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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.575 and Add.1, A/C.6/L.576, L.577/Rev.1, L.578 and Add.1, L.580):
(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. UMAÑA BERNAC (Colombia) said that he hoped that the work done by the Sixth Committee on the principles of international law concerning friendly relations between States would lead to the unanimous adoption of a draft resolution. If they were not unanimous, the rules of international law would cease to be universally accepted norms and would become mere juridical hypotheses that would divide and not unite.

2. Article 2 of the United Nations Charter laid down that the Members of the United Nations should fulfil in good faith the obligations assumed by them under that instrument. He reminded the Committee that it was at the urgent request of his country that the principle of good faith had been embodied in the Charter for it had been considered useless by some and criticized by others at a time when the peoples, in the early enthusiasm for what they believed to be the definitive triumph of right over might, placed all their confidence in the advent of a new era of justice and peace. The Colombian delegation then believed and continued to believe that that principle which was essential in any society was even more indispensable in an international society. Good faith, said the English jurist Westlake, was the moral chain which united all the States of the world in one and the same system of law. It constituted in the rules of behaviour of peoples the minimum moral element without which that behaviour would be guided only by national interests, whether legitimate or illegitimate. Its embodiment in the Charter had replaced the old principle of reason of State by a criterion of justice which made it possible to assess the acts of certain Governments and establish limits to the abuse of power and to the desires of imperialist expansion of which international law could never approve.

3. The deterioration suffered during the last twenty years by a world in which force continued to rank higher than law made it incumbent upon the United Nations to affirm once again the principle of good faith on which its existence depended and in particular the procedure for examining and settling international disputes in the Security Council. Although the prohibition requiring States to refrain in their international relations from the threat or use of force was accompanied by collective sanctions in the event of a contravention of that rule, the obligation incumbent upon the Security Council to act in conformity with the Charter was not supported by any sanction other than an appeal to the conscience of the Council and to its respect pure and simple for the law, although the Council was a body at the very summit of the legal community. In other words, in the age of nuclear equilibrium the peace of the world depended upon the good faith of the great Powers.

4. That principle came into play implicitly each time the other principles respecting friendly relations between States were invoked, whether they concerned the sovereign equality of States, the peaceful settlement of disputes or the prohibition to resort to the threat or use of force or, above all, non-intervention in the internal affairs of other states; the latter

rule was considered so universal that those who proclaimed it in good faith forbade themselves ipso facto from seeking to modify it by invoking the evolution of the social environment or the occurrence of unforeseen circumstances.

5. Although the theoretical study of international law might appear byzantine in the era of armed coexistence, it responded to the hopes of all peoples, young and old, who aspired towards the universal reign of good faith and therefore the Sixth Committee should continue without interruption its examination of the principles of international law regarding friendly relations between States with a spirit the greatness of which was composed of both realism and innocence.

6. Mr. ROGERS (United States of America) said that his delegation was one of the co-sponsors of draft resolution A/C.6/L.575 and Add.1 and pointed out that the differences among the draft resolutions before the Committee did not seem irreconcilable. There was agreement, for example, that the General Assembly should entrust to a Special Committee the task of continuing the work begun on the seven fundamental principles of international law set out in the Charter and submit the results of its work to the twenty-first session of the Assembly.

7. Opinions were divided on the other hand on the methods which the Special Committee should use and thereafter the Assembly itself, in particular whether the principle of "consensus" or "general agreement" should be retained. It appeared to be generally admitted that the value of the work carried out with respect to the question of friendly relations would vary radically depending on whether it was supported unanimously or virtually unanimously or whether it was dissented from by a substantial number of the members. That was true of all General Assembly resolutions and in particular of a resolution which was designed to be an authoritative statement of the principles of the Charter. The General Assembly for most purposes had no legislative functions, properly speaking, and the juridical value of resolutions of the latter sort depended upon their worth as evidence of the universal practice of States accepted as law and clearly and carefully articulated by their appointed representatives. It was for that reason that the question of the consensus approach was important and not merely methodological: it would determine to a great extent the value of the final result of the study of the principles concerning friendly relations. There would be no question of formally barring the Special Committee, and still less the General Assembly, from voting, yet it would be useful for the Assembly to inform the Special Committee of its desire to see the consensus method used, as formerly, in order to seek to delimit the areas of agreement rather than confront opposing attitudes.

8. With regard to the form of the end product of the Assembly's work on friendly relations, the United States delegation although not opposed a priori to the idea of a draft declaration on the question thought it premature to consider that possibility in the absence of formulations which, if embodied in a declaration would enhance the chance of ensuring a better understanding and application of the Charter principles in question.

9. Considered from that point of view, the formulations already produced for two of those principles, although far from perfect, might well be considered for inclusion in some sort of declaration. It had been suggested that certain members of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States now reconsidered their attitude. That seemed to jeopardize the progress already realized and the possibility of achieving formulations appropriate for a declaration. Consequently it would be desirable to confer a certain recognition and special status upon the texts already formulated on sovereign equality and non-use of force as was done in draft resolution A/C.6/L.575 and Add.1, so that it would not be necessary to take up the work of the Special Committee from the beginning.

