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Chairman: Mr. Santiago PEREZ PEREZ (Venezuela).

AGENDA ITEM 55

Draft Code of Offences against the Peace and Security of Mankind (A/3650; A/C.6/L.418, A/C.6/L.419) (*continued*)

1. Mr. LACHS (Poland) said that the Philippine draft resolution (A/C.6/L.418) and the amendments submitted by Colombia and Spain (A/C.6/L.419) would be acceptable to his delegation if the words "all Member States", in the proposed operative paragraph 2, were changed to read "new Member States".

2. Mr. MALOLES (Philippines) said that he would gladly accept both the joint amendments and the verbal Polish amendment. Since the discussion now seemed exhausted, he would move the closure of the debate.

3. Mr. EL-ERIAN (Egypt) said that he wished to place on record his delegation's appreciation of the conciliatory spirit manifested by the sponsors of the various texts.

4. Mr. MUFTI (Syria) said that the motion for the closure of the debate seemed needlessly abrupt. Delegations should be given a proper opportunity to comment on the item.

The motion for the closure of the debate was not adopted, 9 votes being cast in favour and 9 against, with 42 abstentions.

5. Mr. MAURTUA (Peru) said that the Philippine draft resolution did not place sufficient emphasis on two essential points: the strict connexion between the draft code and the definition of aggression, and the consequent impossibility of further action until the question of the definition had been effectively solved. He therefore proposed that the last phrase of the first preambulatory paragraph should read "is related to the question of defining aggression" and that the second half of the operative paragraph should be replaced by the words "until such time as the General Assembly takes a decision on the question of defining aggression".

6. Mr. CHAUMONT (France) said that he had opposed the motion for the closure of the debate because he had felt that a further exchange of views could prove helpful.

7. As far as the Polish verbal amendment was con-

cerned, he said that perhaps the Secretary-General should be requested to invite comments not only from the new Member States but from all the Member States which had not yet submitted their views in writing.

8. Mr. ROSENNE (Israel) said that the amendment proposed by the Polish representative was somewhat too restrictive to be acceptable to the Israel delegation.

9. Mr. LACHS (Poland) explained that all the Member States which had participated in past debates on the item had already had an opportunity to state their views. The only Member States which had never been invited to do so were those admitted to membership since 1954.

10. Mr. MUFTI (Syria) said that the first preambulatory paragraph of the Philippine draft resolution might be improved if the last phrase merely repeated the language of General Assembly resolution 897 (IX) and stressed that the problems were "closely" related. The second Peruvian proposal seemed somewhat unsatisfactory, as the General Assembly decision on the question of defining aggression might be either positive or negative. He therefore proposed that the second half of the operative paragraph in the Philippine draft resolution should read "until such time as the General Assembly has adopted a definition of aggression".

11. Mr. KLUTZNICK (United States of America) said that the Philippine draft resolution and the joint amendments represented a sincere effort to devise a text likely to receive substantial support. In those circumstances, no useful purpose could be served by over-scrupulous attention to details of form, or by suggesting amendments which did not involve any material change. Consequently, the United States delegation felt that the Committee should simply adopt the Philippine draft resolution, as amended by Colombia and Spain.

12. Mr. MALOLES (Philippines) said that, while most of the amendments proposed orally during the meeting related to drafting points only, the Syrian proposal, to the effect that the question of the draft code should be deferred until the actual adoption of a definition of aggression, would postpone consideration of the draft code for much too long.

13. The intention of the Philippine draft resolution was that parallel action should be taken on the two inter-related matters of the definition of aggression and the draft code.

14. Mr. TREJOS (Costa Rica) expressed support for the Philippine draft resolution. He opposed the Peruvian amendment, for it would mean that, because it stipulated a prior decision on the definition of aggression, the draft code could not be debated by the General Assembly until—at the earliest—the session subsequent to that at which such a decision had been adopted.

15. Mr. CACHO ZABALZA (Spain) said that, inasmuch

as few Governments responded to United Nations requests for comments, it was appropriate to make a further appeal to the States which had not as yet commented on the draft code. That was the purport of the new operative paragraph 2 proposed in document A/C.6/L.419. The appeal should be addressed to Member States generally and not merely—as the Polish representative had suggested—to new Members.

16. Mr. HOLMBACK (Sweden) asked the Secretary of the Committee whether, in fact, the International Law Commission's revised draft code of 1954 (A/2693, para.54) had been submitted to Governments for comment. If so, then the Polish amendment could be adopted. If not, the draft code would have to be submitted to all Governments, and not merely to those of the new Member States.

