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**FIRST COMMITTEE 359th**

MEETING

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Lake Success, New York

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*Chairman:* Mr. Roberto URDANETA ARBELÁEZ (Colombia).

**United action for peace (*continued*)**

[Item 68]\*

**GENERAL DISCUSSION (*continued*)**

1. Sir Mohammad ZAFRULLA Khan (Pakistan) stated that the handling of the Korean problem in the Security Council, added to all that had gone before, had necessitated a review of the powers and functions of the two organs of the United Nations responsible for the maintenance of international peace and security. The two draft resolutions (A/C.1/575 and A/C.1/576) had obviously been submitted in furtherance of the object and purposes of the Charter in order that the Organization as a whole, or at least the General Assembly, could act more speedily and effectively whenever there existed a threat to the maintenance of international peace, a breach of the peace or an act of aggression. If the objective of the draft resolutions, the furtherance of the principles of the United Nations, could be achieved legitimately, the delegation of Pakistan would support them, on the whole, as the need for them was clear and urgent.

2. The question was, however, whether the seven-Power draft resolution (A/C.1/576) sought to confer upon the General Assembly power or powers that it did not possess under the Charter. The Pakistan delegation would have no objection to the draft resolution, except details, if, on examination, it would seem merely to bring into evidence certain powers and functions of the Assembly which, although primarily pertaining to the Security Council, were nevertheless vested in the Assembly under the Charter; and if it were found that the Security Council was either unable or unwilling to exercise those functions so that it was necessary for the Assembly to take those powers more and more upon itself. Nor could there, in that case, be any objection to the draft resolution recommending to the General As-

sembly the lines along which it might act in order to equip itself for the better discharge of those functions.

3. The Charter in itself was not a perfect document because perforce it was based upon compromises and had to include checks and balances in order to set at rest certain misgivings. If, as a consequence, certain powers which the draft resolution sought to confer on the General Assembly were actually withheld from it, that would constitute an attempt to amend the Charter by a mere resolution. If, on the other hand, an examination of those compromises indicated that the principal responsibility for the maintenance of international peace were vested in the Security Council but that the Assembly possessed all residual powers, then it could be reasonably construed that the Assembly had all the powers of the Council if the latter failed to act, even if those powers were not specifically set out in the Charter. The draft resolution was in that case only an elaboration on those powers, and no objection on the score of competence could be made.

4. Sir Mohammad stated that his delegation so far had been unable to come to any conclusion with regard to the legality of the draft resolution. He added that, if there were serious doubts in that connexion, a suggestion might be made before its adoption, or a challenge after the resolution was adopted, that the matter should be referred to the International Court of Justice in order to obtain an opinion as to whether or not the resolution went beyond the confines of the Charter.

5. The Pakistan representative then drew the attention of members to the powers and functions of the Security Council as defined in Chapters VI, VII, VIII, and XII of the Charter. He had no definite objection to the theory that the Assembly was the residuary depository of the powers vested in the Security Council, but in that case it would not have been necessary to frame Article 14, which specifically conferred upon the Assembly powers with regard to the pacific settlement of disputes, which were conferred upon the Council in Chap-

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

ter VI. Chapter VII conferred upon the Council powers with respect to threats to the peace, breaches of the peace and acts of aggression. The draft resolution sought to recommend that the Assembly should exercise certain powers in those cases where action was needed but not taken by the Council. However, no similar powers were conferred upon the Assembly, as was done in Article 14 for questions which were covered in Chapter VI.

6. There were, however, two lines of approach which might enable the Committee to conclude that the General Assembly also possessed the powers that the draft resolution sought to bring into evidence. First, the Assembly had residuary powers. Second, the Committee had not sought to confer upon the Assembly the power of direct action but only sought to have it make recommendations.

7. Sir Mohammad then referred to Articles 10, 11 and 12, which conferred powers and functions on the General Assembly. Difficulties were raised by paragraph 2 of Article 11 which concluded: "Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion". If that sentence were designed to ensure that before the General Assembly exercised its residuary powers it should refer the matter to the Security Council to enable the Council to take adequate, appropriate and effective action, then, if the Security Council failed to act effectively, those words would not bar the Assembly from exercising its residuary powers. But it was possible, on the other hand, that that sentence was designed to ensure that the General Assembly, if it were of the view that action would have to be taken, would refer the matter to the Security Council because that was the only organ vested with the power to take action.