10. With regard to the size and composition of the Special Committee, which a number of delegations considered should be enlarged, the United States delegation would prefer to keep the same Committee, not because it was itself a member of that Committee but for practical reasons. If it was merely a question of making the best use of the competence available in a body of so high a professional level as the Sixth Committee the Special Committee could doubtless be converted into a plenary committee. But the Special Committee was and would remain responsible for a work of detailed study and analysis and drafting, for which purposes it had already admitted that its membership exceeded the optimum size, since it had deemed it necessary to appoint a drafting group. Further, it would be a pity to lose the valuable experience accumulated by the Committee in the course of its work. And, finally, all delegations would have the opportunity both in the Sixth Committee and in the General Assembly of expressing their opinion on the work carried out by the special committee before it was put to a vote.

11. With regard to the three further principles enumerated in paragraph 5 of resolution 1966 (XVIII), he said that each of the principles on friendly relations was related in an important way to the United Nations essential task of creating the necessary conditions for developing a viable world order. A part of that job was the establishment of principles by which the use of violence and coercion between States would be radically reduced. The principle of the duty of States to co-operate in conformity with the Charter was inspired by the necessity set forth in Article 55 of the Charter to create conditions of stability and well-being as an indispensable part of the same task. Peoples could hardly live up to their international obligations on an empty stomach, lacking insight or knowledge, and with their hearts filled with prejudice. It was with that in view that the Charter imposed on the United Nations the duty to promote the elimination of those conditions, and on States Members the duty to take joint and separate action in co-operation with the Organization to eliminate the dangers to peace due to economic, educational and other privations and to achieve international co-operation as required

under Article 1 of the Charter by solving international problems of an economic, social, intellectual or humanitarian character.

12. The Charter required joint action. More was required than that a State should content itself with passive co-operation with the others by abstaining purely and simply from impeding their efforts. Under the Charter it was not enough that States should merely vegetate side by side in what was called peaceful coexistence. Doubtless the doctrine of peaceful coexistence was preferable to the traditional communist doctrine of the conquest of the world by revolutionary violence which it had replaced in some communist States; nevertheless the doctrine of peaceful coexistence did not go so far as the joint affirmative action recommended by the Charter with a view to achieving the ends laid down in Article 55.

13. The question of knowing if a State was in default of its duty to co-operate with other States in the realization of those objectives was not so easy to answer as in a case involving a principle such as that forbidding the use and threat of force which the Security Council, for example, could decide, thus turning the general Charter duty into a more specific one for a particular time and place. With respect to the duties of States concerning economic and social peace-building the General Assembly and the Economic and Social Council could only make recommendations, so that the execution of international obligations in good faith acquired primary importance. Nevertheless, if the Charter imposed no duty more specific than those stated in Articles 55 and 56 it gave some very clear indications as to certain activities which might be taken as prima facie evidence of a partial fulfilment of that general duty, for example, participation in the specialized agencies mentioned in Articles 57 to 59.

14. The principle of the equal rights and self-determination of peoples had been the subject of a lengthy and thorough consideration by the United Nations as could be seen from the active part played by the Organization in the profound political transformation by which the greater part of the colonized world had acceded to national independence. Yet certain perplexities remained in the application of that principle and in understanding its exact meaning and scope. Until now the question had arisen quite clearly because self-determination coincided with the process of decolonization and with the formation of distinct and independent States, colonialism being, by definition, a manifest denial of the principle of political self-determination, for the colonized peoples were not included among those who held supreme political authority. The accession to independence, therefore, constituted a clear solution to the problem of self-determination, although that could be solved differently, for example, by the freely consented association with or integration into another independent State.

15. But self-determination could not be equated with decolonization and would remain even after decolonization had been completed: the United Nations had many problems before it which were related to the principle of self-determination, but which could not be described as colonial problems. The difficulties which they presented arose partly from the important difference between the principle of self-determination and the remaining principles of international law concerning friendly relations among States. The latter, for example, it was the prohibition of the use of force, non-intervention or the peaceful settlement of disputes—dealt with relations among the corporate entities which made up the international community, in other words, with relations among States. It was States which assumed the obligation to refrain from the use of force and to co-operate with one another and it was States which were required to fulfil in good faith those obligations to other States Members of the United Nations or to the Organization itself. On the other hand, the principle of self-determination, while it could serve as a guide for the conduct of States within the United Nations, applied not to States, but to peoples.

