United Nations
GENERAL ASSEMBLY
TWENTIETH SESSION
Official Records

SIXTH COMMITTEE, 887th MEETING

Wednesday, 1 December 1965, at 4.10 p.m.

NEW YORK

CONTENTS

Chairman: Mr. Abdullah EL-ERIAN (United Arab Republic).

AGENDA ITEMS 90 AND 94

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations (continued) (A/5725 and Add.1-7, A/5763, A/5865; A/C.6/L.537/Rev.1 and Corr.1 and Add.1; A/C.6/L.574-L.577/Rev.1; A/C.6/L.578):

(a) Report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/5746);

(b) Study of the principles enumerated in paragraph 5 of General Assembly resolution 1966 (XVIII);

(c) Report of the Secretary-General on methods of fact-finding (A/5694)

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 (continued) (A/5757 and Add.1, A/5937).

1. Mr. LARE (Togo) stressed the importance of the principles set out in General Assembly resolutions 1815 (XVII) and 1966 (XVIII); only on the basis of those principles was it possible to promote peaceful relations among States and thus ensure collective peace and security. In entrusting their study to the Committee, the General Assembly had recognized that politics could no longer be the sole factor in relations among States and that by means of politics alone the international community could not achieve the realistic and humanitarian goals defined in the Charter. International law, which had long served as an auxiliary framework for relations among States, had now become one of the most effective means of creating a viable world. The members of the Committee had therefore assumed a great responsibility and must make every effort to reach agreement on the content of the principles of international law concerning friendly relations and co-operation among States. Their work must be of a legal rather than a political character, and they must take the opportunity to rehabilitate international law, the development of which had not always found favour with States. If they approached their task in an objective manner, they would not fail to achieve results that were satisfactory to all.

2. The legal norms embodied in the principles under consideration were not new; they were contained in the Charter. Yet, even if they did not appear there or in any other multilateral convention, they would still exist. The interdependence of States, the emergence of new States, the imbalance between rich and poor countries, and the nuclear threat made it essential for the conduct of States in their relations with one another to be regulated by categorical legal norms—by those very ones which were contained in the Charter. Since that was so, what had been the General Assembly's purpose in including the study of those norms in its agenda? In his view, that purpose had been to define their present content in precise terms and then embody them in a text which would take the form of either a declaration or a multilateral convention. His delegation would prefer a solemn declaration, which would be the most effective means of affirming the overriding importance of those norms in relation to other norms of international law.

3. To return to the actual content of the principles, he felt that the Committee must first make an analytical study in order to determine what content the authors of the Charter had meant to give them in 1945; that content had, of course, reflected the general situation in the world at the time and the outlook for the future.

4. However, some work of adaptation was also required. The world had undergone great changes in the past twenty years, which had been marked by the disintegration of the great empires under the pressure of the liberation movement of the colonial peoples, by the division of the world into antagonistic ideological blocs, by the glaringly unequal distribution

of wealth among the industrialized and under-developed countries and, finally, by the constant threat of nuclear war. Under those circumstances, the only way to save the international community was to establish legal norms which would remove all obstacles to friendly relations and co-operation among States, whether or not the Charter had envisaged those obstacles.

5. To place a restrictive interpretation on the Charter provisions relating to the principles under consideration would mean disregarding the changes which had taken place and clinging to a rigid system of law. The Charter must be interpreted dynamically, and the content of the norms embodied in it must be enriched in whatever way would promote friendly relations among States.

6. A number of speakers had rightly observed that international law was created by States. It might be added that an international legal norm, if it was to serve as a rule of conduct for States, must take account of the social needs of each State. Might must no longer make right.

7. It was in that spirit that the Committee should approach the principles on which agreement had not yet been reached. Moreover, as was proposed in draft resolution A/C.6/L.577/Rev.1, a new Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States should be set up, taking account of geographical, political and sociological realities.

