

United Nations
**GENERAL
ASSEMBLY**

TWENTY-FIRST SESSION

Official Records



**SECOND COMMITTEE, 1059th
MEETING**

Friday, 4 November 1966,
at 3.50 p.m.

NEW YORK

CONTENTS

	Page
<i>Agenda item 45:</i>	
<i>Permanent sovereignty over natural resources (continued)</i>	213

Chairman: Mr. Moraiwid M. TELL (Jordan).

AGENDA ITEM 45

Permanent sovereignty over natural resources (*continued*) (A/5803, chap. III, sect. V; A/6430, E/3840, A/C.2/L.870/Rev.2 and Corr.1, A/C.2/L.873/Rev.1, A/C.2/L.874/Rev.1, A/C.2/L.875, A/C.2/L.876, A/C.2/L.880, A/C.2/L.881, A/C.2/L.884)

1. Mr. ORTIZ SANZ (Bolivia), seeking to clarify the Committee's thinking on the extremely important item under discussion, introduced an amendment (A/C.2/L.884) to operative paragraph 6 of the draft resolution (A/C.2/L.870/Rev.2) aimed at imparting to the draft the positive character it lacked.

2. While it was desirable to formulate more precisely the principle of sovereignty over natural resources, which was often obscured by the play of interests attracted by those resources, the principle had long since been embodied in the fundamental law of almost all Member States; for example, the Constitution of Bolivia provided that all resources of the soil and sub-soil belonged by definition to the State. In the developing countries, however, the State's constitutional sovereignty over its natural resources actually amounted to sovereign impotence—because of the lack of capital, the political pressures to which the exploitation of its resources gave rise, and above all the fixing of primary commodity prices on the world market by the Governments of other countries and by the pernicious interests of the big monopolies.

3. As his delegation had said at the third United Nations Tin Conference, held in New York at the beginning of 1965, in the *Ad Hoc* Committee on Tungsten and at the third session of the Trade and Development Board of the United Nations Conference on Trade and Development, the adoption of abstract political documents would not help the developing countries to pay their way; that could only be accomplished by waging a relentless economic battle to win them a larger share of the income derived from the primary commodities they produced. That point of view, in whose support Bolivia hoped to enlist the representatives of all countries, both industrialized and developing, was not the fruit of resentment but rather of bitter experience. Bolivia, whose economy was 80 per cent dependent on the sale of its mineral products, had sought to solve its problems by nation-

alizing the large private mining enterprises in its territory. Unfortunately, having accepted enormous financial sacrifices to improve the exploitation of its resources, it had found itself blocked on the world market by the interests of consortiums which fixed prices by unacceptable methods contrary to the producers' interests.

4. At the third Tin Conference, his delegation had stressed that the main aim of the Third International Tin Agreement ought to be to ensure the producer countries stable and remunerative prices, to subject the fixing of prices and the disposal of non-commercial stocks to an international code of ethics that would take account of the non-renewable character of tin resources and of the public expenditure of the developing countries, to give the International Tin Council an opportunity to stop speculation, and lastly to create a true community of interests which would make it possible to eliminate both dumping and shortages. In the United Nations *Ad Hoc* Committee on Tungsten, a little later, his delegation had pointed out that the strategic stockpiles of tungsten accumulated by the United States would enable that country to place on the world market a million pounds of it every month for fifteen years; it had stressed that the tin and tungsten markets were, so to speak, in United States hands, which was equivalent to a controlled economy directed against the free play of supply and demand. But, as his delegation had pointed out during the general debate in the 1426th plenary meeting, the reason why non-commercial reserves were put on the world market had always been to regularize sales for the benefit of buyers at the expense of producers.

5. In making those comments, he did not mean to attack the great Powers—particularly the United States, whose influence in Latin America was certainly beneficial—but simply to give some idea of the discouraging battle which must be waged incessantly by the Governments of the developing countries simply in order to secure for their peoples a share of the income from their primary commodities commensurate with their needs and hopes. The amendment he had just submitted was thus not aggressive in nature, and he hoped that all members of the Committee would be able to support it.

6. Mr. BLAU (United States of America), speaking in exercise of the right of reply, pointed out that the policy of his country was to dispose of non-commercial reserves so as not to disturb the market. Moreover, his Government consulted with the other Governments concerned and the competent international bodies. As far as tungsten and tin were concerned, his delegation had already explained to the bodies mentioned by the Bolivian representative the precautions taken by the

United States to ensure that the disposal of its stocks did not disturb the world market, and he did not think it desirable to repeat them in the Committee.