16. Juridically, the world was not made up of peoples, but rather of political entities called States whose relationships with one another formed the structure of a world legal order. The principle of equal rights and self-determination of peoples was merely the Charter's test of the legitimacy of various forms of political organization, the fundamental idea being the Charter provided that only governments derived from the free consent of the people governed were legitimate governments. The problem however, was how to define the people presumed to enjoy the right of self-determination. Was it the entire population of a State or specified ethnic segments of that population? Did the Charter recognize the right of secession? What weight should be given to considerations of economic and political viability as against ethnic or cultural similarities or differences? Were there any objective criteria governing those questions or should they be decided by ad hoc political judgements or even military decisions, thus making the "right" of self-determination of peoples dependent on a favourable vote in the United Nations or the armed strength which could be commanded, whereas the Charter did not deny self-determination either to peoples who were weak or those who were unpopular?

17. All those questions, which were far from purely academic and had not yet been solved, should be considered and analysed in a spirit of co-operation and mutual understanding in attempting to elucidate the significance of the principle of self-determination and to found the world order which the United Nations was to build partly on that principle.

18. With regard to the duty of States to fulfil in good faith the obligations assumed in accordance with the Charter, a distinction should be made among the various categories of obligations. Some were directly imposed by the Charter and the principle of good faith was especially important in connexion with obligations which could not be transformed into more specific legal duties in particular circumstances by a decision of any United Nations organ other than the International Court of Justice. Whenever a Charter provision directly imposed duties upon States, Article 2, paragraph 2 required above all that States should read the Charter in good faith without disregarding what it plainly required, even with the loftiest intentions. It was true that since the Charter was a constitution, its rules were often drafted in general

terms. They were, nevertheless, legal rules and it was therefore implicit that in certain instances, States had to refrain from doing what they wanted to do because it was prohibited by those rules, or had to do what they would prefer not to do because it was required by those rules. That was the price to be paid for legal order. Moreover, that applied not only to Members of the United Nations individually, but to the United Nations itself. Member States were consequently not only bound to discharge the obligations directly imposed upon them by the Charter, but also, as participants in the activities of the decision-making organs of the United Nations to ensure that the United Nations itself acted in accordance with the provisions of its constitution. Indeed, it was sometimes difficult for the United Nations to resist the temptation to buy immediate benefits at the expense of the integrity of the Charter. But to yield to that temptation would be to break faith with the founders of the Organization and to leave it impoverished in a way which could not be rectified by any cash contribution.

19. Article 2, paragraph 2 referred not only to duties directly imposed by the Charter, but also to those flowing from the operation of the United Nations organs provided in the Charter, as, for example, decisions of the Security Council in matters of international peace and security, resolutions of the General Assembly in certain specific cases such as the apportionment of expenses under Article 17, decisions of both organs concerning their rules of procedure or a variety of questions having to do with the internal operation of the United Nations or judgements of the International Court of Justice.

20. Without reverting to the substance of the question of fact-finding he supported the draft resolution submitted by the Netherlands (A/C.6/L.580) in recognition of the importance of fact-finding in the functioning of the whole United Nations system.

21. The Committee should take appropriate steps to benefit as much as possible from the discussion on the item proposed by Madagascar (see A/5757 and Add.1 and A/5937) which had added a new dimension to its debate.

22. Mr. N'DIAYE (Mali) said that any formulation of the principles of the Charter could not systematically exclude the lex ferenda and be confined solely to the lex lata. Since international law should be generated by a dynamic fusion of the wills of all States into a common will, it would be hazardous to seek to disregard the different ways of thinking of the new countries while giving full weight to the principal existing legal systems, which were simply the product of the thinking of the old States. International law should be envisaged as a body of positive rules, amalgamating all trends, all doctrines and all legal systems. That idea had been embodied in Article 9 of the Statute of the International Court of Justice. Draft resolution A/C.6/L.577/Rev.1, which added the main forms of civilization to the usual criteria for selecting the members of any new body taking into account new trends created by the emergence of new States on the international scene, merely gave expression to the practices already recognized by the Charter. It was therefore to be hoped that the Committee would accept that criterion for the composition of the Special Committee. It was all the more advisable to expand its membership as it was to make recommendations on seven principles and no longer on only four.

23. The principle of co-operation among States embodied a self-evident obligation, for given the present world situation no country or continent could claim to be self-sufficient. As President Modibo Keita had said, the peoples of the world were doomed to co-operate or perish, for co-operation, by making possible the human contacts through which friendly relations were created and developed, had become synonymous with world peace and security. The most important thing was to regulate the conditions in which that co-operation could benefit all the partners. The achievements of science and technology should not be used by those reponsible for them to impose their will on those who did not yet share in them. Consequently, it was more than ever before essential to lay down certain juridical rules to counteract such tendencies and make co-operation among States more equitable.