8. Notwithstanding the wide diversity of opinions and ideas, his delegation was certain that it was possible to reach agreements which, embodying common elements in the various views expressed, would more clearly reflect all aspects of current world problems and thus rest on a more solid foundation.

9. To procalim the rule of law was one thing; to apply it in its spirit and in its letter was quite another. That was a problem which seemed to lead almost unavoidably to an impasse unless effective sanctions could be applied in dealing with deliberate violations of international law. Nevertheless, if all States showed a willingness to respect and apply international law and if they resolved to bear collective responsibility for the maintenance of peace, they would ultimately ensure the rule of law.

10. Mr. FLITAN (Romania) observed that the Mexican Government had shown its keen interest in international law by inviting the Special Committee to meet in its capital city; he wished to commend all those who had taken part in the Committee's work, which was faithfully reflected in its report. That report not only marked a milestone in the study of the principles of international law now under consideration but was also a work of scholarship. As the Sixth Committee now appraised the results of the Special Committee's work and sought to mark out a path for the future, he wished to affirm, reaffirm or emphasize the various broadly significant aspects of the problem which were contained in each principle.

11. Mere analyses and commentaries, however detailed, would not be sufficient to formulate principles of international law whose adoption would promote the establishment and development of friendly relations and co-operation among States. The importance of those principles, the current requirements of international life, and the terse and sometimes controversial wording of the provisions of the Charter were reasons why the General Assembly should draw up a solemn delcaration to supplement the work accomplished at the United Nations Conference on International Organization held in San Francisco in 1945 with due regard for the present composition of the United Nations. Some contended that that would mean attempting to amend Article 2 of the Charter while circumventing the provisions of Article 109. However, that argument was far from convincing, for the United Nations had on past occasions enriched the content of certain provisions and gone beyond the letter of the Charter by adopting decisions of that kind. The Sixth Committee's task was unquestionably the progressive development of the provisions of the Charter in the light of contemporary realities. It was encouraging to note that that view was rather widely held.

12. With regard to the principle barring the threat or use of force, there were still a great many points on which no agreement had been reached. A number of delegations had commended the United States Government for abandoning its position of consistent opposition which it had maintained in Mexico City on the question of frontier violations. He would like to know, however, whether that change in position at the theoretical level presaged a change in United States policy in Viet-Nam. It was sometimes contended that the current discussions were "purely legal" and "non-political" in character, but in the final analysis it was realities that determined legal questions; in that connexion, the unequal struggle precipitated by a flagrant act of direct aggression must not be forgotten. His Government had repeatedly stated that the Viet-Nam problem threatened world peace and security and could be solved only in accordance with the 1954 Geneva Agreement1/ and by cessation of the bombing of the Democratic Republic of Viet-Nam, withdrawal of the troops of the United States and their allies, the removal of United States military equipment from South Viet-Nam, and respect for the right of the Viet-Namese people to settle its internal affairs without foreign interference.

13. The Romanian delegation considered that the ban on the threat or use of force also referred to economic, political and every other kind of pressure threatening the territorial integrity and political independence of States. If all the present Members of the United Nations had participated in the drafting of the Charter, the wording of Article 2, paragraph 4 would certainly have been very different. But whatever the intentions of the authors of the Charter might have been, the events that had occurred since that time must now be taken into account, and those events had shown precisely that economic force could constitute a threat to the political independence and territorial integrity of States, especially when a

1/ See Further documents relating to the discussion of Indo-China at the Geneva Conference, June 16-July 21 1954, London, H.M. Stationery Office, Cmd. 9239.

large number of countries had just become independent, as had been emphasized at the United Nations Conference on Trade and Development.

