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CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

Report of the Sixth Committee

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66-32095

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I. INTRODUCTION

1. At its 1415th plenary meeting, on 24 September 1966, the General Assembly decided to include item 87 entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" in the agenda of its twenty-first session and to allocate the item to the Sixth Committee.

2. The Sixth Committee considered this item at its 924th to 942nd meetings, from 1 to 29 November 1966.

3. The item was previously discussed by the General Assembly at its seventeenth, eighteenth and twentieth sessions. These discussions resulted in the adoption of General Assembly resolutions 1815(XVII) and 1816 (XVII) of 18 December 1962, 1966 (XVIII) and 1967 (XVIII) of 16 December 1963 and 2103 (XX) and 2104 (XX) of 20 December 1965.

4. At its seventeenth session the General Assembly, by resolution 1815 (XVII) of 18 December 1962: (1) recognized "the importance, in the progressive development of international law and in the promotion of the rule of law among nations, of the principle of international law concerning friendly relations and co-operation among States and the duties derived therefrom, embodied in the Charter of the United Nations which is the fundamental statement of those principles ..."; (2) resolved to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more effective application; (3) decided to study, at its eighteenth session, four of those principles, namely: (a) the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations; (b) the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered; (c) the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; and (d) the principle of sovereign equality of States.

5. At its eighteenth session the General Assembly, by resolution 1966 (XVIII) of 16 December 1963, established a Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. That Committee was requested to draw up and submit to the General Assembly a report "containing, for the purpose of the progressive development and codification of the four principles" enumerated in paragraph 4 above "so as to secure their more effective application, the conclusions of its study and its recommendations ...". Likewise, the General Assembly decided to consider the report of the Special Committee at its next session and to study, at the same time, the following three principles: (a) the duty of States to co-operate with one another in accordance with the Charter; (b) the principle of equal rights and self-determination of peoples; and (c) the principle that States shall fulfil in good faith the obligations assumed by them in accoreance with the Charter.

6. Also at its eighteenth session the General Assembly, by resolution 1967 (XVIII) of 16 December 1963 on the question of methods of fact-finding, invited the views of Member States, requested the Secretary-General to study the relevant aspects of the problem and to report on it to the Assembly at its nineteenth session and to the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States established under Assembly resolution 1966 (XVIII), and also requested the Special Committee to include the matter in its deliberations.

7. The Special Committee established under General Assembly resolution 1966 (XVIII) met at Mexico City from 27 August to 1 October 1964, and submitted a report on its work to the General Assembly.[1/]

8. At its twentieth session the General Assembly considered, under the item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter",[2/] the report of the 1964 Special Committee, the three principles referred to in paragraph 5 above

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1/ Official Records of the General Assembly, Twentieth Session, Annexes, agenda items 90 and 94, document A/5746.

2/ Ibid., document A/6165, para. 5.

and the report of the Secretary-General on methods of fact-finding.[3] The Sixth Committee considered that agenda item together with item 94, entitled "Observance by Member States of the principles relating to the sovereignty of States, their territorial integrity, non-interference in their domestic affairs, the peaceful settlement of disputes and the condemnation of subversive activities".[4]

9. The General Assembly adopted at its twentieth session resolution 2103 (XX) of 20 December 1965. Resolution 2103 A (XX) read as follows:

"The General Assembly,

...

"1. Takes note of the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

"2. Expresses its appreciation to the Special Committee for the valuable work performed in Mexico City;

"3. Decides to reconstitute the Special Committee, which will be composed of the members of the Committee established under General Assembly resolution 1966 (XVIII) (see A/5689 and A/5727) and of Algeria, Chile, Kenya and Syria, in order to complete the consideration and elaboration of the seven principles set forth in Assembly resolution 1815 (XVII);

"4. Requests the Special Committee:

(a) To continue, in the light of the debates which took place in the Sixth Committee during the seventeenth, eighteenth and twentieth sessions of the General Assembly and of the report of the previous Special Committee, the consideration of the four principles set forth in paragraph 3 of Assembly resolution 1815 (XVII), having full regard to matters on which the previous Special Committee was unable to reach agreement and to the measure of progress achieved on particular matters;

(b) To consider the three principles set forth in paragraph 5 of General Assembly resolution 1966 (XVIII), with particular regard to:

(i) The practice of the United Nations and of States respecting the application of the principles laid down in the Charter of the United Nations;

(ii) The comments submitted by Governments on this subject in accordance with paragraph 6 of resolution 1966 (XVIII);

3/ Ibid., document A/5694.

4/ Ibid., document A/6165, paras. 6 and 7.

(iii) The views and suggestions advanced by the representatives of Member States during the seventeenth, eighteenth and twentieth sessions of the General Assembly;

(c) To submit a comprehensive report on the results of its study of the seven principles set forth in resolution 1815 (XVII), including its conclusions and recommendations, with a view to enabling the General Assembly to adopt a declaration containing an enunciation of these principles;

"5. Recommends the Governments of the States designated members of the Special Committee, in view of the general importance and the technical aspect of the item, to appoint jurists as their representatives on the Special Committee;

"6. Requests the Special Committee to meet at United Nations Headquarters as soon as possible and to report to the General Assembly at its twenty-first session;

"7. Requests the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;

"8. Decides to include an item entitled 'Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations' in the provisional agenda of its twenty-first session."

By resolution 2103 B (XX) the General Assembly requested

"...the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, reconstituted under paragraph 3 of resolution 2103 A (XX) above, to take into consideration, in the course of its work and in drafting its report, the request for the inclusion in the agenda of the /Observance by Member States of the principles relating to the sovereignty of States, their territorial integrity, non-interference in their domestic affairs, the peaceful settlement of disputes and the condemnation of subversive activities/ mentioned in the first preambular paragraph above (A/5757 and Add.1) and the discussion of that item at the twentieth session of the General Assembly."

10. Also at its twentieth session the General Assembly adopted resolution 2104 (XX) of 20 December 1965 concerning the question of methods of fact-finding. The operative part of that resolution reads as follows:

"The General Assembly,

...

"1. Requests the Secretary-General to supplement his study on the relevant aspects of the problem so as to cover the main trends and characteristics of international inquiry, as envisaged in some treaties as a means of ensuring their execution, and to report to the General Assembly at its twenty-first session;

"2. Invites Member States to submit in writing to the Secretary-General, before July 1966, any views or further views they may have on this subject in the light of the reports of the Secretary-General and the relevant chapter of the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, and requests the Secretary-General to transmit these comments to Member States before the beginning of the twenty-first session of the General Assembly."

11. The Special Committee reconstituted under Assembly resolution 2103 (XX) met at United Nations Headquarters in New York from 8 March to 25 April 1966, adopted a report on its work (A/6230) and submitted it in accordance with operative paragraph 4 (c) of resolution 2103 (XX) to the General Assembly. The report was divided in the following nine chapters: (1) Introduction; (2) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations; (3) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered; (4) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; (5) The principle of sovereign equality of States; (6) The duty of States to co-operate with one another in accordance with the Charter; (7) The principle of equal rights and self-determination of peoples; (8) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter; (9) Conclusion of the work of the 1966 Special Committee.

