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Chairman: Mr. Edvard HAMBRO (Norway).

In the absence of the Chairman, Mr. Seaton (United Republic of Tanzania), Vice-Chairman, took the Chair.

AGENDA ITEM 88

Question of methods of fact-finding (continued)
 (A/6686 and Corr.1 and Add.1-3, A/C.6/382)

1. Mr. SILVEIRA (Venezuela) asked the Chairman what procedure would be followed in appointing the working group established by the Committee in the resolution it had adopted at the preceding meeting (A/C.6/382).
2. The CHAIRMAN said it was his understanding that the Chairman should consult the various delegations in the normal manner and then propose a list of members for approval by the Committee.

AGENDA ITEM 87

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 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/6799)

3. Mr. SAHOVIC (Yugoslavia), speaking as Rapporteur of the Special Committee at its second session, introduced the Special Committee's report (A/6799). The Special Committee had continued the study of the seven principles set out in General Assembly resolution 1815 (XVII), in accordance with the terms of reference given to it by the General Assembly in its resolution 2181 (XXI). The Special Committee had adopted an agenda drawn up in accordance with that resolution, and had decided to reconstitute its Drafting Committee.
4. The members of the Special Committee had held a very far-reaching discussion on the legal nature

of the seven principles and the various legal and political aspects of their application in the contemporary international community. The general lines of that discussion were indicated in the individual sections of the report. The Drafting Committee had been entrusted with the consideration of the various proposals, both old and new, concerning the statement of the principles. The Drafting Committee had appointed working groups to help it in the performance of that task; those working groups had reported to the Drafting Committee, which in turn had made six reports to the Special Committee. The reports of the Drafting Committee were reproduced at the end of each of the four sections of chapter II, at the end of chapter III and at the end of chapter IV. The action taken by the Special Committee on the reports of the Drafting Committee was recorded in chapter VI.

5. The report had been based on a detailed analysis of the summary records of the Special Committee and gave a virtually complete picture of all the differences of opinion that had arisen during the session. Consequently, it should facilitate the consideration of questions relating to the future study of the seven principles. In his view, the session had shown that further positive results could be achieved, despite the profound differences which had existed among members of the Special Committee concerning certain principles and which had reflected differences in the General Assembly and in the international community. The Special Committee had proved the possibility of such results by formulating, on the basis laid down at its second session, held at Headquarters in 1966, the principle of the duty of States to co-operate with one another in accordance with the Charter of the United Nations and the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter. In that connexion, it should be noted that the report of the working group on 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, which had been transmitted to the Special Committee (*ibid.*, para. 107) by the Drafting Committee, set forth, without prejudging the positions of delegations, the general lines on which the study of that principle might be continued. The same method had been applied in respect of additional proposals 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. No progress had been made, however, with respect to the principle of equal rights and self-determination of peoples and the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter.

6. The Special Committee had had before it three draft declarations—the Czechoslovak proposal submitted at the second session of the Committee at Headquarters (*ibid.*, para. 22), the United Kingdom proposal (*ibid.*, para. 24), and the proposal of ten non-aligned countries (*ibid.*, para. 26). The Special Committee had not had time to examine thoroughly the preambles and general provisions in those proposals; that task would undoubtedly have to be done at the final stage in the drafting of the declaration.

7. The question of methods and procedures for future work had not been discussed by the Special Committee, owing to lack of time, but it had been mentioned during the debates and in informal talks. The representative of Italy had raised the question formally in a statement which was summarized in paragraphs 481 and 482 of the report. In his view, the present status of the study of the seven principles made it essential for the Committee to consider that question.

8. Mr. ENGO (Cameroon), speaking both as Chairman of the third session of the Special Committee held at Geneva in 1967 and as the representative of the Special Committee's on his report (A/6799), which had been perhaps the most difficult of the Special Committee's three reports to produce. The nature of the task which the Rapporteur had faced lent weight and importance to the statement made by the representative of Italy on methods and procedures for the Special Committee's future work. The skill and wisdom of the Chairman of the Drafting Committee had also been a great asset to the Special Committee.

9. Out of the three sessions which the Special Committee had held^{1/} there had emerged consensus texts on four principles. One principle continued to take refuge in a General Assembly resolution, and the remaining two were still the victims of international tensions. The time had come to take stock of the Special Committee's achievements and failures. Fundamental questions must now be thoroughly examined. For instance, should the work of the Special Committee be continued at all? Was the international atmosphere suitable for a continuation of that work? Was the Special Committee taking on more than it could handle at one time? Would it be better to adopt the International Law Commission's methods with respect to the functions of the Rapporteur?

10. His delegation was satisfied, on the whole, that a case existed for continuing the Special Committee's historic effort to spell out in concrete form some of the lofty aims expressed in the United Nations Charter. It welcomed that effort as an opportunity to promote the progressive development

of international law, to crystallize the various ideas of legality found within the community of nations and, especially, to enable the young nations to make a worth-while contribution.

