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Chairman: Mr. Carlet R. AUGUSTE (Haiti).

AGENDA ITEM 99

Peaceful settlement of disputes (continued) (A/5964;
A/SPC/L.123 and Add.1 to 3)

1. The CHAIRMAN announced that Madagascar had joined the sponsors of draft resolution A/SPC/L.123.
2. Mr. ADEBO (Nigeria) said that the great objective of the eminent statesmen who had drafted the United Nations Charter had been the creation of a world free from war. They had known, however, that it would be impossible to create a world in which no State broke the law, and therefore had made provision in Chapter VII for punitive measures to be applied against any State which threatened international peace and security. Such measures had nevertheless been intended to represent a last resort, for the authors of the Charter had hoped that the United Nations would rely mainly on peaceful methods of settling international disputes, and had made ample provision for such methods in Chapter VI.
3. His delegation felt that the foundations for a peaceful world had been well and truly laid in the Charter and believed that if that ideal had not yet materialized, it was because the relevant Charter provisions had not been used to the best advantage. The responsibility for remedying that situation rested squarely upon Member States; Nigeria was consequently happy to associate itself with the United Kingdom initiative, which represented a recognition of that responsibility and a readiness to accept its challenge.
4. States could not be expected to forswear the use of force unless adequate machinery existed for the settlement of international disputes by peaceful means. His delegation felt that draft resolution A/SPC/L.123 and Add.1 to 3 proposed the most practical steps possible to that end, but it was prepared to consider alternative suggestions. It realized of course that no machinery, however perfect, could be effective unless countries were willing to use it rather than make themselves judges in their own cause. The establishment of a world in which nations no longer resorted to force would require a fundamental change in the hearts of men and in the attitudes of States. It was nevertheless clear that the provision of adequate machinery was of great help in promoting willingness

to submit to peaceful settlement, and his delegation therefore hoped that the draft resolution would be adopted unanimously.

5. Mr. GHAREKHAN (India) said that the principle of peaceful settlement of international disputes, together with a number of related principles, was essential to a harmonious world community. The terrifying weapons of mass destruction developed by modern science and the ever-increasing realization of the universally disastrous consequences of their use had convinced everyone that the theory of war as the ultimate sanction behind international law was best left untested.

6. The question of the peaceful settlement of disputes undoubtedly had political aspects, but it was primarily legal in nature as was recognized in the explanatory memorandum submitted by the United Kingdom (A/5964). His delegation had, however, expressed its views on the legal aspects of the question, at the 885th meeting of the Sixth Committee and at the 1964 session of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States see (A/5746, para. 137). He would, therefore, confine his remarks to the political aspects.

7. The political principle of the peaceful settlement of disputes could not be considered in isolation from certain other fundamental principles, namely those relating to the prohibition of the threat or use of force in international relations, non-intervention in internal affairs of States, and the sovereign equality of States. Respect for those four basic principles was essential to world peace and an organized world order. The principle of peaceful settlement of disputes was obviously derived directly from the principle of prohibition of the threat or use of force, and the primary preoccupation of the world community should therefore be to prevail upon its members to respect the latter principle.

8. India had recognized and respected that principle from time immemorial, and in recent times had become a signatory to numerous international documents in which it was proclaimed, such as the Bandung Declaration of 1955, the Belgrade Declaration of 1961 and the Cairo Declaration of 1964. The last-named, which had been signed by forty-seven countries, contained some very relevant and important provisions relating to the non-use of force and the peaceful settlement of disputes, notably the fifth and seventh principles of peaceful coexistence in Chapter IV and the whole of Chapter VI.

9. Mention should also be made of the significant communication addressed by the Chairman of the

Council of Ministers of the Soviet Union on 31 December 1963^{1/} to all Heads of State and Government regarding the renunciation of force for the settlement of territorial disputes and frontier questions. In his reply to that communication, Prime Minister Nehru had stated that all Governments should agree to renounce the use of force for those purposes and undertake to withdraw to historical boundaries in cases where they had been altered by force in recent years. Prime Minister Nehru had further suggested that an agreement between nations on that subject would lead to a reduction of tensions and constitute another step towards the building of international confidence.

10. In that connexion, it was interesting to recall that the Drafting Committee of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States had reached tentative agreement on certain important elements of the principle of the non-use of force (*ibid.*, 106). His delegation firmly believed, however, that people under alien domination had the unquestioned right to employ all means, including force, to regain their freedom and independence.