24. However, the purposes of the Charter would be fulfilled only to the extent that States agreed to act in a spirit of understanding and tolerance in their relations with one another. Indeed, that subjective prerequisite was much more important than any rule of law issued to regulate international co-operation. For law was powerless to compel the subjects of law to promote that co-operation if they did not wish to. It followed that it was far from easy to define the legal content of the duty of States to co-operate in accordance with the Charter. At most, it might be interpreted to mean that all States were bound to build co-operation on the basis of absolute equality. Therefore, in a declaration, recommendations along those lines should be made strictly in conformity with Article 10 and subject to Article 12 of the Charter. Short of specifying those areas in which international co-operation should be binding upon States, the latter could only be enjoined to regard the duty to co-operate with one another as a legal obligation implicit in the Charter with which they should comply in order to promote co-operation in all the fields of activity of the international community. Thus the basic purpose of the principle was to promote international co-operation, particularly with a view to fostering the economic and social development of the relatively less developed countries. That had been the spirit of the United Nations Conference on Trade and Development held in Geneva in 1964.

25. The duty of States to co-operate with one another could only be meaningful, however, to the degree that it aimed at liquidating all the vestiges of colonialism, namely, at abolishing all the treaties imposing economic subservience concluded under the various colonial régimes and which still existed in some cases under different disguises. That would not be possible unless the highly industrialized States were willing to rid themselves of all aspirations for economic domination and agreed to assist in the development of the young countries without political rewards so as to help create an atmosphere of mutual trust among all States.

26. The principle of equal rights and self-determination of peoples encompassed two different but closely related ideas, which had been expressed together in the Preamble and Article 1, paragraph 2 of the Charter and separately in Article 2, paragraph 1 and Article 73.

27. In the world of today, no viable international community could be legally established without the formal recognition of the de jure and de facto equality of peoples. No differences in power between nations could possibly justify inequality in their rights. Those rights must in no circumstances be alienated. The principle must therefore be clearly defined so that all forms of inequality of rights among peoples could be eliminated and it could be given universal application.

28. At the level of domestic law, the principle of self-determination amounted to a people's right to make a free choice of the form of government which suited them. That right came within the individual competence of States, and its essence and exercise ruled out as a matter of principle all external intervention. At the international level, that principle raised the question, on the one hand, of the right of secession, which consisted of a people's right to break away from the State to which they belonged either to join another State or to establish an autonomous State of their own, and, on the other hand, the right to independence, which consisted of a people's right to free themselves from foreign domination with a view to governing themselves. While the delegation of Mali was opposed to all active secession by a part of the people of a State against the will of the latter, it was in favour of the accession to independence, in accordance with General Assembly resolution 1514 (XV), of all peoples still under the colonial yoke.

29. Self-determination was a sacred right which colonial peoples should be able to exercise in complete freedom. Far from being a political hypothesis whose realization depended on the goodwill of the colonizing State, it was a rule of law placed at the service of the elimination of colonialism and all its consequences, and its application could therefore in no case be dependent on the will of the colonizing States. Every effort must therefore be made to enable peoples which were still under colonial domination to decide freely on their political status and choose their own economic, social and cultural systems. As the application of that principle could contribute to the establishment of friendly relations between States and the promotion of peaceful coexistence, the delegation of Mali was ready to support all measures which might be taken in that sense.

30. The principle of good faith, which was set out in Article 2, paragraph 2 of the Charter, was one of the fundamental elements of international law. It must therefore be observed in every case, and particularly in the case of international treaties where the rule pacta sunt servanda applied, although that rule could only apply, of course, to obligations which were in strict accordance with the rules of international law. That principle should occupy its proper place as a rule of law in modern international law, and the delegation of Mali was therefore willing to subscribe to any legal instrument the purpose of which was to clarify the scope of the principle along the lines set out by the representative of Brazil, who had said at the 881st meeting that law could not be built on abstractions; it had to be based on permanent contact with the reality of men and things and therefore on a clear determination of existing social phenomena and trends. That was the ideal which the countries of the Third World wished to see prevail.

31. Mr. ALFONSO MARTINEZ (Cuba) stressed the need for the progressive development and codification of the fundamental principles on which the peaceful coexistence of States was based. What might originally have seemed a Utopian dream had now become an irreversible process: that was confirmed by the fact that the Second Conference of Heads of State or Government of Non-Aligned Countries, held in Cairo in 1964, had solemnly proclaimed those principles and recommended the adoption by the General Assembly of a declaration on them (see A/5763). The consideration of those principles now being carried out by the Committee was the most important task which it had ever had to undertake, since it involved efforts to strengthen the juridical bases of the fundamental principles of the United Nations and to attain the objective sought at the United Nations Conference on International Organization, namely, as the preamble to the Charter proclaimed, "to save succeeding generations from the scourge of war". The work to be carried out would no doubt demand great efforts. While there was no doubt that the accession to independence of over sixty States, the consolidation of the socialist camp, and the inexorable march of progress which was to be observed in the political field had clearly tipped the balance between the forces of peace and their opponents in favour of the former, the fact remained that the latter forces, by their military power, could bring mankind to the brink of destruction if vigilance was relaxed for even a moment.

