing of those resources."

20. Although it was politically desirable that those countries should be in a position to exploit and market their resources, economically speaking many of them were not capable of doing so directly. The draft resolution, as well as the amendment contained in document A/C.6/L.871, which mentioned the cases where such exploitation was achieved in whole or in part with the aid of foreign capital, took account of an undeniable reality.

21. Mr. POLIT (Ecuador) pointed out that, although many items on the General Assembly's agenda were closely inter-linked, as were politics and economics in State affairs, the permanent sovereignty of States over their natural resources had obvious economic implications and was therefore undoubtedly within the purview of the Second Committee.

22. There was no justification whatsoever for the defensive attitude of some delegations, which seemed to see in any resolution pertaining to investment or sovereignty over natural resources a decision in favour of expropriation. It was simply a matter of recognizing that the twentieth century was the century of nationalism, which was nothing but the total expression of national sovereignty, and that the small States and those which had recently become independent were particularly jealous of their sovereignty, particularly in the economic sector, which dominated present-day international relations. Nationalism was today the most powerful and the most real force and it would be impossible, and indeed vain, to oppose it; on the contrary, it should be directed towards economic development and raising the living standards of all peoples. That was where control over natural resources came into play.

23. No one could deny that a country's natural resources belonged to it and that its Government could decide how they should be exploited, whether by its nationals or by foreigners. However, the smaller a country was, the less assured it felt of being able to exercise its sovereignty over its natural resources, and the more it needed to be given the assurance that it alone was entitled to set the terms on which it might modify some aspects of its sovereignty to further certain other objectives of national interest. National sovereignty was in any event a delicate instrument of internal policy and the representatives of any Govern-

ment must therefore exercise the greatest prudence in discussing it.

24. In those circumstances, the big countries would be mistaken to see in the draft resolution before the Committee provisions opening the door to the expropriation of the interests which they had in the developing countries; the latter only wanted unequivocal recognition of their sovereignty. In a world where nationalism was an intrinsic part of the peoples' life and where the revolutions which had taken place, and which would always take place, would try more and more to break the institutional links with the past, the sacred right of sovereignty had taken on an importance similar to that of religion some centuries earlier. If there was to be one world, and if the imbalance of wealth and prosperity between the various Member States was to be eliminated, all States must understand that situation and be prepared to give unconditional aid to those among them which needed and requested it. At the same time, there could be no genuine international co-operation unless limitations were placed on sovereignty and such limitations were very hard to determine.

25. While appreciating the conciliatory attitude of the United States representative, his delegation would like to replace the United States amendment to the last preambular paragraph of the draft resolution by an amendment whereby the following words would be added at the end of that paragraph: "each country, therefore, being best able to direct its economic policy in the light of its interests and legitimate aspirations". That amendment would render the United States amendment to operative paragraph 3 unnecessary. The Ecuadorian delegation, therefore, could not accept those two United States amendments, but it was prepared to accept the other two, relating to operative paragraphs 1 and 2. It considered further that the amendment which it had just proposed would make the amendment of the Democratic Republic of the Congo (A/C.2/L.874) unnecessary. It felt able to accept amendment A/C.2/L.871, but it felt that the amendments in documents A/C.2/L.875 and A/C.2/L.876 duplicated one another; it was therefore glad to know that negotiations were to be held between the sponsors of the draft and those of the various amendments with a view to preparing a common text.

26. Mr. KAUL (India) said that the principles set forth in General Assembly resolution 1803 (XVII) were still valid and should be reaffirmed. The sovereignty of peoples over their natural resources was an absolute and inalienable right which no historical or legal interpretation could alter and over which there was little controversy today. The same could not be said, however, of the exploitation of natural resources. The urgent need of the developing countries to utilize their resources as speedily as possible in order to industrialize and raise the living standards of their peoples was well expressed in the draft resolution and in draft amendment A/C.2/L.871 which were complementary. He hoped that the private discussions in progress would result in a draft resolution which would win the support of all the members of the Committee, or at least a very large majority.

27. As the methods of exploiting natural resources varied from country to country according to the par-

ticular circumstances of each, a pragmatic approach should be adopted to the problem, with a view to the fastest possible development. It was most desirable that every country should be able to exploit its natural resources through its own efforts. But where capital was short and the gap could not be filled through other forms of assistance, private capital had a role to play, provided that each country decided for itself, having regard to its own long-term interests, and thereby, exercising its sovereignty. There was no single formula to meet the needs of all developing countries: it was for the Government of each country to make a free choice after considering all the implications.

28. India, for its part, had found it useful to accept private capital aid, but that did not mean that India's experience was necessarily applicable to other countries. The international community had a duty to make it possible for the developing countries to receive aid also from an international fund, for example, the proposed United Nations capital development fund, as a safeguard against the occasionally exorbitant demands of private investors who were sometimes tempted to profit from the urgency of the developing countries' needs.

29. While the sovereignty of peoples over their natural resources could not be the subject of any compromise, India considered—and that was the basis of its own policy—that States should honour their contractual obligations to all parties, whether public or private, and make proper compensation, where necessary, for enterprises that might have to be nationalized for reasons of national security. It was desirable also that only short-term agreements should be entered into with foreign investors in order to avoid creating permanent vested interests and to ensure that such agreements would be periodically reviewed in the light of changing circumstances.