11. The principle of peaceful settlement of disputes had been universally recognized and had been embodied in a series of multilateral international instruments, such as the Pact of the League of Arab States (1945), the Inter-American Treaty of Reciprocal Assistance (1947), the Charter of the Organization of American States (1948), the Treaty of Friendship, Co-operation and Mutual Assistance—Warsaw Pact (1955), the Bandung Declaration (1955), The Belgrade Declaration (1961), and the Charter of the Organization of African Unity (1963). The independent States of Africa had shown their attachment to that principle by adopting a protocol of mediation, conciliation and arbitration in fulfilment of Article XX of the Charter of the Organization of African Unity. The United Nations Charter also contained adequate provisions relating to the peaceful settlement of disputes, particularly in Article 2, paragraph 3, and in Article 33 and the rest of Chapter VI.

12. India considered that negotiation, which was the simplest method, constituted a primary means of settling disputes, and had given negotiation a pre-eminent position in the joint proposal it had submitted with Ghana and Yugoslavia at the 1964 meeting of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (*ibid.*, para. 137). In that connexion, it was to be noted that Prime Minister Shastri, in his statement to the Cairo Conference in 1964, had said that direct negotiations between the parties concerned would be the ideal method of solving border disputes, but that negotiations, to be real and fruitful, must be free from all pre-conditions. He had added that the basis for negotiations must be the customary or traditional boundaries which might be in existence and not any new boundaries that had been created by force of any kind. He had also suggested that the non-aligned nations should declare their strong opposition to any changes brought

about by the open use of force as well as by quiet penetration of borders or subversion.

13. Mr. WALDHEIM (Austria) observed that the experience of the United Nations clearly demonstrated the need to recall the obligation of parties to a dispute to settle it by peaceful means, as stipulated in Article 33 of the Charter. That obligation remained even after the outbreak of open hostilities. His delegation had therefore noted with satisfaction that the Security Council in its recent decision (resolution 211 (1965)) concerning the dispute between India and Pakistan had referred to the provisions of Article 33. Unfortunately, the peaceful settlement of disputes had not yet become standard practice in relations among States and the United Nations had all too often had to undertake peace-keeping operations of one kind or another to cope with dangerous situations which had arisen. The value of those operations should, of course, be recognized, but they had not removed the underlying causes of conflicts. Peace-keeping operations constituted a heavy burden from the financial as well as the political standpoint and there were doubtless some countries which felt they could not carry that burden indefinitely. It was therefore essential to develop a system under which the parties to a dispute would settle their differences within a given period of time. Such a system would be in the interests of the parties themselves, for it was not desirable from their standpoint that United Nations troops or observers should be stationed in their territory permanently. What was needed was not so much the establishment of new juridical institutions as a clear concept of the various means of peaceful settlement available and a practical system for putting them into effect. The draft resolution introduced by the United Kingdom delegation (A/SPC/L.123 and Add.1 to 3) included a number of constructive proposals along those lines. The suggestions made by the Netherlands (489th meeting) and United States (490th meeting) representatives respectively concerning fact-finding and the services of highly qualified experts were also welcome. It was true that the peaceful settlement of disputes was also being studied by the Sixth Committee, but its work was focused on the codification of the basic principles of the Charter. His delegation would therefore support the United Kingdom draft resolution providing for the establishment of a committee to be entrusted with the study not only of the legal aspects of the matter but also of its political and practical aspects.

14. Mr. LANNUNG (Denmark) said that his delegation whole-heartedly supported the draft resolution introduced by the United Kingdom representative. At the regional level, the Council of Europe was making a study of the question of the peaceful settlement of disputes, and its Consultative Assembly at its most recent session had adopted a recommendation on the establishment of a regional system for the settlement of disputes among the Council's members. That recommendation noted, *inter alia*, that, whereas the European Convention for the peaceful settlement of disputes had been ratified by nine countries, only five had accepted the provisions of Chapter III of the Convention, relating to arbitration of disputes of a non-legal character. The recommendation requested

^{1/} See document A/5740 (mimeographed).

member Governments to hasten the ratification of the Convention and, in particular, to accept that chapter and Chapter II, concerning conciliation. He hoped that the initiative taken by the United Kingdom in the Special Political Committee would help to hasten the ratification of the European Convention and result in broader acceptance of the two Chapters in question.

15. The recommendation also called for the establishment by the Committee of Ministers of the Council of Europe of a special committee which would have power to consider any dispute or threat of a dispute among members of the Council with a view to making proposals for its solution. He wished in that connexion to draw attention to the Consultative Assembly's report on the establishment of a regional system and particularly to the explanatory memorandum attached thereto. Also, another document on that same subject included observations concerning the Inter-American Peace Committee which might be of interest to a committee established in pursuance of the United Kingdom draft resolution—and particularly to its Latin American members.