12. At the twenty-first session of the General Assembly the item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" covered the

report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/6230) and the study prepared by the Secretary-General, in pursuance of operative paragraph 1 of General Assembly resolution 2104 (XX), on methods of fact-finding with respect to the execution of international agreements (A/6228). The Committee had also before it the comments received from Governments, in accoreance with paragraph 2 of General Assembly resolution 2104 (XX), on the question of methods of fact-finding (A/6373 and Add.1).

II. PROPOSALS AND AMENDMENTS

A. Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

13. Cameroon, Chile, Colombia, Czechoslovakia, Ecuador, Guatemala, Honduras, India, Mexico, Nigeria, Panama, Sudan, the United Arab Republic, Uruguay, Venezuela and Yugoslavia submitted a draft resolution (A/C.6/L.607 and Add.1 and 2), the operative paragraphs of which read as follows:

"The General Assembly,

"...

"1. Takes note of the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

"2. Expresses its appreciation to that Committee for the valuable work it performed;

"3. Takes note of the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States, and of its decision that with regard to the principle of non-intervention the Special Committee will abide by General Assembly resolution 2131 (XX) of 21 December 1965;

"4. Decides to ask the Special Committee as reconstituted by General Assembly resolution 2103 (XX) to continue its work;

"5. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first sessions of the General Assembly and in the 1964 and 1966 Special Committee, to complete the formulations of:

(a) The principle that States shall refrain in their international relations from the threat of use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(b) The duty of States to co-operate with one another in accordance with the Charter;

(c) The principle of equal rights and self-determination of peoples, and

(d) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

"6. Further requests the Special Committee to consider any additional proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, which could widen the area of agreement already expressed in General Assembly resolution 2131 (XX);

"7. Requests the Special Committee, having regard to the work already accomplished by the 1966 Special Committee as specified in operative paragraph 3 above, to submit to the twenty-second session of the General Assembly a comprehensive report on the principles entrusted to it for study and a draft declaration on the seven principles set forth in General Assembly resolution 1815 (XVII);

"8. Requests the Special Committee to meet at Geneva, or at any other suitable place for which an invitation is received by the Secretary-General, and to submit its report and the draft declaration to the General Assembly at its twenty-second session;

"9. Requests the Secretary General to co-operate with the Special Committee in its task, and to provide all the services, documentation and other facilities necessary for its work;

"10. Decides to include an item entitled 'Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations' in the provisional agenda of its twenty-second session."

14. The sponsors of the draft resolution (A/C.6/L.607 and Add.1 and 2), together with Bolivia, Brazil, Bulgaria, Costa Rica, the Dominican Republic, El Salvador, Hungary, Madagascar, Mongolia, Nepal, Nicaragua, Paraguay, Peru and Poland, submitted a first revision of the draft resolution (A/C.6/L.607/Rev.1 and Add.1) adding at the end of operative paragraph 7 the words "such as will constitute an outstanding event in the progressive development and codification of those principles;".

15. Australia, Canada, Jamaica, Japan, New Zealand, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America submitted amendments (A/C.6/L.608) to the revised draft resolution (A/C.6/L.607/Rev.1 and Add.1) which read as follows:

"1. Add the following new preambular paragraph after the fifth preambular paragraph:

'Bearing in mind also the nature of General Assembly resolutions and in particular that of resolutions whose purpose in the progressive development and codification of principles of international law,'.

"2. Amend the sixth preambular paragraph as follows: (a) add the word 'accordingly' after the opening words 'Being convinced'; (b) replace the words 'as much general agreement as possible in' by the words 'general agreement at every stage of'; (c) replace the words 'the adoption at the twenty-second session of the General Assembly' by the words 'the early adoption'.

"3. End operative paragraph 3 with a semicolon after the words 'equality of States'.

"4. In operative paragraph 5, after '1966 Special Committee', add 'and building on existing areas of substantial agreement'.

"5. Amend operative paragraph 6 to read:

'6. Further requests the Special Committee to complete the formulation of the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, on the basis of General Assembly resolution 2131 (XX) and in an effort to widen the area of agreement on the legal content of that principle;'."

16. The sponsors of the revised draft resolution, together with Lebanon, submitted a second revision of the draft resolution (A/C.6/L.607/Rev.2) introducing the following changes into the text of the draft resolution:

(a) The sixth preambular paragraph was redrafted to read:

"Being convinced of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII) but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,";

(b) The following new operative paragraph 7 was added:

"7. Further requests the Special Committee, having considered, as a matter of priority, the principles referred to in operative paragraphs 5 and 6 above, to consider any additional proposals with a view to widening

the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;"

(c) As a result, operative paragraphs 7, 8, 9 and 10 were renumbered accordingly.

17. The sponsors of the amendments (A/C.6/L.608) withdrew amendments 1, 2 and 4 to draft resolution (A/C.6/L.607/Rev.1 and Add.1) maintaining amendments 3 and 5 (A/C.6/L.608/Rev.1) to draft resolution (A/C.6/L.607/Rev.2).

18. Finally, the sponsors of the draft resolution (A/C.6/L.607/Rev.2), together with Ghana and Romania, submitted a third revision of the draft resolution (A/C.6/L.607/Rev.3 and Add.1), of which the operative paragraphs read as follows:

"The General Assembly...

"1. Takes note of the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

"2. Expresses its appreciation to that Committee for the valuable work it performed;

"3. Takes note also of the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States, and of its decision that with regard to the principle of non-intervention the Special Committee will abide by General Assembly resolution 2131 (XX) of 21 December 1965;

"4. Decides to ask the Special Committee as reconstituted by General Assembly resolution 2103 (XX) to continue its work;

"5. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first sessions of the General Assembly and in the 1964 and 1966 Special Committee, to complete the formulations of:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(b) The duty of States to co-operate with one another in accordance with the Charter;

(c) The principle of equal rights and self-determination of peoples; and

(d) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

"6. Requests the Special Committee to consider proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX);

"7. Requests the Special Committee, having considered, as a matter of priority, the principles referred to in operative paragraphs 5 and 6 above, to consider any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;

"8. Requests the Special Committee, having regard to the work already accomplished by the 1966 Special Committee as specified in operative paragraph 3 above, to submit to the twenty-second session of the General Assembly a comprehensive report on the principles entrusted to it for study and a draft declaration on the seven principles set forth in General Assembly resolution 1815 (XVII) such as will constitute a landmark in the progressive development and codification of those principles;

"9. Requests the Special Committee to meet at Geneva, or at any other suitable place for which an invitation is received by the Secretary-General;

"10. Requests the Secretary-General to co-operate with the Special Committee in its task, and to provide all the services, documentation and other facilities necessary for its work;

"11. Decides to include an item entitled 'Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations' in the provisional agenda of its twenty-second session."

19. Thereafter, the sponsors of the amendments (A/C.6/L.608/Rev.1) to draft resolution (A/C.6/L.607/Rev.2) submitted an amendment (A/C.6/L.608/Rev.2) to operative paragraph 3 of the draft resolution (A/C.6/L.607/Rev.3 and Add.1), reading as follows:

"At the end of operative paragraph 3, change the semicolon to a comma and add: 'and of its decision noting the report of the drafting committee that no agreement was reached on the additional proposals made with the aim of widening the area of agreement in General Assembly resolution 2131 (XX);'."