14. His Government reaffirmed its devotion to the principles of the settlement of international disputes by peaceful means (Article 2, paragraph 3 of the Charter) which was a necessary corollary of the preceding principle. Experience had shown that, by refraining from threats, solutions acceptable to the parties concerned could be achieved through negotiation, provided that the equality of the parties and the sovereignty and mutual interests of the States concerned were rigorously respected. In that connexion, it had been impossible to agree on a definition of the jurisdiction of the International Court of Justice. The International Court was competent only if the parties had agreed in advance, in each specific case, to accept its jurisdiction. Still, it would be advisable to study the matter of the geographical representation of seats which had been raised by some delegations. But, in the last analysis, the principle of the Court's jurisdiction could not be considered separately from the other principles, and the procedure that had the widest support was that of examining all the principles of the Charter together so as to have a good grasp of the relationship between them.

15. The principle of non-intervention should be dealt with as comprehensively as possible since it now formed part of international law. The cause of progress and civilization, like the maintenance and strengthening of peace, demanded respect for the right of every people, great or small, freely to choose its own path of political, social and economic development, to affirm its national identity and to manage its own affairs.

16. Each State had its own characteristics and, regardless of its size, made its contribution to the material and spiritual enrichment of the international community; the right of every people to affirm its personality conditioned the multilateral development of international co-operation. The sovereign equality of States therefore constituted an essential principle of international law, whereby no State could claim to make another State assume obligations incompatible with its sovereignty or ask it to assume obligations which it itself refused to undertake. In other words, international law must be applied in the same way to all States. Since, to ensure its stability, international law had to adapt itself to changing needs, that principle necessarily authorized peoples freely to choose and develop their political, social, economic and cultural systems. Although that right had not been affirmed or even implied by the authors of the Charter, it had been upheld by the Special Committee and had become a pressing need. Again, the principle of sovereign equality, on which the members of the Special Committee had reached agreement, could not be recognized without also recognizing that all States had the right to participate in international organizations and to become parties to multilateral treaties, as that right was a fundamental attribute of a State's legal capacity. By the same token, no State could claim the exclusive or common right to exploit the natural wealth or resources of another State, as each State had the right to dispose of its assets for its own economic development. That right was affirmed by several authorities on modern international law. Moreover, the idea of sovereignty must be put on the same plane as the idea of equality: it was the Sixth Committee's function to develop international institutions and international law but not to draw up an international law which would be the denial of the latter.

17. The Special Committee had not had enough time to formulate conclusions on methods of establishing facts. His delegation agreed with the Netherlands representative who had affirmed at the 874th meeting the need to proceed with caution and restraint, and considered it useful, as a preliminary step, to explore the possibilities of using the Permanent Court of Arbitration on which a large number of States were represented.

18. To be effective, those different rules would have to be widely accepted by States which were not only the drafters but also the subjects of international law. Romania was deeply attached to peaceful coexistence; its Constitution provided that its external relations were based on the principles of respect for sovereignty and national independence, equal rights, mutual advantage and non-interference in internal affairs, principles which Romania was trying to have accepted at the international level because they were a sine qua non of further co-operation among States, greater trust among peoples and respect for the inalienable right of each people to decide on its own destiny. If again invited to join the Special Committee, it would participate in that spirit.

19. He reserved the right to speak again when the draft resolutions were taken up.

20. Mr. BEN ARFA (Tunisia) said that there was no more thorny or urgent problem than that of maintaining international peace, saving mankind for ever from the scourge of war and laying the foundations of an international community based on mutual respect.

21. The General Assembly had therefore decided, in resolution 1815 (XVII), to undertake a study of the principles of international law concerning friendly relations and co-operation among States but, realizing the complexity and scope of such an undertaking, it had, in resolution 1966 (XVIII), referred the study of those principles to a Special Committee which had met in Mexico City in 1964. Following that session, the Special Committee had submitted a report (A/5746) and had thus completed its assignment and mandate under resolution 1966 (XVIII). From the formal aspect, that Committee could therefore no longer be regarded as concerned with the matter and, if the study was to be continued, the Sixth Committee would have either to extend the mandate of the Special Committee or decide to set up another Special Committee with a different membership. So far as the substance was concerned, the Committee had done useful work in Mexico City by drawing up an impartial balance-sheet of the successes and failures and providing a complete picture of the views expressed. But the results of its work could not be regarded as final. While, for some, the meeting in Mexico City had clearly shown what was possible and what was not, his delegation hoped

that a consensus could be reached in a new Special Committee resolved to place the consideration of the principles in their proper context: in the present circumstances, friendly relations and co-operation among all States could not be built up on rules governing their relations unless the criteria of traditional international law could be set aside. In other words, an attempt must be made to identify and specify the really dynamic provisions of the Charter without being obsessed with the idea that that might constitute an indirect revision of that document.