32. In a world which was becoming more interdependent every day, it was unthinkable that a spark falling in any part of the world should be considered as an isolated happening. Every effort must therefore be made to eliminate all ambiguity from the legal principles worked out at San Francisco by the United Nations Conference on International Organization, so that habitual aggressors could no longer shelter behind so-called obscurities or false interpretations in order to conceal their acts.

33. The road ahead would be difficult, particularly as the forces opposed to peaceful coexistence—the champions of imperialism, colonialism and neo-colonialism—would continue to violate the fundamental rules of international law in spite of the fact that those rules were obligations entered into at San Francisco by the very countries now trampling them underfoot. How many times in the last two years had the seven principles enumerated in operative paragraph 1 of resolution 1815 (XVII) been violated? Imperialism, particularly United States imperialism, infringed international law more openly every day. The invasion and military occupation of the Dominican Republic and the shameful war of aggression carried on by the United States against the people of Viet-Nam were two examples out of many of the use of force. The principle of non-intervention had been

violated in the Congo under the guise of so-called humanitarian operations, while attempts had been made to protect the counter-revolutionary elements which were launching piratical attacks against Cuba with the aid of the United States Central Intelligence Agency. Recently, the United States Congress had adopted a resolution giving the United States Government the right to intervene anywhere in the American continent if it considered it appropriate. The principle of the sovereign equality of States would not be respected as long as the People's Republic of China, the German Democratic Republic, the Democratic People's Republic of Korea and the Democratic Republic of Viet-Nam were refused the right to take part in the work of the United Nations and to become parties to many international legal instruments. As for the principle of the self-determination of peoples, it was denied in Puerto Rico, in the Portuguese colonies, in South Africa and in many other bastions of the traditional colonial world, while the just aspirations of peoples freed from colonialism were caught in the coils of neo-colonialism. Examples of the violation of the principle of the peaceful settlement of disputes likewise abounded, as in the case of Germany and Cuba, where revanchist elements dreamt of solutions involving the threat or use of force. Nor was the principle of good faith respected. As for the principle of co-operation among States, while it was true that there was a certain amount of international co-operation in some limited sections it was none the less certain that all the examples which had just been quoted simply proved how much progress was still to be made with regard to that principle.

34. Such actions explained the concern of the Cuban delegation at the slowness of the progress made in Mexico City by the Special Committee. Nevertheless, in spite of the mediocrity of the results obtained, the Special Committee's work had not been entirely in vain.

35. The contrast between the attitude adopted in the Special Committee by Mexico, the majority of the Afro-Asian countries and the socialist countries on the one hand and certain Western delegations on the other was most striking. The inevitable consequence of that confrontation was the absence of any concrete results other than the partial agreement on the principle of the sovereign equality of States.

36. The Cuban delegation had already had occasion to make known its views on the first four principles at the eighteenth session of the General Assembly.[1] It would therefore make only brief observations on them. As for the principle of the prohibition of the threat or use of force, the tendency of Western delegations had been to advocate and support an increase in the number of cases in which the use of force was lawful and to restrict the meaning of the term "force" in Article 2, paragraph 4 of the Charter to "armed force". Such a point of view was inadmissible and contrary to the letter and spirit of the Charter. The Cuban delegation considered that the use of force, whether in connexion with enforcement measures taken under Chapter VII or in connexion with individual or collective self-defence, was lawful only when it took place in accordance with the provisions of the Charter. In the second case, there must first have been armed aggression, and even then the use of force was only lawful until such time as the Security Council took the necessary measures to maintain international peace and security.

37. In the opinion of the Cuban delegation, there could be no question of limiting the notion of force to that of "armed force": it must cover all forms of coercion. The important thing was not the form of the coercion but whether such coercion was appropriate and compatible with the provisions of the Charter.

38. The statement of the principle should also include recognition of the right of peoples to use force, if necessary, in the exercise of their right to self-determination.

39. As far as the possible use of armed force by regional agencies under Chapter VIII of the Charter was concerned, the provisions of Article 53 were perfectly clear. No enforcement action could be taken by regional agencies without the previous express authorization of the Security Council. To maintain the contrary would be to pretend that a mere regional agency could substitute itself for the Security Council. The risks inherent in that situation would be all the greater where regional agencies were under the influence of a great Power. Cuba was particularly well placed to know the dangers which could be created by even indirect recognition of the right of regional agencies to use armed force against a Member State of the international community. Moreover, the use of armed force as a collective measure by the United Nations against a State could not be considered lawful without a decision of the Security Council. None of the Articles of the Charter gave the General Assembly the power to undertake such operations.