20. The Secretary-General submitted a statement (A/C.6/L.609) of the administrative and financial implications of the draft resolution (A/C.6/L.607/Rev.1). This statement was also made applicable to the second and third revisions of the draft resolution.

B. Question of methods of fact-finding

21. Colombia, Dahomey, Ecuador, Jamaica, Japan, Liberia, Madagascar, Mexico, the Netherlands, Pakistan, Somalia, Togo and Turkey submitted a draft resolution (A/C.6/L.610 and Add.1), reading as follows:

"The General Assembly...

"1. Invites Member States to submit in writing to the Secretary-General, before 1 August 1967, any views, or further views, they may have on this subject in the light of the reports of the Secretary-General, the views expressed and the proposals made, and in particular on the following aspects:

(a) The effectiveness of existing arrangements for international fact-finding,

(b) The need for new international machinery for fact-finding, its composition and its terms of reference;

"2. Decides to include an item entitled 'Question of methods of fact-finding' in the provisional agenda of the twenty-second session of the General Assembly, in order to consider what further action may be appropriate."

22. Hungary and the Ukrainian Soviet Socialist Republic submitted the following amendments (A/C.6/L.612) to the draft resolution (A/C.6/L.610 and Add.1), which would: (1) delete the fifth, seventh and eighth preambular paragraphs; (2) at the end of the preamble insert the following new preambular paragraph: "Being unable to consider the substance of the question of methods of fact-finding owing to lack of time,"; (3) end operative paragraph 1 after the words "on this subject" and insert a semicolon. These amendments were withdrawn by the sponsors,

following the oral modifications introduced in the text of the draft resolution (A/C.6/L.610 and Add.1).

23. Later, the sponsors orally amended the text as follows:

(a) The seventh preambular paragraph was deleted;

(b) In the new seventh preambular paragraph (formerly eighth), the word "other" was inserted between the words "to seek" and the words "peaceful means";

(c) A new eighth preambular paragraph was added reading "Having been unable to consider the substance of the question of methods of fact-finding owing to lack of time,";

(d) Operative paragraph 1 was redrafted to read as follows:

"1. Invites Member States to submit in writing to the Secretary-General, before 1 August 1967, any views, or further views, they may have on this subject, taking into account the reports of the Secretary-General, the views expressed and the proposals made;".

III. DISCUSSION

A. Consideration of the report of the 1966 Special Committee (A/6230)

1. General considerations relating to the principles and aims of the work

24. The supreme importance of the work of codification and progressive development of the principles of international law concerning friendly relations and co-operation among States was stressed by a number of representatives. The principles involved were the basic ones of the United Nations Charter. Some representatives thought that the world had changed in the time since the Charter was adopted, largely through the accession to independence of a large number of new States, and it was necessary to apply and develop those principles to the new world situation which resulted. Progressive development should take place in order to reduce the gap between social reality and the international legal order. It was generally agreed in principle that the work at present under way should lead to the adoption of a declaration.

25. It was agreed that the work was not a process of covert and informal amendment of the Charter. That document, which was not only a constitution but, as one representative observed, the greatest law-making treaty of modern times, had to be interpreted effectively in the light of its object and purpose, and, as was said by another, in that of more than twenty years of development of customary international law. The substance of the principles could not be discarded but should be amplified enriched and adapted to the problems of the present day. One representative added that the task related not only to rules of conduct but also to organizational rules and principles, since all of the provisions of the Charter were relevant to the purpose, and organizational rules were relevant not only for the interpretation of the rules of conduct, but also in themselves, as an integral part of the principles to be codified.

26. Some delegations said that attention should be paid to the difference between lex lata and lex ferenda; while it was entirely proper that proposals de lege ferenda should be made and considered, many such proposals which had been made during the work were political rather than juridical propositions, designed to stretch the Charter to fit a particular ideology. Others, however, thought it essential that to achieve its purpose the formulation of the principles should

embody genuinely progressive and democratic elements and should not lose sight of the main social purpose of international law, which was the safeguarding of the sovereign rights of peoples and the maintenance of peace and co-operation. A further group of representatives thought that no sharp distinction could or should be drawn between legal and political propositions, nor was the distinction between lex lata and lex ferenda very relevant to the formulation of a declaration of principles which was not the final step in the process of progressive development and codification.

27. One representative counselled against attempting to draft excessively precise texts which might impair the dynamic character of the law, give rise to contradictions and make difficult the attainment of the necessary breadth of agreement. Others, however, believed that it would be a mistake not to go far enough in this direction. Excessively abbreviated statements of rules might detract from the Charter by not taking account of all of its relevant provisions, and that would be far from conducive to the sound codification and progressive development of the Charter principles.

2. General comments on the work of the 1966 Special Committee

28. Some representatives expressed disappointment that the 1966 Special Committee had been able to report new formulations on only two principles, peaceful settlement of international disputes and sovereign equality, and of those formulations the latter was only a slightly expanded version of what had been adopted by the 1964 Special Committee in Mexico City. A greater number, however, thought that the session of the Special Committee in 1966 had been more fruitful than might at first appear and that there was good hope of success if the work was pursued further. Much had been done towards defining the issues and laying a basis for agreement at a later stage. One representative added that there had been a noticeable shift towards acceptance of progressive ideas. It was pointed out that, though formulations had been unanimously adopted on only two principles, formulations on other principles had received wide though less than unanimous agreement, and these texts laid a solid foundation for future work.

29. Some representatives praised the spirit of conciliation and the desire to reach agreement which in their view prevailed among the delegations on the 1966

Special Committee and said that the main factors limiting the results of the work were lack of time and the difficulty of the task. Others, however, thought that the task was not very difficult. What had hampered the formulation of the principles was the attitude of certain States which, feeling that the project might create legal difficulties for them, had raised artificial obstacles to success.

3. General considerations on future work

30. It was generally agreed that the Special Committee, as reconstituted by General Assembly resolution 2103 (XX) of 20 December 1965, should be asked to hold another session in 1967. Although some representatives stated that the Special Committee should not be asked to consider again the principles on which formulations had been reached, it was ultimately agreed that, while priority should be given to those on which no formulations had yet been adopted, the other two principles should be taken up again with a view to widening the areas of agreement expressed in the formulations. It was also the general view that the Special Committee should be requested to prepare a draft declaration on the seven principles for consideration by the General Assembly at its twenty-second session in 1967. The discussion in regard to the effect to be given to General Assembly resolution 2131 (XX) of 21 December 1965 is summarized in paragraphs 52-56 below.

31. There was extensive discussion of the role to be played by consensus or unanimity in the future work of the Special Committee. A few representatives believed that what was being aimed at was an authentic interpretation of the Charter by the parties to it, which, if agreed to by all of them, would have the same legal force as the Charter itself. For those representatives unanimity was indispensable, as without it there would be no possibility of authentic interpretation. It was said by one of these representative that a method of deciding by general agreement should be an incentive to negotiation and compromise and not a dogma whose only purpose was obstruction. Other representatives, however, considered that the goal was a recommendation by the General Assembly. Although the Assembly could not of itself create general international law, its recommendations could nevertheless, if virtually unanimous, constitute such cogent evidence of the practice of States that it could provide substantial evidence of the rules of customary law. For those representatives a consensus

procedure would mean proceeding without a vote where there was no recorded dissent, rather than by strict unanimity, and voting was not in all events excluded.