11. Once the intrinsic value of the Special Committee's work had been recognized, however, there remained the question whether the Special Committee had approached the problem as objectively as it should. At the twenty-first session of the General Assembly he had appealed to the big Powers to adopt a progressive attitude towards the work of codification and progressive development of international law, especially as it touched upon the interests of the developing world (927th meeting), but some of those who still considered the possession of power to be the basis of virtue had not found wisdom in his appeal. In its report on the work of its fourteenth session,^{2/} the International Law Commission had recognized the important role of the new nations in the codification and progressive development of international law; referring to the law of treaties, the Commission had said that the codification of the law through a multilateral convention would give all the new States the opportunity to participate directly in the formulation of the law if they so wished, and that their participation in the work of codification was extremely desirable in order that the law might be placed upon the widest and most secure foundations.^{3/} Not only had there been no opposition to that view in the United Nations, but official practice had tended to recognize the necessity of equitable geographical representation in United Nations organs.

12. Consciously or unconsciously, however, the power blocs had encouraged their representatives to close the door to full and equal participation by the young nations. That had perhaps been most manifest in the work of the Special Committee. The conflict among the big Powers had at first reduced the representatives of the young nations to mere observers. At the first two sessions of the Special Committee, they had been so preoccupied with attempts to reconcile that conflict—even forcing their way into official positions in order to ensure their effectiveness in that special role—that the initiative had been left with the big Powers, which had sometimes induced well-meaning small Powers to co-sponsor their ideas, or even to bear full responsibility for them. The big Powers had wooed the small Powers in order to obtain support, and the representatives of the young States, preoccupied with those advances, had had no time to project the ideas of the Third World. If that trend continued, the laws which the Special Committee was trying to state would not reflect the true legal conscience of the age.

13. The situation was tragic; the Special Committee was not only failing to develop international law, but was creating a new generation of dissatisfied nations, which emerged from each session no better off than before. Subjects that touched upon their welfare, such as the right of every State to dispose of its national wealth and natural resources,

^{1/} The first session was held at Mexico City from 27 August to 2 October 1964; the second session was held at Headquarters in New York from 8 March to 25 April 1966; the third session was held at Geneva from 17 July to 19 August 1967.

^{2/} *Official Records of the General Assembly, Seventeenth Session, Supplement No. 9 (A/5209).*

^{3/} *Ibid.*, para. 17.

had been relegated to the background while the representatives of the small Powers had mediated between the big Powers over insignificant questions. Because intervention by one large Power in another's internal affairs, or the use of force by one large Power against another was unlikely, the big Powers toyed with the issues and blocked the attainment of satisfactory texts. Even the texts which had emerged from the Special Committee were a mockery of the spirit of the age.

14. Self-determination of peoples was a principle accepted in words by all but rejected in fact by some. A third generation of commercial adventurers turned colonialist had succeeded in defying the world in southern Africa; they found comfort in the cold war, even as it thawed, and with their allies who still claimed rights from defunct institutions of the past they conspired to resist change and to stop the course of history.

15. His delegation was confident that success would attend the endeavours of the Special Committee if every participant recognized the realities of modern international life. The big Powers must declare their determination to contribute to the achievement of realistic success. The representatives of the developing countries must also embark on a course of positive action.

16. The nature of power in the modern international community must be recognized. As far as the United Nations was concerned, the so-called big Powers had small votes, and the small Powers had big votes. The consensus rule had been intended to produce concord, but it had not achieved that objective. It was difficult to ascertain the degree of silent change that had taken place in the balance of power in the world. At a time when the rule of the minority in individual States was decried, a minority should not be allowed to dominate in the international arena. The minority should prevail only if the majority freely decided to accommodate it. Consensus must not be interpreted as a device for the gratification of irresponsibility.

17. He had spoken at length about the problem of attitudes because illusion was a dangerous thing, inducing miscalculations which, in the atomic age, could spell the end of mankind. Modern man was curiously determined to risk self-annihilation in his quest for power. The only hope for arresting doom was a recognition of individual needs as part of the needs of mankind as a whole. A United States Senator, in a recently published treatise entitled The Arrogance of Power, had pointed out that many great empires of the past had collapsed because their leaders had not had the judgement to use their power wisely.^{4/} Yet many leaders of the present day seemed to have decided not to learn from the mistakes of the past.

18. Regarding the vital question of the organization of the Special Committee's future work, his delegation assumed that there was general agreement that that work should continue. The Committee would have to

consider how much time should be allocated to the next session of the Special Committee, and what its terms of reference should be. His delegation believed that some of the Special Committee's past problems had resulted from its being assigned too many principles at one time. The seven principles covered such a wide range of questions that it was difficult to examine all the interrelated elements in each with the concentration they deserved. The Committee might usefully consider adopting a three-stage programme for the Special Committee's future work.

19. At the first stage, the Special Committee would consider only those principles on which no consensus texts had been produced, and the primary aim would be the production of texts. Priority might be given to the principle prohibiting the threat or use of force and the principle of equal rights and self-determination of peoples. In view of the importance which many Member States attached to it, the principle of non-intervention in matters within the domestic jurisdiction of any State on which a General Assembly resolution already provided guidelines, might also be considered. At that stage, the Special Committee might consider each principle independently and leave overlapping to be remedied at the final stage. In the past, valuable time and energy had been dissipated in determining under which principle a particular item should be considered. Deferment of the question of overlapping would also avoid situations in which procedural matters masqueraded as substantive issues and became a destructive element in bargaining.

