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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, A/C.2/L.165 and Corr.1-3, and A/C.2/L.166) (continued)

[Item 25]*

1. Mr. JONKER (Netherlands) stressed the need for particular objectivity in discussing the subject of respect for the right of countries to nationalize and freely exploit their natural wealth, with which the Uruguayan draft resolution (A/C.2/L.165 and Corr. 1-3) and the Bolivian amendment thereto (A/C.2/L.166) were concerned. The subject of nationalization was so bound up with political and ideological questions that it was difficult to do justice to the economic element.

2. In his delegation's view, the point at issue was not the relationship of respect for the right to nationalize—with its possible repercussions—to the question of the economic development of under-developed countries. It was not necessary for the Second Committee to reaffirm the right to nationalize; that was rather a matter for the Third Committee which was considering the problem of self-determination; alternatively, if the intention was to determine the right, that task should be entrusted to a legal body.

3. Moreover, it was doubtful whether the economic development of under-developed countries would in any way benefit from adoption of the Uruguayan draft resolution. A passage of the International Bank's *Report on the proposal for an international finance corporation* (E/2215), indicated that restrictions imposed by under-developed countries on foreign enterprises inevitably deterred foreign investors, and that, unfortunately, a point had been reached where the safeguards which both governments and potential foreign investors required—because of fear of abuse by the other party—were often irreconcilable. It was difficult

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

in such circumstances to encourage the growth of private enterprise. Both foreign investors and under-developed countries therefore must proceed carefully.

4. The Committee had recently adopted a resolution in favour of an international finance corporation and he thought it might be unwise to adopt another resolution which could deepen existing misgivings and deter foreign investment.

5. Moreover, his delegation did not consider the wording of the Uruguayan draft resolution very satisfactory. It omitted any mention of the obligation to give adequate compensation in the event of nationalization and spoke of economic independence just at a time when efforts were being made to stress the inter-dependence of economic problems and the need for international co-operation. The Committee would later be discussing a Chilean draft resolution (A/C.2/L.155) on regional co-operation, collaboration and integration in economic development, which surely must clash with any idea of economic independence. In a world that was of necessity progressing towards more comprehensive political and economic inter-relationships, a resolution which stressed the idea of independence could hardly be helpful.

6. Some decades ago the question of nationalization had been acute, but the present world economic situation demanded more understanding of the importance of considering the main economic fields on an international basis. In Europe, where almost every country had instituted some degree of nationalization, steps had recently been taken by several countries, including the Netherlands, to internationalize coal and steel production.

7. The right of every government to nationalize and exploit its natural wealth was unquestionable, but was it wise to stress the principle irrespective of circumstances? The problem of the economic development of under-developed countries was so important that every care should be taken not to jeopardize its solution by

adopting slogans which promised more than it could achieve.

8. Sometimes it was hard to see any difference between the underlying motives for nationalization and the expression of political nationalism. Political nationalism was one of the bitter fruits of a past phase of Western thinking, but Europe had learnt that it brought misery in its train. It was tragic that just at a time when a clearer understanding was spreading in Europe, that false doctrines were gaining increased acceptance in other parts of the world.

9. His country had shown that it fully understood the difficulties involved. He was bringing up the question solely because he was convinced that the Committee should avoid undertaking anything that later might prove not to have contributed to the economic development of under-developed countries. Every State was entitled to respect of its national aspirations but, in view of the atmosphere which the adoption of the Uruguayan draft resolution and the Bolivian amendment might create, his delegation was unable to support either of them.

10. Mr. GINOSSAR (Israel) said that, as a State's right to own its natural wealth was referred to in most constitutions and was not disputed in international law or in practice, the Uruguayan draft resolution was really a restatement of an acknowledged situation. Difficulties only arose in cases when concessions had been granted to exploit national wealth and the installations had been built by the concessionaires themselves; nationalization could then lead to disputes in connexion with contracts and compensation.

11. Such difficulties had not, however, arisen in Israel. It was his Government's policy to encourage foreign investment, including investments for developing the natural resources of the country, since without them proper development would be seriously delayed. Concessions granted before the establishment of the State of Israel had not been interfered with. In one case, that of the Palestine Potash Company, a mutually acceptable re-organization had been arranged by free negotiation. New concessions had been, or were being, granted by the Israel Government on suitable terms, as for instance one for oil prospecting and several for the erection of grain elevators.

12. In his Government's opinion, the under-developed countries, in view of their urgent need for foreign skill and capital, including private capital, ought to encourage foreign investors to help in the development of their natural resources. Its experience was that no conflict existed in that sphere between State sovereignty and the legitimate interests of a foreign investor answering the State's invitation to help develop its economic potential on mutually acceptable terms. The need for private foreign investment and the importance of encouraging it had been repeatedly stressed and had been affirmed in part C of the resolution (A/C.2/L.170) of the working group, which had received almost unanimous support in the Committee (215th meeting). His delegation felt that that resolution, together with the need to avoid misconceptions on the part of those from whom assistance was sought, ought to be borne in mind in any approach to the question of nationalization.