16. He shared the Netherlands representative's view that fact-finding could be extremely useful in settling both legal and political disputes and that it was used far too seldom: he was therefore glad to note that the draft resolution established a definite link between fact-finding and other methods. He would like to remind the Committee in that connexion of the Honduran proposal concerning the organization of peace made about two years earlier but never followed up.^{2/} The proposal called for the establishment of organs having as their main task the study of ways and means of solving current conflicts and preventing the development of conflicts in the future.

17. National and international non-governmental organizations concerned with peace and disarmament should undertake scientific research on ways of settling conflicts, for it was high time that science, having given mankind the means of self-destruction, should make a positive contribution to peace. It was encouraging to note that in the past few years several countries had established scientific institutions which were pursuing studies of the problem. If the draft resolution (A/SPC/L.123 and Add.1 to 3) was adopted he hoped that the committee to be established would make use of some of the results emerging from the research on the solution of conflicts undertaken in a number of countries, as suggested by the Swedish representative (490th meeting). The basic idea behind the United Kingdom proposal was the need to recognize that in the atomic age war was no longer an instrument which mankind dared employ and that it was therefore imperative to settle disputes by peaceful means. A major problem was to persuade States to make use of the existing methods and procedures for such settlements: that was even more important than devising new ones.

18. Elihu Root, United States Secretary of State from 1905 to 1909, had said that there were no international controversies so serious that they could not be settled peaceably if both parties really desired

peaceful settlement and that there were few causes of dispute so trifling that they could not be made the occasion of war if either party really desired war. The matters in dispute between nations, he had said, were nothing; the spirit which dealt with them was everything. That comment suggested both the simplicity and the complexity of the problem, for it recognized that the effectiveness of any system of peaceful settlement was dependent upon the spirit in which States made use of it.

19. Miss NYARKO (Ghana) said that as her delegation saw it the problem of the peaceful settlement of disputes was not a lack of adequate procedures but the fact that certain countries had ignored those procedures when it suited them to do so. There were many instances in which certain Powers, particularly the great Powers, had by-passed the United Nations and dealt with disputes in their own way, usually taking action which involved the threat or use of force. The problem of apartheid was an example of a situation which, having reached the point where it constituted a threat to international peace and security, should be dealt with under Chapter VII of the Charter, particularly under Articles 41 and 42. The problem was one which the United Nations should make every effort to eradicate. The present situation in Southern Rhodesia was also in that category.

20. When introducing the draft resolution (A/SPC/L.123 and Add.1 and 2), the United Kingdom representative had stressed the urgency of the matter. However, as adequate procedures for the peaceful settlement of disputes already existed it was difficult to understand why Governments should not be given sufficient time to study the problem carefully and make an exhaustive appraisal of methods for improving those procedures. A committee such as that proposed in the draft resolution should not be set up until the views of the various Members of the United Nations were made known. Before new procedures were suggested it must be decided whether the existing procedures were adequate. Her delegation therefore proposed that the whole item should be referred to the twenty-first session of the General Assembly. If at that time it was felt that a group should be appointed to study the problem, Ghana would be prepared to give such a proposal serious consideration.

21. Her delegation did not wish to give the impression that it was opposed in principle to the spirit of the United Kingdom draft resolution, but it felt strongly that on such an important matter the Committee could not be rushed into taking decisions which might put obstacles in the way of applying the procedures already available.

22. Mr. ACHKAR (Guinea) said that the African States in general and Guinea in particular were keen advocates of the principle of the peaceful settlement of international disputes, for in their circumstances they could not afford the luxury of solving them in any other way. He had doubts concerning the good faith of the United Kingdom delegation in introducing its draft resolution because that country had special relations with Southern Rhodesia, South Africa and Portugal, all of which were parties to the major dispute involving the African continent: the dispute over the liberation of the African peoples. The connexion between the United Kingdom and

^{2/} Official Records of the General Assembly, Seventeenth Session, Annexes, agenda item 23, document A/L.403.

Southern Rhodesia required no explanation. In the case of South Africa, the United Kingdom itself had acknowledged that it was bound by special ties to that country. As for Portugal, it had long been a semi-colony of the United Kingdom and it was the support of the latter which enabled Portugal to maintain its oppressive régime in its own colonies. The draft resolution did not appear to have relevance to the type of conflict now existing in Africa, for which Portugal, Southern Rhodesia and South Africa were responsible. As the representative of Ghana had noted, the machinery for the peaceful settlement of disputes was already available, at both the United Nations level and the level of the regional organizations. The Organization of African Unity, for example, had a commission of conciliation and arbitration which had so far proved adequate to deal with the problems put before it. But what was to be done if one of the parties to a dispute was not prepared to settle it peacefully? In such a case, was all possibility of resorting to other means to be ruled out?