22. The principle of refraining from the threat or use of force, set forth in Article 2, paragraph 4 of the Charter, referred, in the view of some, to physical, armed force. Such a limitation disregarded the realities of a world that had changed radically over the past twenty years. Political decolonization had taken place and the use of armed force usually gave way to disguised manœuvres such as economic and political pressure. Those forms of pressure, as too many recent examples proved, could directly impair a State's economic stability and undermine its political independence.

23. Some representatives—perhaps out of respect for the Charter or for fear of assisting, even unwittingly, in its indirect revision—hesitated to acknowledge that such forms of pressure constituted acts of force. Article 39 of the Charter was not, however, concerned with armed aggression within the meaning of Article 51, which was the only justification for the exercise of the right of self-defence. Moreover, Article 2, paragraph 4 itself implied that the word "force" necessarily embraced all forms of aggression. Although a States territorial integrity could be threatened only by armed aggression, its political independence could be threatened by more treacherous means, namely, by the economic and political pressure which the major Powers had shown a tendency to employ since the formal condemnation of war in the Charter.

24. His delegation therefore considered that, when the Charter spoke of "force", it was in fact referring to all forms of force. That was the view taken by Hans Kelsen in his commentary on Article 51. It had also been the opinion of President Woodrow Wilson, who had held that the words "aggression" and "force" necessarily denoted an attempt to impose one's will on others by armed force or by any other means.

25. The threat or use of force in any form should therefore be banished from relations between States, and situations created by the threat or use of force as thus defined should be considered null and void. Far from being at varience with the Charter, that would actually strengthen both its letter and its spirit.

26. The only case in which the use of force could be permitted and even encouraged was in the struggle of peoples against colonial rule and in the exercise of the right of self-determination. That was in conformity with the Charter and with the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples. The legality of that principle had been repeatedly proclaimed by the General Assembly, which had recently reaffirmed the inalienable right of the people of the Territory of Aden to self-determination and recognized the legitimacy of their efforts to achieve the rights laid down in the Charter, just as it had also recognized the legitimacy of the Southern Rhodesian people's struggle for freedom and independence.

27. The principle of the peaceful settlement of disputes was a logical corollary of the obligation to refrain from the threat or use of force. In the view of his delegation, all distrust of the machinery for settling disputes should be put aside and States should approach their differences in a conciliatory spirit. There was no question that substantial progress could be made in that regard through the efforts of both the Sixth Committee and the First, before which the item had been brought by the United Kingdom Government (see A/5964).

28. The principle of non-intervention could be regarded as the corner stone of peaceful coexistence based on the sovereign equality of States and as complementary to the principle of self-determination. It should therefore be stated emphatically that no State had the right to intervene, directly or indirectly and for any reason whatever, in the internal or external affairs of another State or to interfere with the exercise of the right of every State to choose its own political, economic, social and cultural system. The form such interference took was of little importance.

29. He welcomed the fact that the Special Committee had been able to reach agreement on a number of points to the principle of the sovereign equality of States and hoped that it would be possible to arrive at a consensus on the question.

30. Once the principles in question had been defined and enunciated—a point about which the Malagasy delegation had expressed concern—they could be submitted to the General Assembly for approval in the form of a general declaration.

31. Mr. YASSEEN (Iraq) said he would first like to define the task the Sixth Committee had set itself in undertaking a study of the principles of international law concerning friendly relations and co-operation among States.