13. Miss BURWASH (Canada) said that, while she did not question the right of States to nationalize their

natural resources, the discussion which had so far taken place had not convinced her that the time was appropriate, or that the Second Committee was the proper organ to adopt a resolution on the subject. The Uruguayan draft resolution merely stated an evident and acknowledged fact. As certain representatives had pointed out, the reassertion of that fact by the United Nations might cast doubts on its original validity. The adoption of the draft resolution might also prove detrimental to the flow of private foreign investment capital to under-developed countries in view of the suggested intention on the part of those countries to nationalize.

14. She believed that the problem involved was primarily legal and that the subject should be discussed by the Sixth Committee or the International Law Commission. Her delegation did not feel that the Committee ought to act on the draft resolution.

15. Sir Clifford NORTON (United Kingdom) on a point of interpretation, said that, at the previous meeting, the Iranian representative, in referring to his (Sir Clifford's) general statement, had implied that the United Kingdom Government had come around to the view that the ruling of the International Court of Justice in the Anglo-Iranian oil dispute went beyond the question of competence, and had accepted the Iranian Government's contention that the dispute was purely domestic. That was an implication he could not accept. The International Court had put no seal on the legality of the Iranian Government's action, nor had it upheld the view that the dispute was a domestic one. On the contrary, it had appeared to believe that *prima facie* international obligations were involved. Its subsequent consideration of the question of compulsory jurisdiction had not determined either the merits of the case or the question of whether international obligations were involved.

16. On commenting on the Uruguayan draft resolution, he (Sir Clifford) had expressed the opinion at the previous meeting that governments had sovereign powers in their own countries, but that did not imply that they ought not to respect their lawful internal or external obligations. The Iranian representative had referred to the negotiations which had followed the nationalization of oil in Mexico. The problems which had arisen in that connexion had been solved to the mutual satisfaction of British interests and of the Mexican Government. That precedent, therefore, supported his Government's contention that the dispute with the Iranian Government could also be settled to the satisfaction of the parties involved. It was his Government's desire to reach a speedy and equitable settlement, and that would be greatly assisted if the Iranian Government gave satisfactory assurances about the basis on which the parties should have recourse to international arbitration on the question of compensation.

17. Mr. CUSANO (Uruguay) said, that although it had been his intention to say as little as possible in the debate, he must refute some allegations which had been made concerning his delegation's draft resolution. It had been suggested that the draft might conflict with the provisions of the Charter regarding the right of peoples to self-determination. He found it incredible that anyone should have read that intention into the draft resolution and it must be due to a misunderstanding. The Committee had heard the representatives of

Iran and Bolivia say that the draft resolution would protect the right of countries to nationalize their resources and would thus strengthen their economic independence.

18. He could not accept the suggestion that his delegation's draft resolution was opposed to the principle of self-determination. It would cause much greater harm to that principle if no action whatever were taken. The populations of many of the under-developed countries, which had enormous potential wealth, were living in wretched conditions as a result of foreign exploitation. His delegation wished the right of the populations to nationalize their resources and enjoy the fruits of their own wealth to be respected.

19. His delegation's draft resolution was intended merely to provide a basis for discussion and he was perfectly prepared to consider possible amendments to it in accordance with the suggestions put forward by the representatives of Syria, Israel and Mexico. He was even prepared to add a clause stating that upon nationalization the principle of just compensation should be applied in accordance with the constitution of the country involved.

20. Consequently, while he would always support the right of the nation in preference to the right of private investors, he completely rejected the suggestion that his delegation's draft resolution might infringe the principle of self-determination.

21. Mr. HALIQ (Saudi Arabia) said the Uruguayan draft resolution called for the adoption by the Committee of the statement of an obvious principle. It was superfluous in that it was equivalent to the United Nations asking governments to recognize their right to act as governments. Moreover, it would place some of the under-developed countries in an awkward position. In the first place, no under-developed country could vote against recognition of the right to nationalize and exploit its resources. In the second place, it was likely that amendments would be proposed dealing with such questions as compensation and arbitration, questions which were viewed by many delegations with mixed feelings. If a delegation supported a resolution dealing with such questions it would be bound by certain commitments which might prejudice its government's freedom of action in the future.

22. Although his delegation believed that the Bolivian amendment (A/C.2/L/166) did improve the text of the draft resolution a little, even if it were adopted some of its apprehensions would remain. His delegation had not yet decided on its final attitude toward the draft, but hoped that whatever amendments were submitted would take into account the apprehensions he had mentioned.