17. Mr. LIANG (Secretary of the Committee) said that the International Law Commission's preliminary draft code of 1951 (A/1858 para.59) had been submitted to the Governments of Member States for their comments. In the light of those comments, the Commission had prepared a revised draft which had been discussed by the General Assembly at its ninth session in 1954. At that time the Assembly had not decided to request further comments from Governments; the Assembly had decided to defer consideration of the draft code because it raised problems related to that of the definition of aggression.

18. If comments from Governments on the revised or 1954 draft code were desired, such comments would, he thought, have to be invited from all Governments and not merely from those which had not commented on the preliminary or 1951 draft.

19. Mr. ROLING (Netherlands) said that, for the reasons which he had stated at the 544th meeting, he would be unable to support any of the proposals before the Committee.

20. It would be most regrettable if the Committee were to adopt the Syrian amendment. The relationship established by General Assembly resolution 897 (IX) between the draft code and the definition of aggression did not in any way imply that the question of the draft code had to be postponed until a definition of aggression had actually been adopted. To introduce that idea into the Philippine draft resolution would mean going further than resolution 897 (IX).

21. He therefore appealed to the Syrian delegation not to press its amendment.

22. Mr. VAZQUEZ CARRIZOSA (Colombia) said the text of the Philippine draft resolution was more flexible than the language proposed by the Peruvian representative and much closer to the spirit of resolution 897 (IX).

23. Mr. MUFTI (Syria) said that, while maintaining his delegation's position, he would, for the sake of harmony, withdraw his amendment to the operative paragraph of the draft resolution.

24. His other amendment, which concerned a matter of form, would, he hoped, raise no difficulty.

25. Mr. HOLMBACK (Sweden) said that the explanations given by the Secretariat confirmed his view that all Member States should have an opportunity to comment on the revised draft code.

26. Mr. ROLING (Netherlands) supported the Swedish representative's view, particularly as no Government had, in fact, commented on the substance of the revised draft code.

27. Mr. MAURTUA (Peru) said that, in the interests of agreement on a generally acceptable text, he would withdraw his oral amendment to the operative part of the draft resolution. So far as his amendment to the preamble was concerned, he maintained that the connexion between the definition of aggression and the draft code was an intrinsic one. Nevertheless, while that remained his delegation's view, he would not press the amendment to a vote.

28. Mr. LACHS (Poland) said he would agree to withdraw his amendment to the new operative paragraph 2 if the word "all" were omitted.

29. Mr. VAZQUEZ CARRIZOSA (Colombia) said that, as one of the sponsors of document A/C.6/L.419, his delegation would agree to the omission of the word "all" in the new operative paragraph.

30. The CHAIRMAN put to the vote the draft resolution submitted by the Philippines (A/C.6/L.418), as amended by Colombia and Spain (A/C.6/L.419) and subject to the amendments agreed in the course of the debate.

The draft resolution, as amended, was adopted by 58 votes to 1, with 1 abstention.

31. Mr. CASTAÑEDA (Mexico) said that the Committee's action would have the effect of postponing consideration of the draft code indefinitely. The fate of the draft code had been linked with further discussion of the question of defining aggression. It was no secret that the question of defining aggression would probably never be discussed again by the General Assembly, as the object of the Committee's earlier decision concerning that item had been to shelve the question.

32. While a relationship existed between the draft code and the question of defining aggression, there was no absolute dependence of one upon the other. The draft code should, in his opinion, be discussed even if no decision was reached regarding the question of defining aggression.

33. The Mexican delegation had had no special interest in wishing to keep the discussion open. It did not either accept or reject the draft code. It had to be recognized, however, that the vote just taken meant the end of efforts at the inter-governmental level to codify international criminal law.

34. Mr. BASTIEN (Haiti) said that, while his delegation opposed the postponement *sine die* of consideration of the draft code, he had voted in favour of the draft resolution, as it referred specifically to General Assembly resolution 897 (IX). Even if it was true that there was an indissoluble link between the definition of aggression and the draft code, it was regrettable that work on the draft code should be brought to an end. He hoped that efforts would be made to reopen the discussion at some future session.

35. Mr. ROSENNE (Israel) said that, in consequence of the Polish representative's conciliatory gesture of withdrawing his amendment, the Israel delegation had been able to vote in favour of the draft resolution.

AGENDA ITEM 56

International Criminal Jurisdiction (A/3649; A/C.6/
L.420)

the joint draft resolution (A/C.6/L.420), which was consequential upon the Committee's decision concerning the previous item.

36. Mr. MALOLES (Philippines) formally introduced

The meeting rose at 5 p.m.