7. Mr. ORTIZ SANZ (Bolivia) said that he did not doubt that the United States intended to act with all due propriety in regard to the disposal of non-commercial reserves and therefore hoped that the United States delegation would be the first to support his amendment.

8. Sir Edward WARNER (United Kingdom) said that he would exercise his right of reply in order to correct the erroneous assertion by the Soviet Union representative, at the previous meeting, to the effect that Governments were free to break contracts with foreign companies and that there was no protection or remedy in international law, for that assertion could damage the interests of developing countries by helping to frighten off private capital. Contracts between Governments and foreign companies often contained provision for arbitration as an agreed alternative to municipal law remedies.

9. The Anglo-Iranian Oil Company Case^{1/} had failed before the International Court of Justice because of technical objections raised by the Iranian Government, which had placed the Court in a situation comparable to that which had prevented it from pronouncing on the claims advanced by Ethiopia and Liberia in the South West Africa Cases.^{2/} It would be wrong to infer from those two cases that international law had nothing to say when Governments acted in breach of their obligations resulting from treaties and agreements validly entered into. It was true that the basic obligation of a Government towards a foreign company might depend on the terms of the contract or concessionary agreement which had been concluded; it was equally true that the contract or agreement might contain provisions for arbitration; but, in the final analysis, if the remedies provided for in the contract or agreement were rendered worthless, the Government concerned might well have rendered itself responsible under international law towards the Government entitled to protect the interests of the foreign company concerned. It followed that international law was indeed concerned with breaches of contractual obligations freely entered into and that the Anglo-Iranian Oil Company Case did not prove the contrary.

10. Mr. RAHNEMA (Iran) said that, in preparing the revised draft resolution, the sponsors had tried to take into account the reactions provoked by the original text and particularly the amendments submitted by the United Kingdom (A/C.2/L.880) and the United States (A/C.2/L.873/Rev.1).

11. The United States representative had admitted that, because of their lack of capital and trained personnel, the developing countries were not in a position freely to choose the manner in which their natural resources should be exploited and marketed and that there was therefore a considerable difference between freedom of choice as a legal right and in actual

fact. Freedom of choice implied that one could choose between several solutions and end the vicious circle inherited from the colonial era, when foreign investors had done nothing to prepare the developing countries to develop their natural resources themselves. The sponsors of the draft resolution had therefore wanted to specify that their aim—the exercise of permanent sovereignty over natural resources—could best be achieved in the conditions provided for in the sixth preambular paragraph. The United States representative had also stated that the disapproval of Congress, if it were to become convinced that the recipient countries intended to exploit their resources by themselves, would find vigorous expression in the quantity and terms of aid provided. He had also criticized the draft as tending towards economic autarky.

12. Those criticisms were groundless. One of the main objectives of the resolution was to give a concrete substance and a real content to the concept of freedom leading on the one hand to national development and, on the other hand, to international co-operation. It was the hope of the developing countries that freedom of choice would not be limited to foreign capital but would manifest itself in a broader freedom, enabling them to determine freely their respective attitudes towards foreign capital. Not only the United States Congress should be free to approve or disapprove of foreign aid, but all the congresses and parliaments of the world should be in a position to welcome foreign capital or reject it if such capital was detrimental to their basic interests.

13. The co-sponsors of the draft resolution did not have autarky in mind. On the contrary, they felt that it was because of certain practices of foreign investors and their indifference to the objectives of the developing countries that the latter might be forced into autarky. The intention of the present draft resolution was precisely to avoid such tendencies by preparing the best possible conditions for national resources development within the framework of international co-operation and the objectives of the United Nations Charter. The draft resolution affirmed the need for freely accepted co-operation and could not therefore be taxed with isolationism.

14. Finally, it had been claimed that foreign capital might be "frightened off" and that no measures should be adopted which might shake the confidence of potential investors. Judging by the figures, however, the investors did not seem unduly timorous. The draft resolution under consideration was by no means aimed at shaking their confidence, if they were prepared to take the interests of the developing countries into account.

15. The sponsors of the revised draft had agreed to incorporate in their text the amendment contained in document A/C.2/L.871. They had, however, thought it preferable to say that foreign capital could play an important role in supplementing the efforts of the developing countries in the development of their natural resources. In operative paragraph 3, the sponsors had not abandoned the idea of the development of the natural resources of the developing countries by those countries themselves, as some developed countries had asked them to do, but they had agreed to alter the original text to make it clear that such

^{1/} Anglo-Iranian Oil Co. case (jurisdiction), Judgment of July 22nd, 1952; I.C.J. Reports 1952, p. 93. Sales No.: 91.