23. Mr. MADRIGAL (Philippines) stated that, under the Philippine Constitution, all natural resources belonged to the State. No national property could be alienated with the exception of public agricultural land for which adequate compensation must be paid. Under the Constitution, the State was also entitled, in the interest of national welfare and defence, to establish and operate industries and means of transport and communication. The State could transfer to public ownership utilities and other private enterprises against payment of just compensation. Although organizations such

as the National Development Corporation and National Rice and Corn Corporation had been financed by the Government to fill the void created by the reluctance of private enterprise, it was the national policy to curtail the activities of government-owned corporations as soon as private concerns were able to take them over.

24. He recalled that, at its 1952 session, the Commission on Human Rights had approved, for inclusion in the draft covenant on human rights, a text, based on a Chilean proposal, on the economic aspects of self-determination which included a concept very similar to that of the Uruguayan draft resolution.¹ He doubted whether the Committee could improve on the wording approved by the Commission on Human Rights. The Third Committee was also laying increasing emphasis on the economic aspects of self-determination. It might be advisable for the Second Committee to wait until 1953, when the Commission on Human Rights would have submitted the draft covenant to the General Assembly, before pursuing the matter any further, and that for the following reasons.

25. The Commission on Human Rights had prepared a more precise text and was therefore in a better position to present a draft to the General Assembly after the long and careful deliberation which the importance of the subject demanded. An international pronouncement on the matter should be made in the context of a general declaration on the economic aspects of self-determination rather than as an isolated issue. It was desirable to avoid the understandable criticism that there was too much repetitious debate in the United Nations. If the Uruguayan draft resolution was adopted, the United Nations would be presenting the world with two similar texts. Lastly, the forthcoming draft covenants on human rights would contain not only declarations on economic rights but also provisions for their implementation.

26. The United Nations was approaching a crucial stage so far as measures for economic development were concerned. If its efforts were to be brought to a satisfactory conclusion, the position of the industrialized countries, whose co-operation in carrying out international economic programmes was essential, should not be jeopardized. The Uruguayan draft, if approved, might result in the opposition of industrialized countries to the various economic programmes. Again, the Committee had recently adopted a resolution calling for increased private investment in the under-developed areas. If the Uruguayan draft was adopted, private investors might place varying interpretations on the Committee's action. By encouraging private investment in order to raise living standards in the under-developed countries and, at the same time, adopting a resolution which might discourage such investment, the Committee would defeat its own object.

27. He would therefore support any proposal to postpone the vote until the 1953 session of the General Assembly, when the draft covenants on human rights would be before the General Assembly, but would abstain if the draft resolution was put to the vote.

28. Mr. BOTHA (Union of South Africa) thought that the Uruguayan representative had implied that

¹ See *Official Records of the Economic and Social Council, Fourteenth Session, Supplement No. 4*, paras. 67, 70 and 71.

some delegations had misinterpreted his draft resolution. But, even if the Committee approved the principle underlying the text and disregarded its specific terms, it would still find itself in difficulties.

29. The right of every country to manage its domestic economy, which included the right to nationalize any part of its national potential, had never been questioned in the international field. States had always exercised that right and also the right to nationalize other parts of their economy, such as public utilities, without question. Friction between States had at times been caused not by any disrespect for the right to nationalize but by failure to respect international obligations when nationalization took place. Such obligations were complex and it would be difficult to make provision for all their possible aspects. It might therefore be necessary to approach the question from the aspect that had caused international friction.

30. All States had certain inherent sovereign rights and it was pointless to try to enumerate them, because the existing position would not be changed thereby and any oversimplification would be misleading. At the previous meeting the Swedish representative had drawn attention to the undesirability of United Nations intervention in the domestic politics of States. Nationalization was an aspect of domestic politics about which many countries were extremely sensitive. There might be countries where nationalization was an acute issue in domestic politics, and a United Nations pronouncement on the subject could justifiably be regarded with resentment as an invasion into the domestic

affairs of States, if such a pronouncement tended to take sides. Furthermore, there might be some countries which were not authorized under their constitutions to nationalize. The Uruguayan draft resolution, if adopted, might raise unfortunate political controversy in certain countries. He could not therefore support either it or the Bolivian amendment which seemed to deny States the right to protect the interests of their own citizens.

31. Mr. LOPEZ VILLAMIL (Honduras) considered that the Uruguayan draft resolution and the Bolivian amendment were not sufficiently comprehensive. It was not fitting for the United Nations to recommend the international recognition of principles set forth in national constitutions. While appreciating the motives of the sponsors, he felt that the texts were not broad enough to cover the principles in question. The Bolivian amendment would weaken rather than strengthen the right of absolute sovereignty and political independence. On the other hand he would be able to support a text which recommended respect of the jurisdictional right of each Member State to protect its national sovereignty and to nationalize its property under appropriate conditions.

32. Mr. BOTHA (Union of South Africa) trusted that the representative of Honduras did not infer from his previous statement that it was the South African delegation's view that a country could not nationalize sections of its economy unless its constitution so provided.

The meeting rose at 12 noon.