8. In discussing the preamble to the draft resolution, Sir Mohammad raised no objection to the various paragraphs as submitted. The object of the draft resolution was that the General Assembly should have at its disposal armed forces for the purpose of maintaining international peace and security. While that was a desirable objective, it was doubtful whether such an aim could be achieved legally by proposing that the Assembly should recommend the Members to take action.

9. Since section A of the draft resolution would not become operative unless the Security Council, because of lack of unanimity of the permanent members, failed to exercise its primary responsibilities, there could be no misgivings that the Assembly would usurp the functions of the Council. However, if the Assembly were to make recommendations for collective measures, the Assembly, or some other body appointed by it, would have to implement those measures. Although it might be desirable to have the Assembly set up such a body, the question was whether it could be done by a resolution. Section B appeared to him to be unexceptionable.

10. In conclusion, Sir Mohammad stated that his delegation was in complete agreement with the aims in view. If the United Nations did not have the power to do at least those things, or if the organ having those powers would not exercise them, and the other organ which had the responsibility did not have such powers, such a situation might be in need of drastic remedy.

The question was whether the remedy could come by way of a resolution. The Pakistan representative did not wish it to be inferred that his delegation had come to the conclusion that those powers were not conferred on the General Assembly by the Charter.

11. Sir Benegal RAU (India) observed that the fundamental question—whether or not the seven-Power draft resolution amounted to an amendment to the Charter had been discussed over and over again. However, he noted that Professor Kelsen, in his recent book *The Law of the United Nations* (page 266 and subsequent pages), had examined in detail the question whether, in the event of a dead-lock in the Security Council, competence could be transferred to the General Assembly. The examination seemed inconclusive, as several times the author stated that the answer might be in the affirmative or in the negative.

12. The Indian representative felt that, since the Committee was now studying concrete proposals which, if adopted, later would be scrutinized with the same meticulous attention as the Articles of the Charter, the drafting should be as precise as possible. The wording of paragraph 1 of section A needed clarification. The phrase "because of lack of unanimity of the permanent members" was not precise. For example, would a draft resolution on which there had not been unanimity among the five permanent members of the Council come within the meaning of that phrase if, besides dividing the permanent members, it failed to obtain the bare majority of seven votes—in other words, if four or more of the six non-permanent members voted against that proposal? Also, was it intended that section A should become operative upon the objection of a single draft resolution in the Security Council, regarding a conflict as, for instance, in regard to the use of armed forces, or would the Council have the necessary time in which to adopt an alternative resolution providing for a solution by mediation or by the application of economic sanctions? Decisions taken after due consideration often turned out to be more satisfactory.

13. With regard to the composition of the peace observation commission provided for in section B, the representative of India suggested that the International Court of Justice might make the appointments or propose a panel of names from which appointments could be made.

14. Sir Benegal concluded that his delegation's position on both the seven-Power and the Chilean draft resolutions would be determined after the proposed amendments had been discussed and the draft resolutions had emerged in their ultimate form.

15. Faris EL-KHOURI Bey (Syria) observed that, with only one exception, all the sponsors of the seven-Power draft resolution had interpreted the Articles of the Charter in such a way as to give the General Assembly the power to act under Chapter VII of the Charter concerning the use of armed force for the purpose of maintaining international peace and security. Such an interpretation might be questioned. It had not occurred to any delegation at San Francisco that the Assembly was entitled to use armed force in such circumstances.

16. The Syrian representative recalled that the Greek question had not been referred to the Assembly until it had been removed from the agenda of the Security Council,<sup>1</sup> as provided in Article 12 of the Charter. The Assembly then took action, although not to the extent of using armed force.

17. After tracing the history of the rule of unanimity in the Security Council, Faris El-Khoury Bey expressed his satisfaction that such a large majority of the Members had given a positive interpretation to the Charter which would enable the Assembly to act when the Council was unable to function. The United States, the United Kingdom and France, three of the permanent members of the Security Council, were now giving the smaller nations an opportunity of participating with them in the maintenance of international peace and security. Since three great Powers had agreed to that approach, he hoped the other big Powers would do likewise. He wondered, however, why the Member States had not arrived at such an interpretation long before when the Council had failed to act.