^{2/} South West Africa, Second Phase, Judgment, I.C.J. Reports 1966, p. 6. Sales No.: 299.

development was undertaken in order to enable those concerned freely to choose the manner in which their resources were to be exploited.

16. Operative paragraph 4 of the original text had met with stronger opposition from some developed countries. The sponsors had completely recast that paragraph. Without abandoning the idea, which was fundamental, of the developing countries' increasing their share in the administration, advantages and profits of the exploitation of their natural resources, they had stated that the share should be increased "on an equitable basis" and "with due regard to the development needs and objectives of the peoples concerned". It was heartening to note that the United States representative had admitted that the needs and objectives of the developing countries could be the yardstick of equity for that purpose. A great effort had therefore been made to satisfy the representatives of the developed market-economy countries by setting limits on the developing countries' share. Moreover, that paragraph, which incorporated the text of the amendment submitted by the Democratic Republic of the Congo (A/C.2/L.874/Rev.1), recognized the right of all countries to secure and increase their share in the administration and profits of the exploitation of natural resources. The sponsors had not found it possible to accept the United States amendment to operative paragraph 7, which would have completely distorted the original meaning. They thought that the United Nations should encourage the establishment of organizations such as those mentioned in that paragraph, whose activities were in accordance with the spirit of the United Nations Charter.

17. The sponsors of the amendments contained in documents A/C.2/L.875 and A/C.2/L.876 had said that they were satisfied with the changes made in operative paragraph 9, sub-paragraphs (a) and (b), which would become part B of the final text.

18. In conclusion, he expressed the hope that the draft resolution would be adopted unanimously. It took the views of the developed countries into account to a much greater extent than the corresponding text submitted at the last session^{3/} had done, and its unanimous adoption would be a victory, not only for the developing countries but for international co-operation.

Mr. Boiko (Ukrainian Soviet Socialist Republic), Vice-Chairman, took the Chair.

19. Mr. IGWE (Nigeria) thanked the sponsors of the draft resolution and of the amendments for the goodwill they had displayed in reaching the satisfactory compromise embodied in the revised text; that was an example of the goodwill which his delegation would like to see prevailing in relations between developed and developing countries and it was to be hoped that, in its new version, the draft resolution could be adopted unanimously.

20. Mr. LUBBERS (Netherlands) associated himself with the thanks expressed by the Nigerian representative to the sponsors of the draft resolution, who had displayed remarkable understanding by altering

their text as much as possible. In particular, they had made operative paragraph 4 more balanced by agreeing to mention "all countries" and, in the same spirit of compromise, his delegation was prepared to support the revised draft resolution, if the sponsors agreed to insert the words "and to mutually accepted contractual practices" after the words "the peoples concerned", in the same paragraph. Unless that change was made, it would be difficult for the Netherlands delegation to support operative paragraph 4.

21. Mr. PIÑERA (Chile), speaking on behalf of the Latin American delegations, expressed the view that some negotiations would still be useful to achieve the widest possible agreement on a draft resolution which was of vital importance for the future of the developing countries. He therefore proposed that the meeting should be suspended for half an hour to enable delegations to study the new amendments which had just been proposed.

22. The CHAIRMAN moved the immediate suspension of the meeting, under rule 119 of the rules of procedure, although there were still some speakers on the list.

23. Mr. RAHNEMA (Iran), speaking on a point of order, requested that the speakers already on the list should be heard before the suspension of the meeting, for they might well have useful comments to make on the new amendment.

24. Mr. PIÑERA (Chile) changed his previous motion and proposed that the meeting should be suspended after the speakers already on the list had been heard.

It was so decided.

25. Mr. PESHKOV (Byelorussian Soviet Socialist Republic) pointed out that the sponsors had taken into account partially the first sub-amendment submitted by his delegation (A/C.2/L.881). The second sub-amendment was designed to harmonize the seventh preambular paragraph with the spirit of General Assembly resolution 1803 (XVII) and with the draft resolution as a whole. Obviously, the Governments of recipient countries were entitled to ensure that foreign capital was used in the interests of national development and to have all the information necessary for that purpose.

26. Mr. ROOSEVELT (United States of America) said he understood the position of the representative of Chile and felt that all groups should have an opportunity to discuss the amendments proposed. As he had not yet received instructions on the Netherlands amendment, which was important for the United States delegation, he announced that, after the suspension of the meeting, he would propose the adjournment of the debate until the following meeting without a vote being taken.