40. With regard to the principle of non-intervention, the United Kingdom proposal (A/5746, para. 205) and the accompanying commentary were altogether unacceptable. To recognize the existence of "lawful" intervention and say that it was impossible to give an exhaustive definition of what constituted intervention was inadmissible. The same could be said of the amendments submitted by the United States (ibid, para. 207), which suggested that there could be cases of intervention that were compatible with the Charter. Those amendments also sought to limit intervention to the use of armed force and, by implication, to legalize interference in the domestic affairs of a State on the pretext that Article 2, paragraph 4 of the Charter was silent on that point. They overlooked the protection of the political independence of States explicitly afforded by that Article and sought to water down the principle in question; the General Assembly should therefore reaffirm that principle and explicitly recognize the international responsibility assumed by any State committing such a violation of international law.

41. With regard to the principle of the peaceful settlement of disputes, his delegation stood by the views which it had expressed on the subject at the eighteenth session; it preferred negotiation as the most appropriate method of settlement.

[1] Official Records of the General Assembly, Eighteenth Session, Sixth Committee, 820th meeting.

42. The principle of the sovereign equality of States was the only one on which partial agreement had been reached. The text of the points of consensus could be improved, however, and his delegation reserved the right to present its observations at a later stage.

43. The question of methods of fact-finding had been the subject of a draft resolution submitted by the Netherlands, at the eighteenth session, on which his delegation had offered comments. In its view, the United Nations already possessed the necessary organs and procedures for the purpose. They were provided for in Chapters V, VI and VII of the Charter. There was a danger that the establishment of a special organ might encourage some to try to evade the Security Council's jurisdiction in the matter, and it was therefore essential to proceed cautiously in that regard.

44. Turning to the principles listed in operative paragraph 5 of resolution 1966 (XVIII), he recalled, with reference to the principle of co-operation among States, that the preamble to the Charter imposed on Member States the duty to practice tolerance and live together in peace with one another as good neighbours and, also, to employ international machinery for the promotion of the economic and social advancement of all peoples. Article 1, paragraphs 2 and 3 stated that the purposes of the United Nations were to develop friendly relations among nations and to achieve international co-operation in solving problems of an economic, social, cultural or humanitarian character. Further on, Chapter IX defined the areas of economic, social, cultural and technical co-operation. An inescapable conclusion arising from those provisions was that the United Nations and the specialized agencies must be universal in their membership. Hence, so long as political considerations kept certain countries outside those bodies, it could not be said that the principle in question was being applied. The achievement of universality in the world organization and in regional organizations would be the cornerstone not only of the fundamental application of the principle but of peace-keeping as well. Cuba, which had been illegally expelled from a regional organization solely because of the economic, political and social system which it had chosen to adopt, was only too well aware of the tensions created by such discrimination. The importance of the principle had been stressed in several international instruments, including the Declarations adopted by the Conferences of Heads of State or Government of the Non-Aligned Countries held at Belgrade in 1961 and in Cairo in 1964. Cuba, which was a signatory to both Declarations, reaffirmed its adherence to the principle and its conviction that non-discrimination, mutual respect, legal equality and the practice of such equality without intervention were fundamental to the achievement of international co-operation.

45. The principle of equal rights and self-determination of peoples was linked with and complementary to the principles of the sovereign equality of States and non-intervention. Its best safeguard lay in the peaceful settlement of disputes, while the use of force to settle disputes was an obstacle to its implementation. That principle could not be limited to peoples and territories suffering colonial oppression. While the Charter reaffirmed the principle in Chapters XI, XII and XIII in regard to colonial territories in the strict sense and Trust Territories, Article 1, paragraph 2 invoked it in affirming the need to develop friendly relations among nations; that showed that the principle was sanctioned by both the letter and the spirit of the Charter, without regard to the political status of the people in question. The essential point was that all countries should be assured of being able to choose freely their economic and social system and to exercise their sovereignty. While the most flagrant case of the denial of that principle was, of course, where the attributes of a people's sovereignty were exercised by another nation, it must not be assumed that the exercise of the right of self-determination came to an end with the attainment of independence. The Cairo Declaration explicitly stated that "all nations and peoples have the right to determine their political status and freely pursue their economic, social and cultural development without intimidation or hindrance" (see A/5763).

46. The principle was as broad in scope as the attributes of State sovereignty. Internationally, it should protect the right of peoples to exist as independent entities and enable them, once independence had been attained, to exercise their attributes as sovereign States freely and without outside interference. To be complete, the formulation of the principle of the right of self-determination should include recognition of the legitimacy of all means which peoples might choose to safeguard the free exercise of that right.

47. Cuba, for its part, would give military support to all peoples fighting for recognition of their right to self-determination. In a few weeks' time, a conference of Asian, African and Latin American countries would take place at Havana, and one item on its agenda was the defence of the principle of self-determination as an essential basis for the struggle against imperialism, colonialism and neo-colonialism.

