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Chairman: Mr. Edvard HAMBRO (Norway).

In the absence of the Chairman, Mr. Mwendwa (Kenya), Vice-Chairman, took the Chair.

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 (continued) (A/6799, A/C.6/383, A/C.6/L.627, A/C.6/L.628 and Add.1)

1. Mr. HERRAN MEDINA (Colombia) said his delegation considered that the joint draft resolution (A/C.6/L.628 and Add.1), of which it was a sponsor, constituted the best formula for concluding the General Assembly's consideration, at the current session, of the principles of international law concerning friendly relations and co-operation among States. The draft resolution took due account of the Special Committee's report on the work of its 1967 session (A/6799), and the reproduction almost word for word of the preamble of General Assembly resolution 2181 (XXI) in the preambular paragraphs of the draft resolution reflected the continuity of the objectives pursued by the General Assembly in the matter of the formulation of the seven principles under consideration, which had such an important bearing on the maintenance of international peace and security.

2. Operative paragraph 2 of the draft resolution rightly expressed appreciation to the Special Committee for the valuable work it had performed. The Special Committee had made considerable progress in 1967, since it had succeeded in producing agreed texts on two more principles (*ibid.*, paras. 161 and 285). As the Special Committee had not made any changes in the two consensus texts produced in 1966,^{1/}

it could be said that agreed texts had now been completed on four of the seven principles. Paragraph 4 of the draft resolution therefore requested the Special Committee, at its next session, to complete the formulation of the two principles on which no agreed text existed.

3. As his delegation had pointed out at the twenty-first session,^{2/} a full juridical formulation of the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State in accordance with the Charter, already existed in General Assembly resolution 2131 (XX). The Special Committee itself, in its resolution of 18 March 1966,^{3/} had stated that, in its view, the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty contained in Assembly resolution 2131 (XX) reflected a universal legal conviction which qualified it to be regarded as an authentic and definite principle of international law. Paragraph 5 of the draft resolution therefore requested the Special Committee to seek to widen the area of agreement expressed in the Declaration by considering proposals compatible with resolution 2131 (XX).

4. While speaking of the principle of non-intervention in matters within the jurisdiction of any State he would like to mention that the Governments of Colombia and Romania, in a joint communiqué of 16 November 1967 announcing the establishment of diplomatic relations, had expressly stated that those relations had been established on the basis of mutual respect for the sovereignty, territorial integrity and equal rights of the two States and non-intervention in their domestic affairs. That indicated the importance which two of the Governments sponsoring the draft resolution attributed to that principle on the bilateral level.

5. As stated in the sixth preambular paragraph of the draft resolution, the Special Committee's further work on the principles remaining to be formulated was to be carried out without prejudice to the applicability of the rules of procedure of the General Assembly. The Special Committee was a subordinate body of the Assembly and, as such, unlike the Security Council, had no veto system, either explicit or implicit. The Special Committee could choose whatever procedure it wished in order to reach decisions when unanimity was not possible.

6. Although the draft resolution requested the Special Committee to work on only three of the seven principles concerned, that did not mean that they could be

^{1/} Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 87, document A/6230, paras. 248-272 and 403-413.

^{2/} *Ibid.*, Twenty-first Session, First Committee, 1476th meeting, para. 2.

^{3/} *Ibid.*, Twenty-first Session, Annexes, agenda item 87, document A/6230, para. 341.

regarded as self-contained or that a separate declaration could be produced concerning each of them. The ultimate objective was the progressive development and codification of the seven principles listed in General Assembly resolution 1815 (XVII), as was made clear in paragraph 2 of that resolution and reiterated in the fourth, fifth and sixth preambular paragraphs of the draft resolution (A/C.6/L.628 and Add.1). If the formulation of the principles was to contribute effectively to the progressive development and codification of international law, the seven principles must be considered as a whole and full account must be taken of their close interrelationship, and especially of the close links between the three principles on which no agreed text had yet been produced by the Special Committee.