27. Mr. DELGADO (Senegal) expressed the hope that it would be possible to conclude the item on that same day. He was glad that a large measure of agreement had been achieved on the revised text but, having consulted the representative of the Ivory Coast, he proposed that in the French text of operative paragraph 1 the word "notamment" should be inserted before the word "tel" in order to dispel the impression given by the present text that the right of all countries

^{3/} See Official Records of the General Assembly, Twentieth Session, Annexes, agenda item 45, document A/6196, para. 8.

to exercise permanent sovereignty over their natural resources had been established by General Assembly resolution 1803 (XVII).

28. Mr. WARSAMA (Somalia) was glad to note the efforts and compromises which had led to the adoption of most of the amendments to the draft resolution. However, he reserved the right to state his views later on the Netherlands amendment. In the final preambular paragraph of the revised text he preferred the words "must play" to the words "can play". It would also be desirable to define the term "foreign capital"; his own preference was for multilateral capital. He proposed that in operative paragraph 4 the word "peoples" should be replaced by the word "countries" and that in operative paragraph 7 the words "development and" should be inserted before the word "marketing".

29. The CHAIRMAN proposed that the meeting should be suspended for half an hour.

It was so decided.

The meeting was suspended at 5.33 p.m. and resumed at 6.10 p.m.

30. Mr. ROOSEVELT (United States of America) moved that the debate and the vote should be adjourned until the following Monday.

31. The CHAIRMAN pointed out that the Latin American delegations had requested him to postpone the vote on the draft resolution until the following Monday. He had granted that request subject to the Committee's agreement. During the present meeting, the representative of Chile, as spokesman for the Latin American countries, had modified the proposal for adjournment and had formally requested a suspension of the meeting for half an hour, while agreeing that the four speakers still on the list should be heard. After having heard those speakers, he had suspended the meeting as agreed. He stressed that he was adhering strictly both to the rules of punctuality and to the rules of procedure and that no other consideration had affected his decisions. The Committee now had before it a formal motion by the United States representative to adjourn and postpone the vote until Monday.

32. Mr. RAHNEMA (Iran), speaking on a point of order, said that, before the adjournment he would like to clarify certain points raised before the suspension of the meeting.

33. The CHAIRMAN pointed out that the United States motion had priority.

34. Mr. ROOSEVELT (United States of America), speaking on a point of order, asked whether, if he withdrew his motion for adjournment to allow the Committee to hear the representative of Iran, he could speak first after that representative in order to re-submit his adjournment motion.

35. Mr. KITTANI (Secretary of the Committee) explained that, if the United States representative withdrew his motion to allow the representative of Iran to speak, he could request to be included again in the list of speakers and re-submit the motion but in the meantime the motion would no longer be before the Committee.

36. Mr. CHAMMAS (Lebanon) said he would like the United States representative to explain whether he maintained or withdrew his motion for adjournment.

37. The CHAIRMAN said he had understood that the United States representative withdrew his motion and proposed to re-submit it after the explanations given by the representative of Iran.

38. Mr. MARTIN WITKOWSKI (France) wished to know when he could comment on the statement made by the Chairman on the resumption of the meeting.

39. Mr. RAHNEMA (Iran) said he would be grateful to the United States representative to withdraw his motion formally on the understanding that he could re-submit it later.

40. Mr. DELGADO (Senegal), speaking on a point of order, said he had intended to submit a proposal similar to that of the United States. However, he did not accept the procedure that had been envisaged; if the United States representative withdrew his motion and the representative of Iran was called upon to speak, other delegations would want to speak too.

41. The CHAIRMAN repeated that the United States representative could re-submit his motion but that, if other delegations also wished to speak after the representative of Iran, the United States representative would have to agree in advance not to re-submit his motion until the statements of those delegations had been made.

42. Mr. ROOSEVELT (United States of America) withdrew his motion for adjournment.

43. The CHAIRMAN pointed out that there were four speakers on the list: the representatives of Iran, Lebanon, France and the United States.

44. Mr. SAMBIRA (Burundi) also asked to be allowed to speak.

45. Mr. CHAMMAS (Lebanon), speaking on a point of order, said that, although he wished to hear the explanations to be given by the representative of Iran, he did not think that the late hour and the present atmosphere were propitious. He therefore moved the adjournment of the meeting.

46. A vote by show of hands having been requested, the CHAIRMAN put the Lebanese motion to the vote.

The motion was adopted by 44 votes to 34, with 10 abstentions.

The meeting rose at 6.35 p.m.