32. Some contended that it was essentially a question of interpreting certain rules of positive law and reaching agreement on their meaning and scope or even of simply commenting on some of the rules of international law laid down in the Charter itself. That was the view of some delegations which had cited the preparatory work on the Charter in rejecting certain ideas which, however, seemed to reflect contemporary trends. In so doing, they were apparently seeking to link the formulation of international law and not its interpretation to circumstances and conditions which no longer prevailed in the modern world. That would mean unduly limiting the scope of the task at hand, for the aim should be nothing less than to adapt international law to present-day realities. General Assembly resolutions 1815 (XVII) and 1966 (XVIII), in pursuance of which the present study had been undertaken, both specified that the study should be conducted "in accordance with the Charter with a view to [the] progressive development and codification" of the principles in question. That meant that it was not to be limited to lex lata

but could be extended to the field of lex ferenda; it would not be a mere declaration but would be creative. That also meant that the principles to be studied did not have to be solely those embodied in the Charter, provided, of course, that they were not at variance with the mandatory norms of the Charter. There was therefore no reason why additional rules could not be created in order to supplement the guidelines provided by the Charter. That would not ever. call for amending the Charter in the manner provided in Article 108, since it would merely mean giving further development to ideas which had always been contained in the Charter in embryonic form.

33. It could also be argued that the General Assembly, when it considered various questions relating to the legal structure of the international community, could, if it saw fit, propose amendments of the Charter. Important though it was, the Charter was merely a convention requiring special procedures for amendment or revision. It could not be invoked in order to prevent the world from developing, nor could it be protected against the effects of an inevitable and quite normal occurrence: the clash between realities and law. Moreover, changing circumstances had already prompted the United Nations to amend certain provisions of the Charter. It was unnecessary to go that far or to exceed the limits of resolutions 1815 (XVII) and 1966 (XVIII), which called for a study undertaken in accordance with the Charter; however, it should be recognized that neither the spirit nor the letter of those resolutions would justify limiting that study to the mere interpretation of positive law. The approach he had outlined should guide the Committee in considering the manner in which the Special Committee entrusted with a preparatory study of the first four principles had undertaken the task and in determining what methods were to be used in continuing the work.

34. The Special Committee's terms of reference had called for it to draw up a report containing the conclusions of its study and its recommendations for the purpose of the progressive development and codification of the four principles so as to secure their more effective implementation. In other words, the Committee, which was to be complimented on its zeal and on the excellence of its report (A/5746), had been merely an organ of the General Assembly and had not been instructed to take final decisions which would be binding on the Assembly itself. Its conclusions and recommendations were essentially a point of departure and a basis for discussion. That was particularly to be emphasized because of the fact that the Committee, in attempting to find points of agreement, had based its decisions, at least in its Drafting Committee, on a consensus. Whatever might be thought of that method, its importance should not be exaggerated nor, in particular, should its significance be misunderstood. The Committee had been composed of representatives of States not independent experts, and its deliberations had reflected only the views of the participating States on the present state of positive international law and their divergent opinions on the interpretation of existing rules or the creation of new ones. Moreover, the consensus was one arrived at by fourteen States and should not necessarily be taken to indicate a general consensus which would prejudge the attitudes of other States, just as the disagreement in the Committee should not be regarded as an irreparable disagreement among all the States in the world or among those belonging to the United Nations. Hence, his delegation could not agree to limiting the Sixth Committee's sphere of activity on the basis of the consensus in the Special Committee and to barring the study of certain ideas because they were controversial. The controversial points were, in fact, the ones to which the Committee should give special attention, for its task was less that of finding points of agreement than of reducing the number of points of disagreement. The Special Committee's most useful accomplishment had been to stress the latter points, and it was in regard to them that the effort to arrive at a compromise would yield the most useful results.