48. No better proof of the need for juridical reinforcement of the content of the principle of good faith could be found than in the study under way in the Sixth Committee. International law was beginning to be too confining for the forces which sought to retard mankind's progress and which, while asserting that international law was in many instances anachronistic, failed at the same time to respect rules of their own making, e.g. the seven principles under consideration and many bilateral and multilateral instruments. Some Latin American representatives in the Committee had praised the so-called inter-American legal system. Admittedly, the Pact of Bogotá [2/] contained provisions which, on paper, fully guaranteed particular attributes of State sovereignty, in regard to, inter alia, non-intervention in the domestic affairs of the countries of the American continent and respect for the territorial integrity and political independence of Latin American juridical entities. However, he could not support the representatives of those countries which had sung the praises of the Latin American legal system without a single word of criticism of those who were violating its principles. The countries in question had failed

[2/] United Nations, Treaty Series, vol. 30 (1949), No. 449.

to react to the armed invasion organized, financed and carried out by the United States against Cuba; to the training, in various parts of the American continent, of counter-revolutionaries who were later brought clandestinely to Cuba to engage in sabotage activities; or to the Press and radio propaganda campaigns designed to provoke an uprising on Cuban soil. They had also shown no reaction to the constant refusal to grant the right of self-determination to the people of Puerto Rico. They had often remained silent, but in the case of the Dominican Republic their complicity had been direct and unilateral intervention had been transformed by sleight of hand into collective intervention, as if both were not condemned by articles 15 and 16 of the Charter of the Organization of American States. 3/

49. Hence, contractual obligations must be strictly respected if the peaceful coexistence of peoples was to be safeguarded. That principle applied to instruments of international law which were genuinely based on consent and had not been obtained by violence or fraud. Treaties which had been imposed on certain countries as the price of their independence and contained conditions that nullified their future sovereign attributes were a source of international tension.

50. His delegation, which was a co-sponsor of draft resolution A/C.6/L.577/Rev.1, felt that the Special Committee should be appropriately enlarged so as to reflect the new trends in international law following the attainment of independence by many countries. As operative paragraph 3 indicated, that criterion, and not the more limited one of equitable geographical distribution, should guide the Sixth Committee in establishing the organ which would continue the work begun in Mexico City. The appointment of the members of the new Committee could be left to the Chairman. The new Committee should consider the three principles enumerated in operative paragraph 5 of resolution 1966 (XVIII) and complete the consideration of the principles studied in Mexico City with a view to submitting to the General Assembly, at the twenty-first session if possible, precise formulations of the seven principles which would lead to the adoption of a declaration.

51. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) said that, with the current phase of the Committee's work drawing to a close, he felt that the discussions held would prove useful, despite their shortcomings, and would facilitate the work of the new Special Committee. They had shown how essential the codification of the principles of present-day international law was to the maintenance of peace and had defined the main trends in the development of international law and the characteristics of various legal systems by bringing out the differences in points of view regarding the great problems of war and peace. They had also afforded an opportunity to judge the sincerity of the various delegations with regard to those principles and to condemn those countries which recognized them only in theory and denied them in practice. His delegation endorsed the basic positions taken by the representatives of Bulgaria, Czechoslovakia, Poland and the Ukrainian Soviet Socialist Republic and noted that the representatives of Iraq, Mali, Mexico and a number of other countries had made a useful contribution to the debate. He proposed to state his delegation's views on the three principles which had not been considered in Mexico City.

52. The principle of co-operation among States presupposed that every State had the right freely to adopt the economic and social system of its choice, to protect its legitimate interests, to become a party to multilateral international agreements and to be a member of international organizations. At the present meeting, the United States representative had criticized the principle of peaceful coexistence, saying that he preferred the principle of peaceful co-operation. In that connexion, he had spoken of the danger of communist revolutions. Such statements had no justification, for the world already knew the truth about those revolutions. It was easy to understand why the United States was hostile to the principle of peaceful coexistence, for it was difficult to reconcile that principle with the acts of aggression committed by the United States in Cuba, the Dominican Republic and Viet-Nam. He wondered what offence the Viet-Namese people had committed against the United States to become the target of that aggression. Times had changed; law could no longer be confused with arbitrary acts of aggression, which truly constituted international crimes against peace and humanity. The codification and progressive development of international law, with which the Committee was now concerned, served to buttress the principle of peaceful coexistence and implied a condemnation of the shameful war which the United States was waging in Viet-Nam.