30. Mr. NEAL (Liberia) said that his delegation supported, as it had done previously, the principle of the permanent, inalienable, indivisible and absolute sovereignty of States over their natural resources and would therefore vote for the draft resolution. What needed emphasis was not the principle itself which was universally admitted, but rather economic sovereignty, which the developing countries had not yet won and which was quite a different matter. The differences in development between the developing countries and the advanced countries highlighted the existing gap between political and economic sovereignty. The draft resolution was part of the United Nations efforts to bridge the gap, but it did not contain all the elements necessary for attaining the desired goal. In Liberia's view, economic sovereignty meant not only freedom of choice but also the developing countries' right to derive maximum advantage from the exploitation of their natural resources, while showing respect for the principle of equity. If the draft resolution overlooked that principle, much of its value would be lost. Experience had shown that economic development was not possible in a closed economy, but it could be promoted by co-operation with private or public investors in joint enterprises. Nothing, however, should be done to undermine the

fundamental principle of the economic sovereignty of States.

31. His delegation was prepared to support the amendments submitted by the United States delegation, provided that the amendments to the last preambular paragraph and operative paragraph 3 were modified to cover a broader definition of economic sovereignty. He supported unreservedly the draft amendment in document A/C.2/L.871 which sought to make the draft resolution more balanced. He hoped that in the informal negotiations there would be no dilution of the principle that the developing countries must use to the full the advantages derived from exploiting their natural resources, even if a few drafting changes might have to be made in order to facilitate adoption of the draft resolution.

32. Mr. VARELA (Panama) said that, although believing that a democratic régime was best for the fruitful development of man's energy, his delegation had not hesitated to join with others of a different ideology in sponsoring a draft resolution setting forth principles which, in its view, were most important.

33. Some delegations had expressed the fear that the provisions of the draft resolution might provoke a flight of foreign capital. That fear was unjustified, for the sponsors had been careful to mention only the principle of permanent sovereignty, leaving aside the control of foreign investment which was strictly a matter for domestic legislation in each State. Foreign investors would be attracted only if the conditions laid down in such legislation offered sufficient inducements to attract their capital.

34. The United States amendment relating to the last preambular paragraph, was negative since it would be tantamount to setting a limit on the exercise of sovereignty. The amendment relating to operative paragraph 1, however, was acceptable to his delegation. Despite his desire to see the draft resolution adopted unanimously, he could not accept the United States amendment relating to operative paragraph 3, in which the phrase "to exercise meaningfully their freedom of choice" would limit a right recognized by all and one which the draft resolution sought to implement. He hoped that a joint text would emerge from the negotiations in progress and thought it unnecessary for the time being to comment on the other amendments.

35. Mr. MWINGA (Zambia) said that, although the United Nations fully recognized the permanent sovereignty of peoples over their natural resources, the fact remained that in vast areas of the developing world the people were deprived of the fruits of those resources. It was not enough for the United Nations to reaffirm the rights of the developing countries and to expose, in voluminous documents, the scourge of foreign exploitation which the exploited peoples knew only too well. What was needed was a resolution followed by action to help bring about long-awaited reforms.

36. Ironically, Africa was the richest continent by virtue of its well-known mineral resources which were being rapidly exploited by foreign companies and foreign-oriented minority régimes, as in South Africa, Southern Rhodesia and the Portuguese colonial

territories; yet, the African peoples themselves had the lowest per capita income in the world. That was an eloquent indictment of the past and current systems of exploitation of Africa's natural resources. If rights were translated into rewards, it might be asked whether the African peoples had any right to sovereignty over their natural resources. They had suffered rather than profited from the mining industry which had been used by the colonialists to perpetuate militarism, apartheid, racism and other forms of oppression associated with the dogma of a "master race".

37. It might be said that all Zambia's misfortunes had begun with the exploitation of its copper by foreign mining companies which, by investing £150 million in the last fifteen years, had produced copper worth £2,400 million in the same period and had made fantastic profits which they had reinvested abroad. In consequence, Zambia, which was the second largest copper-producing country in the world, was economically under-developed and had been unable to build up national industries, since it was still completely dependent on foreign markets for its most essential supplies. The foreign mining companies had made no provision for the training of African workers, who were therefore unskilled and received lower wages

than white workers. That was the outcome of the exploitation of Zambia's mineral resources by "free" enterprise and practically the whole of Africa had suffered the same fate.

38. The developing countries were constantly being told to show a sense of responsibility, to provide better safeguards for foreign capital and to refrain from asking for a larger share of the profits from the exploitation of their own mineral wealth. A new approach to the whole question of rights and responsibilities was needed and the other side should be lectured for a change. It was the foreign investors who had shown irresponsibility, and Africa had been exploited more than enough. The time had come to re-examine the so-called benefits it had derived from the development of its natural resources by foreign capital. Some people said that the developing countries had no choice and must either submit to the foreign investors' terms or leave their natural wealth undeveloped. But that in itself was a choice, and there was no doubt that the dependent countries would choose, if they could; nor was there any doubt as to what their choice would be.

The meeting rose at 5 p.m.