7. The Special Committee should also note that the second preambular paragraph of General Assembly resolution 2131 (XX) stated that friendly relations among States should be based on respect for the principle of equal rights and self-determination of peoples and on the obligation of States to refrain from the threat or use of force against the territorial integrity or political independence of any State, while paragraphs 2, 3, 5 and 6 of that resolution contained very positive condemnations of the use of force and stressed the duty to respect the right of self-determination and independence of peoples and nations. Those provisions of resolution 2131 (XX) which clearly indicated the relationship of the other two principles to the principle of non-intervention in matters within the domestic jurisdiction of any State must be duly borne in mind by the Special Committee.

8. In view of the importance of General Assembly resolution 2131 (XX), he trusted that the Special Committee, at its next session, would take due account of the draft resolution submitted by thirteen States at the 1967 session (A/6799, para. 307), proposing the inclusion of its operative paragraphs in the formulation of the principle of non-intervention in matters within the domestic jurisdiction of any State.

9. His delegation hoped that the Sixth Committee would adopt the joint draft resolution (A/C.6/L.628 and Add.1), employing all the means at its disposal under the rules of procedure of the General Assembly, as the Special Committee should also do at its next session, when he was confident that agreement would be reached on the formulation of the three remaining principles. His delegation had not taken part in the general debate on the item because it had stated its position clearly at the twenty-first session, and that position had only been reaffirmed by its study of the report submitted by the Special Committee on the work of its 1967 session (A/6799). The texts of the formulations of the seven principles, when completed by the Special Committee, should be submitted for thorough consideration by the Sixth Committee, and his delegation wished to stress that adoption by the General Assembly of resolutions taking note of the agreed texts which had already been produced did not imply adoption of the formulations themselves; that would occur only when the Assembly adopted, in a resolution, a declaration containing the formulation of all seven principles, with the express intention

of establishing conventional norms concerning the progressive development and codification of those principles.

10. Mr. GASTLI (Tunisia) said that his delegation's general attitude and its position on the item under discussion were defined in a statement made by the President of Tunisia on the occasion of United Nations Day, when he had said that Tunisia intended to work with the other peoples of the world for the attainment of a new order, freed of all discrimination and based on the liberation of peoples and the dignity of man, through the forceful action which could be taken by a strengthened United Nations provided with the means which its mission required.

11. It was unanimously agreed that the item under discussion was the most serious question ever to come before the Sixth Committee. Indeed, no problem could be more sensitive, more complex, more difficult and more urgently in need of solution than that of ensuring the establishment of world peace, saving mankind from the scourge of war, and laying the foundations of an international community based not only on peaceful coexistence and co-operation but also on the friendship, brotherhood and mutual respect of nations. The Special Committee and the Sixth Committee were being asked to determine the content of the seven principles embodied in the Charter of the United Nations which governed friendly relations and international co-operation. His delegation thought that the Special Committee, in dealing with that formidable task at its 1967 session, had done useful work and had submitted a lucid and impartial account of the outcome, fully describing the views which had been expressed.

12. Both pessimism and optimism had been voiced concerning the formulations of the four principles on which agreement had been reached. In the view of his delegation, the results of the Special Committee's work showed that the pessimists were wrong; for, as the representative of France had said at the 995th meeting, it was an extraordinarily difficult and ambitious undertaking to formulate seven principles which, by reason of their scope, variety and complexity, affected the entire international legal order.

13. His delegation thought that agreement might be achieved through a further session of the Special Committee, provided that, in considering the three principles which were still the subject of controversy, that Committee recognized that, at a time when nuclear weapons were proliferating and certain States were all-powerful, it could regulate friendly relations and co-operation among States only if it broke away from the rules of traditional international law, crossed certain boundaries and accepted the advent of an international legal order adapted to the realities of the times. In other words, it should not be obsessed by the fact that the Charter might be indirectly revised but should try to define and clarify the Charter's dynamic content and should recognize that certain principles must not be considered in isolation but must be interpreted in the general context of the Charter. The States which had recently attained independence and were now struggling for development would like to see that great task accomplished,

so that they might build up their countries in a world of justice, security and peace.