32. One representative, while maintaining the value of unanimity, considered that the Special Committee's main duty was to clarify the situation, and that, when every possibility of unanimity was exhausted, a vote should be taken (preferably by roll call) not in order to decide on adoption of the text, but rather so that the General Assembly could be informed as to the degree of support for the various views. Another group considered that every effort should be made to reach general agreement, but that as a last resort texts should be voted on so that one delegation or a few delegations could not paralyse the efforts of the great majority. Still other representatives believed that the practice followed by the 1964 and 1966 Special Committes should be abandoned, and that no demand should be made for unanimous adoption, which was not even required for amendments to the Charter itself. In their view, the value of a declaration would depend not upon the method of its adoption but upon its content, its lucid formulation and its application by States; if matters of major importance were left aside because of the impossibility of consensus, the codification would in any case be a failure.

33. Several representatives stressed the need for proceeding with a maximum of objectivity, with a constant view to the broadest interests of the international community and without pursuit of short-term political gains. One representative said that it should be decided whether the aim was a declaration by the General Assembly, which traditionally was an infrequent and solemn instrument of major and lasting importance with which maximum compliance was expected, or whether it was a less solemn document which would mirror existing trends, possibly of an ephemeral character.

34. As to the methods of drafting, it was suggested that the relationship between the principles should constantly be borne in mind, and one representative said it was essential to maintain close liaison between the various working groups. Another said that working groups should be appointed not only from members of the drafting committee but from other members of the Special Committee as well, and that some record should be kept of the work of working groups, in the form of reports by their chairmen either to the drafting committee or to the Special Committee. It was also suggested that perhaps some equivalent to the system of

of Special Rapporteurs used by the International Law Commission could be worked out, and that greater use should be made of written documents setting out and explaining in detail the proposals made and their implications. In any case, if the suggestions made with respect to working groups were adopted, such groups should be established at the very outset of the session of the Special Committee, in order to avoid last minute proposals and hasty negotiations, hardly compatible with a proper method of drafting legal documents of high importance.

4. Comments on the principles examined by the Special Committee

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations

35. Some representatives expressed regret that the 1966 Special Committee had been unable to arrive at an agreed formulation of this principle[1/] as they considered that serious violations of it in current international life were creating dangerous situations and that a formulation would help to ensure world peace. They considered that the Special Committee at its next session should devote special effort to this principle, and mentioned different proposals and amendments made at the 1966 session, or the text which had nearly been accepted by the 1964 Special Committee in Mexico City,[2/] as bases on which they wished to see agreement reached.

36. Several representatives thought that a formulation should take full account of developments in practice during the years since the United Nations Charter was drafted and should fully reflect the new realities of international life. It would, in their view, be undesirable to try to distinguish sharply between existing law and developing law, or between codification and progressive development; gaps had to be filled and logical consequences of rules could be included. One representative, however, said that the principle involved was exactly that contained in Article 2, paragraph 4, of the Charter, and that any effort to alter its scope or the meaning of the terms used would amount to an amendment of the

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1/ A/6230, para. 155.

2/ A/5746, para. 106, paper No. 1, I.

Charter. Another representative declared that the principle was a peremptory norm of international law, from which there could be no derogation.

37. Much of the discussion in the Sixth Committee centred on the meaning of the "force". There was general agreement that the term covered armed force. Several representatives included the use of irregular and volunteer forces in the use of force; others mentioned the training of terrorists and saboteurs for infiltration across frontiers or the existence within a State of camps for such training; and still others extended the term to all subversive activities against another State or against legitimate democratic Governments.

38. A considerable number of representatives said that the term "force" covered not only armed force, but also any other form of duress or coercion, or any form of pressure, including economic and political pressure (some referred also to social, cultural and psychological pressure) directed against the territorial integrity or political independence of a State. A few of those representatives explained that in their view the term "force" in Article 2, paragraph 4, of the Charter had a broader meaning than "force" in Article 44, as the contexts were different, and that therefore the inclusion of all forms of pressure did not go beyond the meaning of the principle in the Charter. It was also argued that the circumstances of modern international life, where economic or other kinds of pressure could have just as coercive an effect as military action, made a broad definition of "force" necessary.

39. On the other hand, it was argued by one representative that Article 2, paragraph 4, and Article 44, taken together, meant that the principle covered only armed force, and that those attempting to expand the concept of force would encounter difficulties of definition which they would have to overcome in the interest of the international community. Other representatives thought it essential to indicate that the right of self-defence under Article 51 of the Charter could not be invoked in relation to economic and political pressures. Still others thought it preferable to deal with such pressures only under the principle of non-intervention.

40. In regard to the consequences and corollaries of the prohibition of the threat or use of force, a number of representatives thought that, in addition to declaring the criminality of wars of aggression, a formulation of the principle should include a prohibition of propaganda for war, and one representative suggested

consideration of the possibility of States undertaking the obligation to spread peace propaganda and support social movements for the maintenance of peace. Another representative took the view that a provision regarding war propaganda should be in hortatory language rather than in that of a legal prohibition.

41. Several representatives expressed the desire that a formulation should include a prohibition of the use of force for repression of liberation movements or for denial of the right of self-determination. A few representatives said that it was desirable expressly to prohibit the threat or use of force to violate existing boundaries. One representative thought that the prohibition should apply not only to boundaries but also to other international lines of demarcation, while another opposed any reference to such lines of demarcation. Some wished that the use of force in acts of reprisal should be condemned. Others said that recognition should be given to the obligation of States to achieve general and complete disarmament under effective international control; one representative, however, wished to deal with the question of disarmament in hortatory language rather than as an obligation.

42. One representative called attention to a long-established institution of international law which had limited the use of force even during the period when States were legally entitled to wage war in a just cause: that was the institution of permanent neutrality, like that of Switzerland and more recently Austria, under which States recognizing the permanent neutrality pledged themselves to respect the territorial integrity and political independence of the neutral State, while the latter undertook not to join any military alliances.

43. In regard to the exceptions to the prohibition of the threat or use of force, a number of representatives stressed that the right of individual or collective self-defence should be strictly limited to the conditions laid down in Article 51 of the Charter. Some representatives considered that the right of self-defence, both individual and collective, was enjoyed not only by States but also by peoples defending themselves against colonial domination and struggling for freedom and self-determination. On the other hand, one representative, while recognizing that Article 2, paragraph 4, of the Charter applied only in international relations and thus did not prohibit rebellion aiming at independence, said that outside aid to a rebellion was generally prohibited by international law; others thought that the duty to respect the territorial integrity of States and the principle of

non-intervention were relevant in this regard. In reply, it was argued that the struggle against colonialism was in truth an international struggle since colonial regimes constituted illegal de facto occupation, and thus outside aid was permissible.