35. The need of a consensus of the United Nations to encompass all matters affecting the principles concerning friendly relations and co-operation among States, so frequently affirmed, had meaning only in so far as it was not simply a question of rendering immutable the existing state of affairs and of confirming the existing consensus, but of seeking to bring about a new consensus on the basis of the new realities of international life. For that purpose it would be advisable for all States to explain their positions to the Sixth Committee with regard to the points in dispute. Every effort made with a view to a compromise should be accompanied by recognition of the value and weight to be given to every attitude, so as to obtain a correct estimate of the sacrifices which the opposing parties should reasonably make in order to establish an equitable compromise suiting the action to the word.

36. He explained the attitude of his delegation with regard to certain questions which had been the subject of controversy in the Special Committee.

37. With regard to the principle that States should refrain in their international relations from the threat or use of force he said that the same abstention should apply to economic or political pressure. That opinion was based on a wide interpretation of Article 2 of the Charter, fully justified by the desire to liberate international relations from all causes of tension and provide an effective guarantee for the independence of States. That was in conformity with an evolution of which the Charter, already twenty years old, was merely the starting point. It would be wrong, for that reason, to take any preparatory work in connexion with the Charter—in particular the rejection of the Brazilian amendment to extend the prohibition in Article 2 to include economic coercion—as giving authority for restricting for ever the notion of force solely to the notion of armed force. The given positions at any one moment could not in themselves be deemed sufficient to immobilize international life nor could they continue to govern the evolution of law twenty years later.

38. It was necessary also in codifying that principle to stress the duty of States to act in such manner that an agreement concerning complete and general disarmament under effective international control

should be concluded as soon as possible and strictly observed. It would also seem essential to declare that it was incumbent upon all States to forbid war propaganda of any kind.

39. Further, as a natural corollary, it would appear indispensable to affirm the legal obligation not to recognize situations created by the use or threat of force. It seemed illogical to prohibit the use of force and not to draw the inevitable inferences from the illegality of such use of force.

40. The movement in favour of liquidating colonialism should not be ingnored in the progressive development and codification of that principle: on pain of repudiating the efforts of the United Nations to abolish colonialism in all its forms the peoples oppressed by the yoke of colonialism must be granted the right to use force to liberate themselves from a situation condemned by the international community and above all by the United Nations.

41. With regard to the principle that States should settle their international disputes by peaceful means so that international peace and security and justice should not be endangered, it would appear indispensable to state at the very outset that such peaceful settlement should not be effected to the detriment of justice.

42. States should also be free to choose the means of pacific settlement. International law contained no provision that obliged States to resort to a specific means to the exclusion of all others. The nature of the dispute and the circumstances of the case are important factors that influenced the choice of the means of settlement.

43. It would appear useless to make an appeal in favour of the acceptance of the compulsory jurisdiction of the International Court of Justice until a remedy had been found for the main causes of the hesitation of States to accept its jurisdiction. The first was the uncertainty concerning the international law to be applied. States quite naturally hesitated to submit to customary rules which they did not recognize. For that reason every step forward in the codification of international law would help to encourage States to accept judicial settlement. Thus Iraq, which generally did not recognize the jurisdiction of the International Court of Justice had ratified the Protocol to the Vienna Convention on Diplomatic Relations[2/] which provided for the compulsory jurisdiction of the Court. It was a matter of written law and therefore the Government of Iraq could act with a full knowledge of the facts. The second obstacle to the general acceptance of the jurisdiction of the Court was its composition. 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.

44. The principle, in accordance with the Charter, constituting a duty not to intervene in matters within the national competence of a State, was a part of positive law, whatever origin might be attributed to it and nobody could directly deny its existence. Nevertheless, as its scope had been the subject of controversy no effort in favour of the progressive development and codification of that principle could be of use unless it started from a more precise definition of the activities that could be described as intervention. The experience of Latin America could provide a very useful source, thanks to the voluminous documentation and even conventions dealing with that principle. The definition of intervention was only apparently difficult and the obstacles would soon be smoothed out if the States could free themselves from their mental reservations and the influence of their selfish interests.