18. Faris El-Khoury Bey thought that it would be difficult to justify, from a legal point of view, the position that the Assembly could take back and act upon powers which it had delegated to the Council. However, if the Charter were considered as a treaty of alliance, it would follow that each Member would be expected to come to the aid of any of its allies when aggression took place against that ally. Such a principle would provide the basis for collective action by all Members in doing whatever might be necessary in a given situation. Although the draft resolution did not clearly state it in that manner, such an interpretation might be given to enable the Assembly to take action on that basis.

19. After examining the use of the veto made by the Soviet Union on the Greek question and on the admission of new Members, Faris El-Khoury Bey concluded that the USSR had not profited from the use of the veto. He wished that the USSR draft resolution (A/C.1/579) had contained a paragraph stating that the General Assembly also recommended to the Security Council, and especially to its permanent members, that the veto should not be used to obstruct the admission of new Members or the adoption of resolutions and recommendations of the Security Council which had obtained the necessary votes. Such an amendment to the USSR draft resolution would facilitate the work of the Committee.

20. Although he had tried to reconcile the provisions contained in the seven-Power draft resolution with the Charter, it had not always been possible. For example, the Assembly could not be convoked by any seven members of the Council but by the affirmative votes of seven members including all of the permanent members. Members of the United Nations had to respect law as well as their pledges. If various provisions of the Charter were circumvented, Members would lose their prestige and the respect of the peoples of the world.

21. Faris El-Khoury Bey observed that the item under discussion was an additional item placed on the agenda of the Assembly, and that many delegations had

not received instructions from their governments in that connexion. Although the seven-Power draft resolution would be adopted by a large majority, the Syrian representative felt that it would be much better if the voting were postponed until the amendments had been studied more thoroughly and instructions could be received from governments.

22. Mr. LANGE (Norway) stated that the attack on South Korea on 25 June 1950 had led to the consideration of the joint draft resolution (A/C.1/576) and had emphasized the duties of all Members to provide practical machinery for joint action against aggression. The basic ideas underlying the draft resolution were sound and his delegation gave it whole-hearted support.

23. The Charter and every Article in it could be interpreted in a number of ways. But no interpretation could change the fact that the overriding aim of the United Nations and of the Charter was to maintain peace and stop aggression. Unfortunately, the Security Council had not been able to play the part envisaged at San Francisco. That was well illustrated by the case of Korea, for the actions of the Security Council in June and July<sup>2</sup> had been possible only for reasons which were of a purely incidental nature. Since there was uncertainty as to whether the Security Council would be able to repel aggression, it became all the more necessary to do everything possible to permit the General Assembly to take effective action.

24. Moreover, the joint draft resolution was not designed to minimize the importance of the Security Council. Its only purpose was to provide for certain steps to be taken by the General Assembly in case the Security Council did not or could not exercise its functions for the maintenance of peace. In a way therefore it was a challenge to all members of the Security Council to come to an agreement on the task assigned to the Council.

25. Mr. Lange added that he would not support the draft resolution if it were a question of changing the rule of unanimity of the permanent members of the Security Council, because there had never been a greater need for the largest possible measure of agreement among the permanent members of the Security Council than there was at present. But the world could not tolerate aggression simply because the great Powers could not agree upon the course of action to be taken. The General Assembly, however, should be careful not to step in as long as there was hope that mediation processes within the Security Council had any reasonable chance of success. The Norwegian delegation would welcome any suggestions with a view to improving mediation and conciliation procedures in the Council. The reserve powers of the General Assembly to make recommendations for the maintenance of peace should be utilized only as a last resort.