44. Some representatives spoke of force as legal when it was used pursuant to a decision of a competent organ of the United Nations. Others said that only the Security Council was competent in that regard. One representative mentioned the use of force under regional arrangements in accordance with Article 53 of the Charter, and another mentioned the desirability of participation by the Security Council in decisions to use force under such arrangements. One representative thought that none of the formulations yet proposed on the prohibition of the threat or use of force did complete justice to the Charter provisions (in Chapter VII and elsewhere) concerning the functions of the United Nations in the maintenance of international peace and security.

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered

45. The 1966 Special Committee unanimously adopted a text setting out points of consensus on this principle.[3/] A number of representatives said that they were in general satisfied with that text. Although some of them expressed the hope that it would be possible to expand the scope of agreement in later stages of work, some representatives considered that the Sixth Committee should transmit the text to the Special Political Committee in connexion with consideration by the latter of agenda item 36 relating to peaceful settlement of disputes. One representative thought that the formulation should immediately be embodied in a declaration by the General Assembly, which might later, if necessary, be included in a single declaration covering all seven principles.

46. On the other hand, one representative said that the text lacked legal substance, and another thought that the agreed formula was unsatisfacoty as it detracted from Chapter VI of the Charter and other Charter provisions. This might be prejudicial to the more effective application of the principle of

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3/ Ibid., paras. 248 and 272.

peaceful settlement. Moreover, numerous representatives mentioned points which they would have wished to see included in the text.

47. It was agreed in the Sixth Committee that States had an obligation to settle their disputes by peaceful means and that they had a free choice of the means for doing so. In regard to this latter principle one representative regretted that the text did not expressly preserve the efficacy of any provisions binding the parties with regard to means of settlement, an idea which appeared in the Charter. One representative thought that the formulation should have included the statement that "International disputes shall be settled on the basis of the sovereign equality of States, in the spirit of understanding, and without the use of any form of pressure". Other representatives, however, found that the formulation adopted by the Special Committee did not include all the elements needed to improve the juridical conditions for the application of the principle, and that it gave no assurance of recourse to peaceful means of settlement. It was also remarked that, although the primary element in the settlement of international disputes must be negotiations, the text did not attempt to deal with the question of what happened if the negotiations did not get under way, and thus was of doubtful usefulness. It was added that States, having begun negotiations, could not be expected to agree to continue them indefinitely, as the text seemed to imply, particularly when the disputes invoked such matters as the existence on their continent of colonial domination, racism and apartheid.

48. A number of representatives thought that more emphasis should have been placed upon judicial settlement and arbitral procedure, and many of these favoured stressing the role of the International Court of Justice as the principal judicial organ of the United Nations. Several representatives expressed the view that something should have been done to promote wider acceptance of the compulsory jurisdiction of the Court, and others considered that the text should have recommended the inclusion of clauses on settlement of disputes in general multilateral treaties. Some of those advocating a wider role for the International Court made it clear that they did so despite their disappointment in a recent judgement, and their dissatisfaction with the present composition of that body. Other representatives, however, emphasized the optional nature of the Court's jurisdiction, and did not consider it advisable to lay any stress on judicial

settlement or to recommend the inclusion of settlement clauses in multilateral treaties while the Court retained its present composition and while much of international law remained uncodified.

49. Two representatives stated that negotiation was the most effective method for settlement of international disputes. Others, however, replied that negotiation had its limitations, since it involved a power relationship based on the particular interests of States rather than on the general welfare, and that giving de jure pre-eminence to negotiation was not desirable, as doing so might limit the freedom of the parties to choose the most appropriate means of settling the dispute in question.

50. Some representatives wished that the element of good faith had been mentioned in connexion with this principle. Another thought that reference should have been made to the supremacy of international law. It was observed by another that for a settlement to be valid, it must not only be consented to by the parties but must also be in conformity with the Charter and with international law. One representative considered the text defective because it contained no definition of what constituted an "international dispute", nor of the domestic jurisdiction of States.

51. Finally, some representatives expressed the hope that in future work on this principle full account would be taken of the experience of the Latin American States, which had a long history of initiatives in the field of peaceful settlement.

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations

52. Most of the discussion in the Sixth Committee centred around the effect which should be given to General Assembly resolution 2131 (XX) of 21 December 1965 (containing the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty) in regard to the formulation of the principle of non-intervention. The 1966 Special Committee, in its work on this principle, adopted by 22 votes to 8, with 1 abstention a resolution (A/6230, para. 341) whereby it decided that it would abide by General Assembly resolution 2131 (XX), and instructed its Drafting Committee, without prejudice to that decision, to direct its work on the principle

towards the consideration of additional proposals, with the aim of widening the area of agreement of Assembly resolution 2131 (XX). At the conclusion of the session, the Special Committee took note of a report of the Drafting Committee that no agreement had been reached on the additional proposals made with the aim of widening the area of agreement of the resolution.

53. A great number of representatives considered that the legal value of resolution 2131 (XX) was beyond dispute, and that its substance should be incorporated in the formulation of the principles. The majority of the 1966 Special Committee, they contended, had been right in considering that the resolution was a legal formulation, and in deciding to abide by it. There were other important examples of the adoption of declarations of consciously legal content on the recommendation of political organs of the United Nations, and the body of resolutions of the General Assembly could be a source of customary international law. Resolution 2131 (XX), which had been adopted by 109 votes to none, with 1 abstention, after careful deliberation and the consideration of a considerable number of drafts, could not have been adopted unless it had been considered to be in accordance with the law, reflected a universal legal conviction, and was therefore authoritative. It was worded clearly and precisely enough to be a sufficiently complete formulation of the principle. It should be respected by States, and could not be attacked as legally defective; some added that the Special Committee would exceed its competence if it attempted to alter the substance of the resolution. Some speakers said that, while they were willing to consider drafting changes which did not alter the substance and any additional proposals which might widen the area of agreement, no amendments which might impair the substance should be considered. One representative especially deplored the fact that some delegations had attempted to delete from the Special Committee's formulation operative paragraph 6 of the resolution, which provided in part that "All States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure."

54. A number of other representatives contended, however, that the Declaration embodied in General Assembly resolution 2131 (XX) was political rather than legal in nature. In their view, while the resolution was an important document entitled to the most careful study, it could not be incorporated automatically in a declaration on the principles of international law concerning friendly relations,

but should be carefully re-examined from the legal standpoint, with a view both to its substance and to its drafting. They added that it had been a mistake for the Special Committee to tie its hands by deciding to "abide by" the Declaration, and they urged that a more flexible approach would be taken in the future. Some, arguing that resolution 2131 (XX) could not be taken as reflecting a universal legal conviction, referred to the reservations regarding its non-legal nature expressed by their own delegations and by others at the time the resolution was adopted. It was contended that the Declaration had been hastily drafted, without full consultation, and one representative stated that in principle a resolution emanating from a political organ could not be included as it stood in a formulation of a principle of international law. It was further contended that the preamble of resolution 2131 (XX) could not be incorporated in the future declaration on friendly relations, and that some of its operative paragraphs (in particular, paras. 6, 7 and 8) dealt with matters other than non-intervention; that other provisions were not as precise as was required in statements of rules of international law; that the resolution made no reference to the duty of the United Nations itself to refrain from intervention, a duty laid down in the Charter; and that the substance and drafting would have to be reviewed in order to fit in with the formulation of other principles in the future declaration on friendly relations.