14. With regard to the prohibition of the threat or use of force set out in Article 2 (4) of the Charter, his delegation considered that to limit the meaning of the word "force" to armed force would be to disregard the effects of the radical changes which had occurred during the past twenty years. Political decolonization had done its work, and the threat or use of armed force was giving way generally to camouflaged and indirect methods, such as economic or political pressure. Such pressure might seem to be a nebulous idea, but it was real and terribly dangerous, since it could endanger the very foundations of a State's economy and induce a paralysis which would directly affect its economic stability and weaken its political independence. There were all too many recent examples of the destruction of a State's way of life by means other than war. That interpretation of the word "force" had been accepted in recent international documents such as the Programme for Peace and International Co-operation adopted by the Second Conference of Heads of State or Government of Non-Aligned Countries at Cairo in October 1964.^{4/}

15. Opposition to the broad interpretation of the word "force" could not be justified on the basis of the Charter. Article 39 of the Charter did not relate solely to an armed attack of the kind mentioned in Article 51, which alone could justify self-defence; that was a quite different matter. Moreover, Article 2 (4) itself, in stating that Members should refrain from the threat or use of force against the territorial integrity or political independence of any State, indicated that the word "force" must cover all the forms of force that aggression might assume; for, while a State's territorial integrity could be threatened only by armed attack, its political independence could be threatened by the more dangerous methods of economic and political pressure which Powers had tended to use since the Charter had formally condemned resort to war.

16. The broad interpretation of the word "force" had been advanced by Kelsen in his commentary on Article 51 of the Charter. The opinion of Woodrow Wilson had been similar; Eugène Aronéanu in his work entitled *La définition de l'agression*,^{5/} had said that in the Wilsonian view the word "respect" in Article 10 of the Covenant of the League of Nations, which had provided that the Members of the League undertook to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League, could mean only "not to harm or prejudice, exert pressure, subjugate or dominate", while the word "preserve" could mean only "to defend, guarantee, or maintain". Aronéanu had also pointed out the logical distinction in Article 10 of the Covenant between territorial integrity, which could be infringed by armed force, and political independence, which could be threatened by means other than armed force.

17. The threat or use of force in all its forms must be banned in relations among States, and the situa-

^{4/} See A/5763.

^{5/} Eugène Aronéanu, *La définition de l'agression* (Paris, Les Editions Internationales, 1958).

tions created by the threat or use of such force must be considered null and void. Such a ban would merely reinforce the letter and spirit of the Charter. The use of force could be allowed, and indeed encouraged, only in the case of peoples struggling against colonial domination and in the exercise of the right of self-determination. His delegation opposed Scelle's view that anything which had been established by law could only be changed by law; it proclaimed the right of those peoples to use force to free themselves, in accordance with the Charter of the United Nations and General Assembly resolution 1514 (XV). In its recent resolution (2270 (XXII)) on the question of Territories under Portuguese administration, the General Assembly had reaffirmed the inalienable right of the peoples of those Territories to self-determination and to liberation from colonialism and had recognized the legitimacy of their struggle to obtain the rights set forth in the Charter. The Assembly had also recognized the legitimacy of the struggle of the people of Southern Rhodesia (resolution 2262 (XXII)).

18. With regard to the principle of equal rights and self-determination of peoples, his delegation regretted the working group's failure to produce a more positive report. That principle had been the corner-stone of the Declaration of Independence of the United States of America in 1776, of the French Revolution in 1789, and of the Revolution of October 1917 in the USSR. It had been embodied explicitly in Article 1 (2) and Article 55 and implicitly in Chapters XI, XII and XIII of the Charter. Reaffirmations of the principle were to be found in numerous resolutions of the General Assembly, in other international instruments such as the International Covenants on Human Rights (see Assembly resolution 2200 (XXI)), and in declarations of international conferences of States such as the Bandung, Belgrade and Cairo Conferences of the non-aligned States. The principle had been the basis upon which more than fifty countries of Africa, Asia and other regions of the world had joined the community of nations as sovereign and independent States, and it continued to be of great importance to peoples still under colonial rule. His delegation therefore wished to reiterate that that principle was no longer to be considered a mere moral or political postulate; it was rather a settled principle of modern international law. Full recognition of it was a prerequisite for the maintenance of international peace and security, the development of friendly relations and co-operation among States, and progress throughout the world.

19. His country had always accorded 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 a privileged place in its foreign policy and international relations as a corollary of 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. The establishment of peaceful international relations depended to a large extent on the way in which the principle of the peaceful settlement of disputes was applied. The formulation of it must

be compatible with Chapter VI of the Charter, in that States must be allowed to choose among the various means of peaceful settlement listed in Article 33. His delegation stressed the importance of the maintenance of peaceful relations among the new independent States of Africa, and would again draw the Special Committee's attention to the adoption by the Organization of African Unity of a protocol on mediation, conciliation and arbitration in accordance with article XIX of its Charter.