23. In the light of those considerations, he thought that the Committee should approve the proposal just made by the delegation of Ghana. If however, it was decided to vote on draft resolution A/SPC/L.123 and Add. 1 to 3 his delegation would propose a number of substantive amendments. First, it would call for the deletion of operative paragraphs 1 and 2. Secondly, it would delete the references to the proposed committee in operative paragraph 3. Thirdly, it would delete operative paragraph 4. Finally, it would delete the words "in order to consider the report of the Committee" in operative paragraph 6.

Mr. Inglés (Philippines) Vice-Chairman took the Chair.

24. Mr. MOROZOV (Union of Soviet Socialist Republics) said that in listening to the statements made by the representatives of the United Kingdom (489th meeting) and the United States (490th meeting) in support of draft resolution A/SPC/L.123 and Add.1 to 3, he had begun to wonder whom they were trying to convince. The principle of the peaceful settlement of disputes was already fully covered in Chapter VI of the Charter, which laid down a wide range of procedures by which the parties concerned could settle their differences, including recourse to the Security Council and, under certain circumstances, to the General Assembly. As his Government had stated in its memorandum of 10 July 1964,^{3/} the Soviet Union considered that greater use should be made of the peaceful means set forth in the Charter for the settlement of international disputes.

25. The representatives of the United Kingdom and the United States had practically ignored the relevant provisions of the Charter in their statements, the former attempting to create the impression that in the matter of peaceful settlement the United Nations would have to start from scratch. He had gone on to say that the United Nations had not fulfilled the hopes placed in it because no effective means had been found to settle international disputes. The reasons why the representatives of the United Kingdom and the United States had thought fit to overlook the orderly and effective measures provided for in the

Charter was not far to seek. In the first place, they wanted to divert attention from the more acute conflicts that threatened international peace and security, and in the second place, on the pretext that the existing machinery was inadequate, they were attempting to introduce activities that would be contrary to the Charter.

26. But the real causes of the increase in world tension were clear. Everyone knew which countries were still conducting colonial wars and attempting to turn back the clock by the use of force, carrying out "gunboat diplomacy" and combating national liberation movements in Asia, Africa and Latin America. The United States was bombarding North Viet-Nam and extending the conflict in South Viet-Nam. United States marines still occupied the Dominican Republic. The United States had taken part in the shameless intervention in the Congo by the Western Powers. On many occasions the United States had intervened by military force in the affairs of small countries and peoples. British imperialism had disturbed the peace in Kenya, Oman, Jordan, Yemen, British Guiana, Aden and the Congo.

27. The real reason for the unsatisfactory state of world affairs was not the inadequacy of the machinery provided in the Charter, but the policies carried out by the colonial Powers. The attitude of the United States and the United Kingdom could be seen in their failure to vote with the majority of countries on the question of apartheid. The United Kingdom had refused to employ force against the racist régime in Southern Rhodesia. The world situation could be improved, not by changing or circumventing the provisions of the Charter, but by strictly observing them.

28. The imperialist Powers were attempting to camouflage their true intentions, namely to set up entirely new machinery over which the Security Council and the General Assembly would have no control. The representative of the United States had proposed the creation of a United Nations peace service—a new body with no basis in the Charter. Those proposals were further attempts to undermine the authority of the Security Council and to hinder the objective and just settlement of international disputes. The Soviet Union could not support any such action.

29. The representatives of the United States and the United Kingdom had both claimed that they were not proposing any concrete measures, but only a study of the question. Proof of their insincerity could be found in the fact that a detailed study of the whole issue was already being carried out by the Sixth Committee. The creation of the committee proposed in draft resolution A/SPC/L.123 and Add.1 to 3 would not increase the effectiveness of the United Nations in the settlement of disputes; it would be detrimental to the purposes and principles of the Charter, to peace and security, and above all to the interests of the small countries. For those reasons the Soviet Union delegation would vote against draft resolution A/SPC/L.123 and Add.1 to 3.

30. Mr. NORTON DE MATOS (Portugal), speaking in exercise of his right of reply, said that, in order to dispel any misunderstanding which might arise

^{3/} *Ibid.*, Nineteenth Session, Annexes, annex No. 21, document A/5721.

in connexion with the statement of the representative of Guinea, he wished only to affirm the willingness of the Portuguese Government to settle in a peaceful manner all the differences it might have with any other country or countries.

31. Mr. ACHKAR (Guinea) speaking in exercise of his right of reply suggested that if Portugal really

wished to settle its dispute with other countries, it should enter into negotiations with the authorized representatives of the colonial peoples that Portugal was now oppressing. Until that was done, the war being waged by Portugal in Portuguese Guinea, Mozambique and Angola would continue.

The meeting rose at 1.30 p.m.