55. One representative hoped that the Special Committee would not renew the discussion of whether resolution 2131 (XX) represented a universal legal conviction. In his view, the Special Committee should seek to clarify the legal content of the resolution and transfer it into the framework of a declaration on friendly relations.

56. Operative paragraph 6 of the draft resolution first submitted to the Sixth Committee on this part of the item (A/C.6/L.607) requested the Special Committee to consider "any additional proposals... which could widen the area of agreement already expressed in General Assembly resolution 2131 (XX)". After consultations between the sponsors of that draft and the sponsors of the amendments thereto (A/C.6/L.608/Rev.1), that draft was finally revised (A/C.6/L.607/Rev.3) to request the Special Committee "to consider proposals... with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX)," and

the amendment to the paragraph was withdrawn. After the Sixth Committee approved that draft resolution, one of its sponsors explained his affirmative vote as having resulted from his country's whole-hearted support of resolution 2131 (XX). A number of other representatives, including several of the sponsors of the withdrawn amendments to operative paragraph 6 (A/C.6/L.608/Rev.1), explained their votes as due in part to their satisfaction that that operative paragraph, as revised, gave the Special Committee at its next session sufficient latitude with regard to its work on the principle of non-intervention, in particular with regard to resolution 2131 (XX).

57. At the time of voting there was agreement on the wording of all parts of the draft resolution except for operative paragraph 3, where the sponsors of the amendment (A/C.6/L.608/Rev.2) thought it would be more complete and consequently more accurate to take note also of the decision of the 1966 Special Committee noting the report of the drafting committee that no agreement was reached on the additional proposals made with the aim of widening the area of agreement of resolution 2131 (XX). Some of the sponsors of the draft resolution opposed the amendment, however, on the grounds that it would have the effect of weakening the legal significance of resolution 2131 (XX), that it would be inappropriate to note such a negative factor as the lack of agreement and would give it a disproportionate significance, that the Special Committee had not decided to take note explicitly of the lack of agreement, and that the amendment would add nothing that was not already included in revised operative paragraph 6.

58. Apart from the discussion of the legal value of resolution 2131 (XX), representatives made various suggestions as to points which should be included in or omitted from the formulation of the principle. Among the points suggested for inclusion were definitions of the terms "intervention", "the personality of a State", "wars of aggression" and "force"; a condemnation of intervention committed under the pretext of an alleged treaty right, since a treaty purporting to confer such a right would be invalid under general international law and under the Charter; and a prohibition of assistance to subversive elements or rebels, of the clandestine supply of arms and of infiltration of personnel. One representative opposed the inclusion of any reference to self-defence against intervention, since under the Charter only armed attack could justify the use of force in self-defence.

(d) The principle of the sovereign equality of States

59. The 1966 Special Committee unanimously adopted a text setting out points of consensus on this principle.[4/] This text was the same as that adopted by the 1964 Special Committee, except that the first paragraph was expanded to declare that States are equal members of the international community, notwithstanding differences of an economic, social, political or other nature. This addition was welcomed by several representatives, who considered that it improved the text. One representative, however, thought that the new sentence was not clear and that it would legalize some de facto inequalities between States. He suggested that the sentence be redrafted to read: "They have equal rights and duties and are equal members of the international community, notwithstanding the different economic, social and political systems or other way of life they have adopted."

60. Apart from this suggestion, there were no criticisms of the contents of the Special Committee's text, although one representative said that it was unsatisfactory as a whole because it was too obvious and too vague. A considerable number of representatives, however, mentioned various points which they considered should have been included in the text, and expressed the hope that new efforts would be made to cover them. Some representatives also urged that the principle should be examined again with a view to progressive development.

61. The point most frequently mentioned for inclusion was the right of States freely to dispose of their national wealth and natural resources, which some representatives said was an essential aspect of the principle in the economic field. It was suggested that when work was resumed on this point, attention should be given to the text which became General Assembly resolution 2158 (XXI) of 25 November 1966, to General Principle III of the Final Act of the United Nations Conference on Trade and Development, and to a provision included by the Third Committee at the present session in the draft Covenant on Economic and Social Rights. Others expressed regret that the Committee had been unable to achieve agreement on one or another of the compromise texts which had commanded considerable support. While some representatives advocated a formula providing

4/ Ibid., paras. 403 and 413.

that in the exercise of this right due regard should be paid to applicable rules of international law and to valid agreements, another said that to subordinate the right to the supremacy of international law would be inconsistent with the principle of sovereign equality.

62. Other points which several representatives wished to see included were the right of each State to remove any foreign military base from its territory, and the prohibition of any experiment or any action which might have harmful effects on other States. One representative said that the text should prohibit aircraft carrying nuclear bombs and other types of weapons of mass destruction from crossing national frontiers. Some also wished to include the right of each State to take part in the solution of international questions affecting its legitimate interests, including the right to join international organizations and to become party to multilateral treaties dealing with such interests. One representative thought that arbitrary discrimination regarding the rights and duties of membership in organizations of the United Nations family should be prohibited.

63. Finally, there was a division of opinion regarding the inclusion of a reference to the supremacy of international law. Some advanced arguments to show that such supremacy was consistent with or was an essential basis for the principle, while others took the contrary view; one representative thought that the disagreement was more apparent than real since the obligation of States to observe valid treaties and valid principles of customary international law was not in question.

(e) The duty of States to co-operate with one another in accordance with the Charter of the United Nations

64. A number of representatives regretted that although the Special Committee had seemed to be close to an agreed formulation in regard to this principle it had ultimately proved impossible to reach agreement. It was said that lack of time had been one of the main causes for the lack of success, and one representative saw the lack of agreement as merely a matter of semantics. The hope was expressed that at a further session of the Special Committee, on the basis of the degree of agreement already reached, a text could be formulated on the principle, which was particularly important for the solution of the problems of the developing countries and could help in promoting world economic solidarity and lasting peace.

65. Several representatives stated that the principle constituted a legal as well as a moral duty, and required States to take effective action. One representative said that moral duties were the guideposts for developing new rules within an accepted legal framework, while legal duties were the result of that creative process; acceptance of the duty of co-operation would provide a legal framework for the recognition of the right of all peoples to share in the world's expanding prosperity. He considered, in view of the fact that contact was sometimes lacking between the activities of various bodies of the United Nations and of the specialized agencies, that there was an urgent need to take stock of the progress made to date in international co-operation, and that it might be possible, on the basis of an inventory of agreed texts, to draw up a Charter of Development which would inspire and mould public opinion.

66. Some representatives considered that the duty of co-operation was universal, without any limiting conditions, not limited to the ambit of the United Nations, and not permitting any discrimination on the ground of differences of political, economic or social systems. One representative, however, said that it was unreasonable to demand universal co-operation without any discrimination whatever. Another took the view that the duty to co-operate in accordance with the Charter was restricted to Members of the United Nations only; he thought it desirable, however, to refer in the text to co-operation in the matter of disarmament and was willing to discuss that matter by reference to the duties of States generally.

67. A few representatives mentioned the principle as applying mainly to the economic and social fields. Others mentioned in addition the political, cultural, scientific and technological fields. One representative said that the principle would be very difficult to apply so long as there were countries in the world whose governments did not recognize the fundamental principles of human rights.