20. His delegation thought it unwise to include in the formulation of that principle any reference to the Court of International Justice or any recommendation concerning recognition of its jurisdiction as compulsory, in accordance with Article 36, paragraph 2, of its Statute. The fundamental obstacle to such recognition was the structure and membership of the Court. As the representative of Iraq had said at the twentieth session (887th meeting, para. 43) in 1965, a more equitable representation of all the systems of law and the main orders of civilization might guarantee the States against the systematic domination of certain attitudes or certain ideas. The decline of the Court was due to the fact that it no longer responded to the demands of the contemporary international order; the best proof of that was its recent decision^{6/} in favour of a colonial Power in the South West Africa case.

21. Lastly, his delegation considered that the Committee should renew the Special Committee's mandate for 1968, so that it might consider the three principles which had not yet been the subject of agreement. With regard to the Special Committee's method of work, his delegation agreed with the view expressed by the representative of Yugoslavia at the 996th meeting, namely, that the search for a consensus should not preclude the application of the rules of procedure, and that the consensus method could and should be used in the interest of the end-product of the work, but not in such a way as to paralyse the completion of the work, once the preparatory phase was over. His delegation hoped that the General Assembly could adopt a declaration on the principles at its next session.

22. Mr. MORALES AGUILAR (Bolivia) said that his delegation appreciated the difficulties which the Special Committee had faced in carrying out its mandate, and was grateful to its officers and members for their efforts.

23. The nations of the world had united in a great Organization in order to maintain peace and to establish universal brotherhood through the principles of friendship and co-operation. Since that spirit had inspired the establishment of the United Nations and continued to inspire its operations, and since everything he had mentioned was clearly stated in the Charter, no Member State could disagree with the very foundations of the Charter. The membership

of the Organization should pass over certain points of detail which were not matters of substance and should adopt and issue to the world a clear and definitive statement of those principles.

24. The principle of non-intervention in matters within the domestic jurisdiction of any State, which was greatly cherished by developing countries like Bolivia, had already been unanimously proclaimed by the General Assembly in its resolution 2131 (XX). His delegation considered that that resolution, which had been reaffirmed in resolution 2181 (XXI), was complete and should constitute one of the seven principles in the proposed declaration. In accordance with its well-known legal tradition concerning the sovereignty of other States, and in deference to the fact that only the rule of law and justice could guarantee the sovereignty and territorial integrity of States, and particularly of weak and developing countries, Bolivia resolutely upheld that resolution. It was for that reason that it had co-sponsored the joint draft resolution (A/C.6/L.628 and Add.1).

25. Thus, in its opinion, the consideration of the principle of non-intervention in matters within the domestic jurisdiction of any State had been concluded, and the Special Committee had only to incorporate General Assembly resolution 2131 (XX) in the text of the declaration of principles. The Special Committee should continue its work on the other six principles. The principle prohibiting the threat or use of force should cover all forms of force, including economic and other pressure. The formulation of the principle of equal rights and self-determination of peoples should include an explicit statement that self-determination did not apply to the peoples of disputed territories or territories which were the subject of claims, particularly if those territories had been seized by force or by unjust treaties imposed by the threat or use of force, which were void *ab initio*. The formulation of the principle of the peaceful settlement of disputes should stress that only the United Nations, through its appropriate organs, could use force to impose its decisions, except in cases of self-defence against an armed attack pending action by the United Nations. The duty of States to co-operate with one another in accordance with the Charter was particularly relevant to the developing countries. Lastly, the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter applied to those obligations which had been assumed freely and did not result from the threat or use of force.

26. The CHAIRMAN drew attention to a letter from the Chairman of the Committee on Conferences (A/C.6/L.629) stating that that Committee had decided to recommend that, if draft resolutions A/C.6/L.627 and A/C.6/L.628 and Add.1 were approved, the Special Committee should be convened at Headquarters commencing 9 September 1968 for a period of three to four weeks.

^{6/} South West Africa, Second Phase, Judgment, I.C.J. Reports 1966, p.6.

The meeting rose at 12 noon.