45. The principle of the sovereignty of States had been the subject in the Special Committee of a consensus which was only partial and referred only to certain questions to which it gave rise. It was, therefore, inadmissible to assert that the study of that principle was completed. It was difficult to imagine a progressive development and codification of that principle which would not fully maintain the right of a State to dispose freely of its wealth and natural resources and also its right to exclude from its territory any foreign troops and military bases situated therein.

46. The Iraqi delegation which had already taken a position with regard to the principles under consideration during the preceding sessions of the General Assembly restricted itself purposely to certain controversial questions stressed in the Special Committee's report. It reserved the right to intervene with regard to the draft resolutions submitted. It hoped that the Commission would continue its efforts to conciliate the different points of view so that the international community, freed from all hindrances to its development, could work in favour of peace and the welfare of mankind.

47. Mr. BEEBY (New Zealand) regarded the four principles which had been referred to the Special Committee for study as central to relations between States. The international conflicts which had occurred in the preceding twenty years had represented a breakdown in their application. Sometimes, indeed, those crises had reflected not so much a lack of clarity in those principles as an unwillingness on the part of States to apply international law and international procedures for the peaceful settlement of disputes. Nevertheless, an important element in aggravating such situations had often been disagreement about the content and scope of the principles. It was therefore not unreasonable to hope that the elaboration of the complex ideas contained in those principles would play a significant part in making their application more effective.

48. The elucidation of those principles was made difficult on the one hand, as the Rapporteur of the Special Committee had observed at the 871st meeting, by the fact that they impinged on the vital interests of States and that there was therefore a tendency to consider them in terms of immediate political problems and, on the other hand, as the representative of France had pointed out at the 880th meeting, by the existence of markedly divergent views as to the nature of the mandate of the Sixth Committee

2/ See United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, vol. II, Annexes (United Nations publication, Sales No.: 62.X.1).

and the Special Committee in dealing with those principles. Some held that it was the Committee's task to state concisely the content and scope of the principles concerned. Others thought that the Committee should go well beyond that and take into account at every point certain important political developments and notions of the previous twenty years. The New Zealand delegation was convinced that international law must necessarily have a greatly reduced value as a means of regulating relations between States if it did not reflect the needs and aspirations of the international community as a whole. But it did not believe that every desirable proposition about the conduct of States was necessarily appropriate for inclusion in statements of legal principles, and it felt that in relation to the principles under consideration caution and restraint in that regard was particularly important.

49. Given the difficulties of its task, the Special Committee had performed valuable work. Some delegations, however, had said that the method of work adopted in the Drafting Committee—that of consensus—had inhibited progress and should be abandoned in any further consideration. The New Zealand delegation did not share that view. The task of the Drafting Committee had been to prepare, without voting, a draft text formulating the points of consensus and a list itemizing the various proposals and views on which there had been no consensus but for which there had been support. That procedure had had the merit of setting forth very clearly not only the area of agreement, but also the points on which further work would be needed to widen any agreement achieved. Moreover, it was a procedure that followed inevitably from the nature of the work in which the Special Committee had been engaged. The mandate given to the Special Committee derived from Article 13 of the Charter; the Committee's task had been to study selected principles of international law with a view to their progressive development and codification. But international law, whether customary or conventional, was not created by majority decisions. Nor could it be developed or codified in that fashion. On the other hand, texts which were achieved by consensus, which expressed the views of the international community as a whole, had real value as evidence of international law. For that reason, the method of consensus should be maintained.

50. The Special Committee had reached a consensus on the principle of the sovereign equality of States and had come close to reaching agreement on the principle prohibiting the threat or use of force. On the latter principle, his delegation welcomed the statement of the United States representative, at the 877th meeting, that his Government was now prepared to accept the draft text on which agreement had been so nearly reached in Mexico City. Any new special committee would have to take account both of paper No. 1, contained in paragraph 106 of the Special Committee's report (A/5746), and the text on sovereign equality which had been adopted.