20. At the second stage, all texts would be examined with a view to widening the scope of agreement. The primary aim at that stage would be to take up important issues which were of special interest to States. That might be done by the Special Committee or by the Sixth Committee itself.

21. At the final stage, the objective would be to produce a satisfactory legal document on all the principles. At that stage, the problem of where a particular item could best be expressed would be solved without jeopardizing the consensus on the principles.

22. His delegation felt strongly that a change of attitude on the part of the members of the Special Committee was desperately needed if its work was to succeed. A realistic organization of its future programme was also indispensable. The members of the Special Committee must learn from their past mistakes.

23. Sir Kenneth BAILEY (Australia), speaking as Chairman of the Drafting Committee, complimented the Rapporteur of the Special Committee on his excellent report (A/6799), which contained a clear and comprehensive account of the Drafting Committee's proceedings.

24. As mentioned in paragraph 19 of the Special Committee's report, the Drafting Committee had adopted the method of working groups which had been devised at the second session held at Headquarters in 1966. Each member of the Drafting Committee had served on two working groups, which had not met simultaneously. That procedure had facilitated the work of delegations. It had also been de-

^{4/} See J. William Fulbright, The Arrogance of Power (New York, Random Hous, 1966), p. 3.

ceded that delegations interested in the proceedings of a working group of which they were not members could attend its meetings and, with its consent, participate in its discussions. That right had been extensively exercised, and the reports of the Drafting Committee therefore represented a wide measure of participation within the Special Committee.

25. Most of the working group had reported in writing to the Drafting Committee. Two of the groups—those dealing with the principle of good faith fulfillment of obligations and the duty of States to co-operate with one another—had reported, without comment, on texts on which they had achieved a consensus. The two principles on which consensus texts had been formulated by the Special Committee in 1966 had been referred to a single working group for consideration of additional proposals with a view to widening the area of agreement. Those were the principle of the peaceful settlement of disputes and the principle of sovereign equality of States. The working group had reported the points of agreement or disagreement concerning each additional proposal considered and had expressed its own consensus that the areas of agreement achieved in 1966 should be maintained. On two more principles, that prohibiting the threat or use of force and that of equal rights and self-determination of peoples the respective working groups had not agreed on a text but had reported in writing their points of agreement and disagreement concerning the proposals referred to them for consideration. On the remaining principle—that of non-intervention in matters within the domestic jurisdiction of any State—the working group had not made a report to the Drafting Committee.

26. The Drafting Committee itself had taken no formal decision on whether a working group should report in writing. The initiative had been left to the groups themselves, which had rightly assumed that written reports would be welcomed by the Drafting Committee. Indeed, the reports of the working groups made a valuable contribution to the documentation of the Special Committee as a whole. On the other hand, the absence of a report in respect of any principle implied no dereliction of duty whatever on the part of the group concerned, for all the groups had worked long and strenuously.

27. The nature of the working groups' reports had in itself dictated some differentiation in treatment by the Drafting Committee. The two new consensus

texts had both been accepted as expressing the consensus of the Drafting Committee itself. In the case of the two principles on which the working group had considered that the 1966 consensus should be maintained, the Drafting Committee had only needed to take note of the group's report and transmit it to the Special Committee for its information. On the principle of equal rights and self-determination of peoples, the Drafting Committee had concurred in the working group's view that the areas of agreement were hardly sufficient to justify transmittal of the group's report to the Special Committee for its information. On the principle prohibiting the threat or use of force, the Drafting Committee had transmitted the report of the working group to the Special Committee for consideration, and not merely for information. On the principle of non-intervention in matters within the domestic jurisdiction of any State the Drafting Committee had merely noted that there was no report from the working group.

28. In keeping with the spirit of General Assembly resolution 2181 (XXI), the Drafting Committee and its working groups had consistently followed the consensus procedure throughout the third session of the Special Committee held at Geneva in 1967. While it was disappointed that it had not been able to formulate consensus texts on all seven principles, the Drafting Committee had derived some satisfaction from being able to report consensus texts on two principles, in addition to those adopted at the second session in 1966. However, it was keenly aware that the consensus expressed in two Geneva texts was as yet a consensus expressed only at the Drafting Committee level.

29. It was also, of course, aware of the significant areas of disagreement that remained in respect of the other three Charter principles—non-use of force, non-intervention and self-determination. Indeed, the records of the Drafting Committee bore clear testimony to the nature and extent of those areas of disagreement. Even there, however, the Drafting Committee felt that it had gained some ground, as compared with the position in 1966 and 1964.

30. The CHAIRMAN expressed appreciation, on behalf of the Committee, to the Chairman and Rapporteur of the Special Committee and the Chairman of the Drafting Committee for their valuable statements.

The meeting rose at 4.45 p.m.