53. The principle of equality confirmed the right of peoples to self-determination and their right freely to choose their economic and social system and to dispose of their own natural wealth. Those rights were also affirmed in the General Assembly's unanimous Declaration on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV)). Colonialism was contrary to the fundamental principles of international law. The attainment of independence was the result of an historical process, and the peoples concerned had the right to resort to any means, including armed force, in order to achieve that goal. He emphasized in that connexion that the United Kingdom delegation in its presentation of the question in the Committee, had employed the method it had previously used in the Special Committee in connexion with the principle of prohibiting the threat or use of force. On that earlier occasion, it had recognized the principle in question but had expressed a series of reservations which had robbed the principle of any content. According to the United Kingdom delegation's commentary, which appeared in the report of the Special Committee (see A/5746, para. 29), it was not practicable to define the circumstances in which force could be used; that position constituted a legalization of arbitrary actions, and his delegation associated itself with the criticisms

3/ United Nations, Treaty Series, vol. 110 (1952), No. 1609, p. 56.

expressed in that regard by the representative of the Ukrainian Soviet Socialist Republic. The United Kingdom had recognized the principle of equal rights and self-determination and had even described it as a universal principle and the keystone of international law, but it had attached many reservations which robbed it of all its value. After making some concessions to the non-self-governing peoples under its administration, the United Kingdom had denied the colonial peoples the right to sever their connexion with the empires which ruled them. The United Kingdom representative had argued that the concept of a "people" was not very precise and had cited certain authors to support his contention that, since indiscriminate application of the principle of self-determination would lead to anarchy, the application of that principle should be restricted. However its application had never resulted in disorder. Furthermore, the distinction between the concept of a people and that of a sovereign State which both the United States and the United Kingdom had made in connexion with self-determination was at variance with Articles 1 and 55 of the Charter, both of which referred to the equal rights of peoples, as did Article 2. The principle of the self-determination of peoples should not be confused with that of State sovereignty. Moreover, the General Assembly had repeatedly affirmed the right of all peoples to self-determination, notably in the Declaration on the Granting of Independence to Colonial Countries and Peoples, which applied not only to Non-Self-Governing and Trust Territories but to all territories which were not independent. Common sense supported that interpretation. The United Kingdom representative's assertion that his Government deserved credit for the part it had played in the liberation of colonial peoples was a flagrant distortion of historical facts, for the credit belonged only to the peoples in question, which had gained their independence after a long struggle.

54. The principle of compliance with obligations was an essential corollary of co-operation among States. It could not, however, apply to obligations which ran counter to the principles of the Charter and to international law. In particular, it could not apply to the unjust treaties imposed by the imperialist Powers: those treaties were null and void, and the States concerned were justified in denouncing them.

55. With regard to the draft resolutions before the Committee, he wished to draw attention to three important points on which there were major differences between the draft submitted by the Western Powers (A/C.6/L.575 and Add.1) and the draft submitted by nine Latin American States and Jamaica (A/C.6/L.578 and Add.1), on the one hand, and the Czechoslovak text (A/C.6/L.576) and the draft submitted by thirty-eight African and Asian States, Cuba, Cyprus and Yugoslavia (A/C.6/L.577/Rev.1), on the other. The first point was the composition of the Special Committee; the sponsors of the first two drafts simply wanted to continue it with its present membership. It should be noted in the first place that, legally, the Committee had not been in existence since the beginning of the present session of the General Assembly. Moreover, to meet the wishes of the sponsors of the other two drafts and those expressed by the representatives of Mali and Syria, the membership of the new Special Committee should be expanded and more of the African countries, in particular, should be invited to participate in its work so that it would represent the various forms of civilization and legal systems and would reflect the principle of equitable geographical distribution. The United States representative had advanced a frivolous argument against that view in stating that the Committee might just as well be composed of all the members of the Sixth Committee. The second point was the number of principles to be studied by the new Special Committee. The sponsors of the last-mentioned two draft resolutions would like the new committee to consider all seven principles, and he was pleased to note that the Latin American countries shared that view. The seven principles were inextricably interrelated, and there was no reason to exclude some of them, as the sponsors of the first two draft resolutions sought to do. The third point was the form in which the results of the Special Committee's work were to be presented to the General Assembly. The Western Powers and the Latin American countries favoured a report, while the African and Asian countries and Czechoslovakia felt—and he agreed—that the Committee should prepare a declaration to be submitted to the Assembly, which would represent an important advance in the work on the principles.

56. In the view of his delegation, the Special Committee should be left to determine its own methods of work. The insistence of some delegations on the need for unanimous decisions was rather suspicious. Of course, an attempt should be made first to settle questions by unanimous decision, but, if that could not be done, decisions would have to be taken by majority vote; otherwise, it would be too easy to obstruct the Special Committee's work. He reserved the right to speak again on the draft resolutions before the Committee.

57. Mr. RAKOTOMALALA (Madagascar) recalled that he had previously explained why his delegation had requested the inclusion in the General Assembly's agenda of the item 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". It was to be noted that many delegations had referred to the item without raising any objections and that others had wholeheartedly supported it: and he would like to know what action the Committee intended to take on the draft resolution on that item submitted by his delegation (A/5757). His delegation hoped that it would be put to the vote and, if adopted, transmitted to the General Assembly. If other delegations preferred some other procedure, he was prepared to help them draft a new text along the same general lines. In his opinion, the General Assembly should clearly express its desire to reaffirm the principles in question, which were either enunciated or implied in the Charter, for it was essential to remind all States of their existence. By taking a decision on the draft resolution, the Committee would be contributing to the establishment of peace.