(f) The principle of equal rights and self-determination of peoples

68. A number of representatives regretted the lack of success of the 1966 Special Committee in formulating this principle, but hoped that another session would make it possible to overcome the difficulties caused in 1966 by lack of time, the newness of the question to the Special Committee, and the sheer bulk of material bearing on the question. Some expressed their preferences for one or another of the

proposals made in the Special Committee. Others said that the formulation should be based on General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and later related documents adopted in the United Nations and elsewhere; one representative, however, expressed the view that that resolution had no more than persuasive force in the discussion of the legal elements of the principle. Another mentioned General Assembly resolution 2131 (XX) as also furnishing a basis for further work.

69. It was generally agreed by all who spoke in the debate that the principle constituted a rule of international law and not a mere moral precept. It was also agreed that the word "peoples" applied not only to States but also to other entities, in particular, in the view of some representatives, to peoples in colonial countries. One representative specified that the principle applied to the people as a whole, of a territory constituting a distinct geographical entity. Another, however, expressed concern lest a reference to a geographically distinct territory might not deny the right to self-determination of a number of oppressed peoples. Another raised the question whether "peoples" included minorities, so as to give a right to secession in States having more than one national community.

70. As regards the content of the right, various representatives mentioned the right to freedom and independence; the right freely to choose political, social and economic systems and ways of life without foreign interference; the exercise of full sovereignty over national territory; the right to dispose freely of natural wealth and resources; and the rights to protection under international law, and to obtain assistance from States and international organizations.

71. There was some discussion of the use of force in the exercise of the right of self-determination. Some representatives said that that right included the right of peoples under colonial domination to use force in self-defence. Some added that States were prohibited from taking measures against peoples struggling for their freedom and independence. One delegation said that General Assembly resolution 2105 (XX) of 20 December 1965, which invited all States to provide material and moral assistance to national liberation movements in colonial territories, confirmed that such assistance was legitimate under international law. Others, however, invited attention to General Assembly resolution 1514 (XV), which declared that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country was incompatible with the purposes and principles of the Charter.

(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations

72. A number of representatives said that the failure of the 1966 Special Committee to agree on a formulation in regard to this principle[5] was mainly due to a lack of time, and that another session should permit the progress already made to be brought to fruition. In the view of several speakers, the draft articles on the law of treaties submitted to the General Assembly by the International Law Commission in its report on the work of its eighteenth session[6] - and in particular article 23 of that draft, on pacta sunt servanda - offered a useful basis for continued work on the principle.

73. There were divergences of opinion concerning the relationship between the future work on the principle and the codification of the law of treaties on the basis of the work of the International Law Commission. Some representatives attributed the lack of success of the 1966 Special Committee in part to the desire of some delegations on that Committee to deal in a formulation of the principle with some of the specific rules and criteria governing the validity of treaties, and they thought it undesirable for the Committee to attempt to settle points which would have to be resolved at the future conference on the law of treaties; those points should be set aside in order to facilitate agreement in the Special Committee. On the other hand, it was said that some of the draft articles prepared by the International Law Commission had been left with somewhat uncertain content because they impinged on topics within the Special Committee's terms of reference; the Special Committee should study those aspects, and the considered views of that Committee and of the General Assembly on them might be helpful to the conference on the law of treaties.

5/ Ibid., para. 565.

6/ See Official Records of the General Assembly, Twenty-first Session, Supplement No. 9 (A/6309/Rev.1).

74. It was said that one of the matters on which there had been division of opinion in the Special Committee was the inclusion of a reference to sovereign equality. Some representatives considered it essential to deal with that aspect, in particular because the principle would not be respected as long as the problem of unequal treaties was left unsolved, and because the principle applied only to obligations which had been freely assumed; one representative expressed the view that any obligations undertaken by a people still under colonial domination were vitiated ab initio. Others thought that detailed examination of these matters should be left to the conference on the law of treaties.

75. Another matter of difficulty, it was said, was the inclusion in the formulation of the principle of Article 103 of the Charter, which provided that in the event of conflict between the obligations of Members under the Charter and their obligations under any other international agreement, the Charter obligations should prevail. Some representatives expressed a desire for such an inclusion; one added that the principle rendered invalid a treaty provision allowing intervention, for example, which was not permitted under the Charter.

76. It was agreed that good faith was an essential element in the formulation of the principle. One representative thought that good faith meant that in their international relations States must respect the sovereign and legitimate interests of other States.

B. Question of methods of fact-finding

77. This question was not referred to the 1966 Special Committee and was considered by the Sixth Committee in pursuance of General Assembly resolution 2104 (XX) of 20 December 1965 and on the basis of reports of the Secretary-General and of comments of Governments.

78. One representative stated that inquiry was an undeveloped element among the means of peaceful settlement of international disputes, and shortcomings in the area of fact-finding machinery gave rise to difficulties for international organs and for States; it was therefore desirable to take a new initiative in that field. Others stressed the importance of fact-finding in international life but some of them expressed a preference for entrusting that function either to ad hoc bodies composed of persons with special knowledge of the disputed question, to existing organizations, or to judicial bodies of whose normal procedure fact-finding was an element, while others reserved their positions regarding steps to be taken.

79. The discussion of possible new measures centred on a suggestion in written comments of the Government of the Netherlands (A/6373) of the creation of a new, permanent fact-finding body, complementary to the existing machinery, whose competence would be entirely on a voluntary basis and whose method of work would be determined in accordance with the needs of each case; this body, which would be strictly limited to fact-finding rather than conciliation, could be used to establish facts relating to disputes or to the execution of international agreements. One representative said that while it had been demonstrated that there were advantages in permanent fact-finding machinery, before any action was taken a study should be made of why States did not use existing machinery for this purpose; another stated that he was in favour of the creation of any organ which could contribute to the peaceful settlement of disputes. Still another stated that an international fact-finding body was needed if the principles of international law were to be translated into reality.

80. A number of representatives either reserved their position about the creation of a new fact-finding body, expressed doubts about the advisability of doing so or expressed opposition to the idea. It was said that ad hoc bodies were superior for the purpose, that existing machinery such as the Panel for Inquiry and Conciliation established by General Assembly resolution 268 D (III) of

28 April 1949 remained unused and that it was difficult to imagine a single body capable of establishing facts in all the different kinds of disputes which might arise. Some of these representatives reserved their position regarding the preambular paragraph of the resolution recommended by the Sixth Committee, which refers to a study of the feasibility and desirability of establishing a special international body for fact-finding or of entrusting fact-finding responsibilities to an existing organization.

81. As regards the action to be taken at the current session of the General Assembly, it was recognized that neither the 1964 Special Committee (to which the question of methods of fact-finding had been referred) nor the Sixth Committee had had an opportunity for full discussion of the question and hence it was not possible to take a final decision on it until the next regular session of the General Assembly. It was agreed, however, that the item should be placed on the provisional agenda of the twenty-second session in order to consider what further action might be appropriate.