26. Mr. TAKLA (Lebanon), endorsing the joint draft resolution, stated that his delegation would support, in principle, all proposals which would try to increase the functions of the General Assembly. Without it, the collective system necessary for the maintenance of international peace and security could not

<sup>1</sup> See *Official Records of the Security Council, Second Year, No. 89.*

<sup>2</sup> See *Official Records of the Security Council, Fifth Year, Nos. 15, 16 and 18.*

be effective, as it could only be carried out if all nations were in a position to make their contribution. For that reason he supported the amendment of the Egyptian delegation (A/C.1/581). Thus amended, the joint draft resolution would be an important contribution to the defence of peace.

27. However, economic and social measures would also have to be taken to ensure world peace. The Chilean draft resolution (A/C.1/575) dealt in a remarkable manner with the human aspects of world peace. He suggested therefore that the economic and social recommendations contained in that draft resolution should be incorporated in the seven-Power draft resolution.

28. Presenting the Lebanese delegation's amendments (A/C.1/578) to the joint draft resolution (A/C.1-576), Mr. Takla stated that those amendments were a logical consequence and development of the relevant provisions contained in that draft resolution. The joint draft was based on Article 1, paragraph 2 of the Charter and that paragraph was reproduced in one of the amendments submitted by his delegation. In his opinion, it was equally important to know what were the objectives and the reason for acting in accordance with the recommendations of the draft resolution.

29. Another of his delegation's amendments also followed logically the provisions of the joint draft resolution, the preamble to which recalled General Assembly resolution 290 (IV) entitled "Essentials of peace".

30. The Lebanese representative further pointed out that paragraph 10 of the joint draft resolution, establishing a collective measures committee, also referred to the provisions of the Charter with regard to regional arrangements. The investigations of that committee would bear on the resources and armed forces of States which were linked by regional arrangements, in order to determine the possibilities of their participation in the pacifying action, within the limits of Articles 52 and 53 of the Charter.

31. Mr. DOIDGE (New Zealand) stated that, with the exception of Korea, there could be no more important subject on the agenda than the draft resolution under discussion. His government believed that the United Nations had been ineffective in the maintenance of world peace because of the use of the veto. Collective security could only be attained if immediate and automatic action against aggression was taken. Force was necessary today in the international field in order to maintain peace and up to the present that force had not been available because of the veto.

32. At San Francisco, despite the protests of so many smaller Powers, the rule of unanimity was insisted upon by the great Powers and was only accepted because it was thought that an international organization with the veto was better than no organization at all.

33. The misgivings then felt regarding the ineffectiveness of the United Nations in its one fundamental task of maintaining peace had been fully justified by the events.

34. In fact, the Charter could not be amended or revised at present because the big Powers had been

granted at San Francisco not only the right of veto but also the power to prevent any amendment to the Charter. Since the Charter could not be amended, it was necessary to consider other means for strengthening the United Nations within the possibilities contained in the Charter. For that reason, the New Zealand delegation would support the joint draft resolution.

35. Postponing a detailed examination of the question to a future date, Mr. Doidge pointed out that no decision by the General Assembly would have obligatory force. All that the Assembly could do was to recommend certain action to Members, which would then have the full right to decide for themselves whether or not they would take such action. His delegation felt that such measures were insufficient. The world would not be safe from the threat of armed aggression unless the collective assistance that was to come to the aid of the victim was both automatic and immediate. However, the joint draft resolution was a step in the right direction and his delegation would therefore support that proposal if it was the best that could be achieved for the time being.

36. The New Zealand representative expressed his dissatisfaction with the present voting system in the General Assembly. The principle of one vote per Member was unrealistic. It was absurd to accord one country with say, a million inhabitants, the same voting power as that accorded to a country of 200 million. Equally, it was illogical to give a Member State without armed forces and without any desire or willingness to supply armed forces, even for defence, the same voting power as to those which did possess armed forces and had, at the same time, proved their willingness to undertake their international obligations. Mr. Doidge finally pleaded for careful consideration of the Chilean draft resolution (A/C.1/575). Some Member States had formed regional pacts in recognition of the inability of the United Nations to defend them, and in view of present world conditions such steps were obviously necessary. If, however, the extension or multiplication of such pacts was to be avoided, measures such as were proposed in the Chilean draft resolution should be given careful consideration.