51. The principle of non-intervention was hardly less important than that forbidding the use of force, but the Special Committee had encountered difficulties with it, doubtless because the Charter made no explicit reference to intervention by States as opposed to intervention by the United Nations itself. Much of the traditional doctrine of non-intervention had been absorbed in the explicit prohibition of the threat or use of force in Article 2, paragraph 4 of the Charter. On the other hand, a ban on intervention as between States could be inferred from the express statement in Article 2, paragraph 1 of the principle of sovereign equality as well as from a reading of Article 2, paragraph 7 in the light of the preamble to Article 2.

52. Two questions arose concerning the principle of non-intervention. The first was the extent to which any formulation of that principle should incorporate material already contained in the formulation on the non-use of force. That would appear to be little more than a question of organization which should not delay for too long consideration of more substantive issues. Secondly, it should be decided what enumeration, if any, should be attempted of forms of intervention. In his delegation's opinion, such an enumeration would only be possible and useful in the context of a parallel development of international machinery for the peaceful settlement of disputes.

53. Concerning that latter principle, some delegations in Mexico City had insisted that in any formulation negotiation should be given a privileged position. The New Zealand delegation was firmly opposed to any formulation of that kind. It would also regret any formulation which tended to run counter to the proposition contained in Article 36, paragraph 3 of the Charter or which in any other way minimized the importance of judicial settlement of disputes or of the International Court of Justice. New Zealand had always favoured wider acceptance of the compulsory jurisdiction of the International Court. Therefore, it welcomed the decision of two newly independent States to accept such jurisdiction and the comments that the Nigerian representative had recently made concerning her Government's attitude to the International Court.

54. The Canadian delegation had advocated, in the Special Committee and in the Sixth Committee, the inclusion in any text on the principle of the peaceful settlement of disputes of a direct reference to the role of the political organs of the United Nations in that sphere. His delegation approved of that suggestion.

55. As regards the form to be given to the results of work on the principles of friendly relations, he considered that the decision for or against a declaration need not be taken at the present session.

56. As to the more immediate question of the way in which the Committee's work on the principles should be continued, all members seemed to be agreed that the task should be entrusted to an intersessional committee. Regarding its method of work and terms of reference, his delegation considered, as it had already said, that the consensus method should be retained and that a new Special Committee should not disregard the work done in Mexico City by beginning all over again on the principle of sovereign equality and the probibition of the use of force. As far as the committee's membership was concerned, his delegation was in favour of the re-

establishment of the Special Committee which had met in Mexico City and which had been chosen by the President of the General Assembly in accordance with the usual criteria. The advantages from the point of view of continuity were obvious and a larger body might well be quite unwieldy.

57. His delegation supported the draft resolution submitted by Australia, Canada and the United Kingdom (A/C.6/L.575), which reflected its views concerning the composition, mandate and method of work of the proposed special committee.

58. As regards the methods of fact-finding, the working paper prepared by the Netherlands (see A/5746, para. 354) and the thorough survey made by the Secretariat (A/5694) would serve as a useful basis for further consideration of the question. The Secretary-General's memorandum gave very good evidence of the value of the fact-finding method as a means of settling disputes. The method could also be important as a means of ensuring the execution of treaties. It was to be hoped that the Secretariat's study could be completed with particular reference to that aspect of the subject.

59. As regards the question raised at the 885th meeting by the representative of Madagascar, his delegation considered that the first step should be a thorough exploration of the elements of the proposed draft resolution (A/5757). The Committee was studying that item at the same time as the item on friendly relations because they were closely related and for that same reason the proposal of Madagascar could be studied by the Special Committee.

60. He reserved the right to speak again on the draft resolutions before the Committee.

61. The CHAIRMAN declared closed the list of speakers wishing to take part in the discussion on the three principles set forth in paragraph 5 of General Assembly resolution 1966 (XVIII).

The meeting rose at 6.20 p.m.

Litho in U.N. 77601—May 1966—2,000