82. The co-sponsors of the draft resolution (A/C.6/L.610 and Add.1) and some other representatives thought that it was desirable that the Main Committee dealing with the item at the twenty-second session should have the assistance of a working group appointed by the Chairman of that Committee, as the materials to be studied were too complex to be dealt with in the Main Committee. That view was reflected in the seventh preambular paragraph of the thirteen-Power draft resolution (A/C.6/L.610 and Add.1). Some others, however, thought it undesirable to prejudice the action to be taken by the competent Committee at the next session. The amendments submitted by the Ukrainian SSR (A/C.6/L.612), later co-sponsored by Hungary, proposed inter alia the deletion of the preambular paragraph in question. The co-sponsors of the draft resolution and those of the amendment later agreed on a compromise text from which that preambular paragraph was omitted; one of the co-sponsors of the draft resolution stated that they agreed to the deletion of the seventh preambular paragraph on the understanding that they nevertheless maintained their position in regard to it, and that that understanding would be recorded in the report of the Sixth Committee.

IV. VOTING

83. At its 942nd meeting, the Sixth Committee voted on the draft resolutions and amendments thereto.

A. Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

84. Voting on the revised draft resolution (A/C.6/L.607/Rev.3 and Add.1) and the revised amendment thereto (A/C.6/L.608/Rev.2) took place as follows:

(a) The amendment submitted by Australia, Canada, Jamaica, Japan, New Zealand, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America (A/C.6/L.608/Rev.2) to operative paragraph 3 of the thirty-three-Power draft resolution (A/C.6/L.607/Rev.3 and Add.1) was rejected by a roll-call vote of 54 to 18, with 12 abstentions. The voting was as follows:

In favour: Australia, Belgium, Canada, China, Denmark, France, Greece, Iceland, Italy, Jamaica, Japan, Netherlands, New Zealand, Norway, Philippines, Saudi Arabia, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Afghanistan, Algeria, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Chile, Colombia, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Dominican Republic, Ecuador, El Salvador, Ethiopia, Gabon, Guatemala, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iraq, Kenya, Kuwait, Lebanon, Libya, Madagascar, Mexico, Mongolia, Nepal, Nicaragua, Nigeria, Panama, Poland, Romania, Sierra Leone, Syria, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia.

Abstaining: Austria, Ceylon, Finland, Iran, Ireland, Israel, Liberia, Somalia, Sweden, Thailand, Tunisia, Turkey.

(b) The thirty-three-Power draft resolution (A/C.6/L.607/Rev.3 and Add.1) was then adopted by 83 votes to none, with 2 abstentions (see paragraph 88 below, draft resolution I).

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85. At the 942nd meeting, the representatives of Australia, Belgium, Brazil, Canada, Ceylon, Chile, France, Greece, Italy, Japan, Nepal, New Zealand, Panama, Somalia, Spain, United Kingdom of Great Britain and Northern Ireland, the United States of America and Venezuela explained their vote on the draft resolution and the amendment thereto.

B. Question of methods of fact-finding

86. The thirteen-Power draft resolution (A/C.6/L.610 and Add.1) as orally amended (see paragraph 23 above), was adopted unanimously (see paragraph 88 below, draft resolution II).

87. At the 942nd meeting, the representatives of Bulgaria, Chad, Colombia, Cuba, Czechoslovakia, Hungary, Mongolia, Nigeria, Poland, Romania, Somalia, Sudan, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics explained their vote.

V. RECOMMENDATIONS OF THE SIXTH COMMITTEE

88. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

The General Assembly,

Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963 and 2103 (XX) of 20 December 1965, which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and the improvement of the international situation,

Considering further that the progressive development and codification of those principles, so as to secure their more effective application, would promote the realization of the purposes of the United Nations,

Bearing in mind also that the Second Conference of Heads of State or Government of Non-Aligned Countries, which met at Cairo in 1964, recommended to the General Assembly the adoption of a declaration on these principles as an important step towards their codification,

Being convinced of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII) but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,

Having considered the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States[1/] which met in New York from 8 March to 25 April 1966, and having considered specifically that it was noted in that Committee that the differences between the various points of view on the formulation of the principles had been materially reduced and that among the factors which hampered the achievement by the Committee of a greater measure of agreement was lack of sufficient time for additional deliberation and negotiation,

1. Takes note of the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

2. Expresses its appreciation to the 1966 Special Committee for the valuable work it has performed;

3. Takes note also of the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States, and of its decision that with regard to the principle of non-intervention the Special Committee will abide by General Assembly resolution 2131 (XX) of 21 December 1965;

4. Decides to ask the Special Committee as reconstituted by General Assembly resolution 2103 (XX) to continue its work;

5. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first sessions of the General Assembly and in the 1964 and 1966 Special Committees, to complete the formulations of:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(b) The duty of States to co-operate with one another in accordance with the Charter;

(c) The principle of equal rights and self-determination of peoples;

(d) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations;

1/ A/6230.

6. Requests the Special Committee to consider proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX);

7. Requests the Special Committee, having considered, as a matter of priority, the principles referred to in paragraphs 5 and 6 above, to consider any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;

8. Requests the Special Committee, having regard to the work already accomplished by the 1966 Special Committee as specified in paragraph 3 above, to submit to the General Assembly at its twenty-second session a comprehensive report on the principles entrusted to it for study and a draft declaration on the seven principles set forth in Assembly resolution 1815 (XVII) which will constitute a landmark in the progressive development and codification of those principles;

9. Requests the Special Committee to meet at Geneva, or at any other suitable place for which the Secretary-General receives an invitation;

10. Requests the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;

11. Decides to include an item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" in the provisional agenda of its twenty-second session.

DRAFT RESOLUTION II

Question of methods of fact-finding

The General Assembly,

Recalling its resolutions 1967 (XVIII) of 16 December 1963 and 2104 (XX) of 20 December 1965 on the question of methods of fact-finding,

Noting with appreciation the two reports[1/] submitted by the Secretary-General in pursuance of the above-mentioned resolutions,

Noting the comments submitted by Member States pursuant to paragraph 1 of resolution 1967 (XVIII) and paragraph 2 of resolution 2104 (XX) and the views expressed during its twentieth and twenty-first sessions,

Noting chapter VII of the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States,[2/] established under General Assembly resolution 1966 (XVIII) of 16 December 1963,

Reaffirming its belief that an important contribution to the peaceful settlement of disputes and to the prevention of such disputes could be made by providing for impartial fact-finding within the framework of international organizations and in bilateral and multilateral conventions,

Noting that, with regard to methods of fact-finding in international relations a considerable documentation has now been made available by the Secretary-General in his reports on practice in relation to settlement of disputes as well as the execution of international agreements, and furthermore by the views expressed and the proposals made by Member States,

Recalling its belief that a study of the question might include the feasibility and desirability of establishing a special international body for fact-finding or of entrusting to an existing organization fact-finding responsibilities complementary to existing arrangements and without prejudice to the right of parties to any dispute to seek other peaceful means of settlement of their own choice,

Having been unable, owing to lack of time, to consider the substance of the question of methods of fact-finding,

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1/ A/5694 and A/6228.

2/ A/5746.

1. Invites Member States to submit in writing to the Secretary-General, before 1 August 1967, any views or further views they may have on this subject, taking into account the reports of the Secretary-General, the views expressed and the proposals made;

2. Decides to include an item entitled "Question of methods of fact-finding" in the provisional agenda of its twenty-second session, in order to consider what further action may be appropriate.