37. Mr. HAJDU (Czechoslovakia) stated that his country was a sincere defender of the principle of collective security, for, if that principle had been respected, Czechoslovakia would not have had to undergo the ordeal which resulted from the Munich agreement in 1938. For similar reasons, his country paid great attention to every proposal aimed at giving greater effectiveness to the United Nations.

38. In examining the seven-Power draft resolution, the Czechoslovak delegation's criterion was whether it was in harmony with the spirit and the letter of the Charter. His delegation would agree to those measures of the joint draft resolution which would strengthen the United Nations, but it would oppose measures which were designed to amend the Charter directly or indirectly because such a round-about revision would only weaken the United Nations.

39. The proposed measures would eliminate from the Charter certain functions which the Charter had entrusted to the Security Council, and would give the

General Assembly some new functions. To make a fundamental change in the Charter through a resolution such as the one under consideration was illegal.

40. In fact, the real aim of the draft resolution was to shift the centre of gravity from the Security Council to the General Assembly and to do away with the principle of unanimity. Such a step would inevitably lead to a weakening of the United Nations. The authors of the draft resolution wanted that change so that their aggressive measures would be sanctioned and approved by the mechanical majority of States dependent upon the United States. The adoption of the draft resolution would enable the United States to use armies of other countries for purposes of conquest under the pretext of a decision of the United Nations. That those were the aims was demonstrated by recent events and by the armed intervention of the United States in Greece, of France and the United States in Viet-Nam, of the United States in Indonesia and, more recently, of the United States in Korea and Taiwan (Formosa). All those interventions were of an aggressive character. How useful it would have been in all those cases to have been able to use the cloak of the United Nations, as was done in the case of the illegal decision on Korea, with the help of the mechanical majority, thus changing an open aggression into a recommendation or decision of the United Nations. Only the principle of unanimity in the Security Council had prevented that manoeuvre from succeeding.

41. The present policy of the United States was also proof of its aggressive intentions. Those intentions were expressed in the feverish armament and a policy of making aggressive pacts, such as the North Atlantic Treaty.

42. Mr. Hajdu also feared that, if the draft resolution under consideration were adopted, it would be possible to decide by a vote that any struggle for national liberation was an aggression and, therefore, on the basis of a United Nations decision, order a legalized intervention into the internal affairs of individual States and peoples, as had happened in the case of Korea.

43. Mr. Hajdu pointed out that it would be practically impossible for so distant a State as Czechoslovakia to send a representative within twenty-four hours to attend a special session of the Assembly. Moreover, the provision in the joint draft resolution that any seven mem-

bers of the Security Council could call such a special session was not in accordance with Article 20 of the Charter.

44. He added that the provision concerning General Assembly recommendations for action in regard to the use of armed forces was also in contravention of the Charter because the Security Council alone had the right to take such action. Therefore, the argument that the draft resolution contained nothing that was not based on the Charter since there was no question of a decision but only of a recommendation did not hold good. That argument was bound to fail because Article 10 could not be considered separately but only in connexion with paragraph 2 of Article 11, the last sentence of which clearly stated that any such question on which action was necessary should be referred to the Security Council by the General Assembly, either before or after discussion.

45. Discussing section B of the joint draft resolution, Mr. Hajdu expressed his delegation's agreement, provided that the proposed peace observation commission was to be a truly representative body.

46. With regard to section C, he thought that its provisions were a clear violation of the Charter. According to those provisions, the Security Council would be deprived of its functions, which would be entrusted to the General Assembly. That was an obvious violation of Article 108, of part of Article 43, and of Article 47 in relation to Article 106. For similar reasons his delegation could not agree to section D of the draft resolution.

47. In conclusion, Mr. Hajdu welcomed the two draft resolutions submitted by the USSR (A/C.1/579) and A/C.1/580). He thought that their adoption would enable the Committee to apply the provisions of the Charter in connexion with Articles 43, 47 and 106 by calling the Security Council, on the one hand, to carry out its functions and obligations in regard to Articles 43, 45, 46 and 47, and by calling, on the other hand, on the five permanent members of the Security Council to ensure the adoption of the necessary measures to implement Article 106 of the Charter. Those proposals were directed towards the maintenance and strengthening of peace and were in strict harmony with the provisions of the Charter.

The meeting rose at 5.53 p.m.