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CONTENTS

Chairman: Mr. José María RUDA (Argentina).

AGENDA ITEM 71

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations (A/5470 and Add.1 and 2, A/C.6/L.528, A/C.6/L.530, A/C.6/L.531 and Corr.1, A/C.6/L.535, A/C.6/L.537, A/C.6/L.538 and Corr.1, A/C.6/L.539) (continued)

1. Mr. ROSSIDES (Cyprus) said that the question under consideration was important because the strengthening of international law was an essential condition of peace. Leaders of the stature of Pope John XXIII and President Kennedy had emphasized the necessity of establishing the rule of law throughout the world, and in the spring of 1963 the General Assembly of the Federation of World Veterans had stated that, until a just and reliable international rule of law had been established, the State would have to retain the possibility of the use of force to protect the security of its citizens. In considering the principles of international law concerning friendly relations and co-operation among States, his delegation was itself guided by a desire to consolidate and develop international law without delay. In that endeavour the Sixth Committee was well fitted to play a leading role.

2. Under General Assembly resolution 1815 (XVII), operative paragraph 2, the Committee was instructed to undertake a "study" of the principles of international law concerning friendly relations and co-operation among States. That study, pursuant to Article 13 of the Charter of the United Nations was to be made with a view to the progressive development and codification of those principles, so as to secure their more effective application. That, then, was the purpose behind the Committee's work. The word "codification" meant the drafting, formulation and systematic presentation of the rules of international law directly deriving from those principles. "Progressive development" meant taking into account new events in the world so that the formulated rules were not too detached from realities, while fully conforming with the basic principles from which they were derived.

3. The Committee should undoubtedly embark upon a careful study of the question, without, however, getting lost in details and taking too long a time. It should be remembered that the Charter had been prepared, discussed and adopted in less than four months.

4. On the form the Committee's work should take, he noted that, as the tenth preambular paragraph of General Assembly resolution 1815 (XVII) said, the Sixth Committee was authorized to make "recommendations" for the purpose of encouraging the progressive development of international law and its codification. A declaration would therefore be the most appropriate form. The second and third preambular paragraphs could also be interpreted as having that meaning. The preparation of a declaration would make it possible to avoid conflicting interpretations and thence the likelihood of disputes. It would have the effect of redirecting the attention of world public opinion to the principles of the Charter. Lastly, a declaration could be adopted quite quickly, as opposed to a covenant, which was beset with difficulties in respect of ratification. Declarations had assumed great importance in United Nations practice. It was sufficient to mention the Universal Declaration of Human Rights, the Declaration on the granting of independence to colonial countries and peoples (resolution 1514 (XV)), and the United Nations Declaration on the elimination of all forms of racial discrimination (resolution 1904 (XVIII)). The principles under study were already fully binding under the United Nations Charter. What was required was the formulation and systematization, with present-day conditions in mind, of the rules of international law directly deriving from the principles of the Charter enumerated in resolution 1815 (XVII).

5. On many occasions already the Charter of the United Nations had been interpreted dynamically. International law had to evolve in relation to the requirements of international life and social progress. In interpreting the principles of the Charter, the Sixth Committee had at its disposal the decisions of the International Court of Justice, United Nations practice, and instruments such as the Declaration contained in the final communiqué of the Bandung Conference of African and Asian States, the Declaration of the Heads of State or Government of the Non-aligned Countries, issued on the occasion of the Belgrade Conference, the Charter of the Organization of American States[1] and the Charter of the Organization of African Unity.

6. Turning to the method of work, he favoured the setting up of one or more working groups which would continue their work after the end of the Assembly session and report to the Committee at the nineteenth session, when a formal document could be adopted.

7. Of the four principles selected for study by the General Assembly in its resolution 1815 (XVII), the most important was the prohibition of the threat or

[1] United Nations, Treaty Series, vol. 119 (1952), No. 1609.

use of force, derived from Article 2, paragraph 4, of the Charter. The Charter condemned not only war, but also the simple use of force as an instrument of policy in international relations. That was a peremptory norm of international law which could not be violated even under the provisions of a treaty. A strong body of opinion regarded the word "force" as covering not only physical or armed force, but also a sufficient degree of economic, psychological or other coercion. There was a consensus of opinion that the "threat of force" could consist not only of circumstances but also of verbal threats. The words "against the territorial integrity or political independence of any State" had been introduced into Article 2, paragraph 4, to protect the weaker States. It followed that the sending of armed forces into the territory of another State, even if the alleged purpose of the operation was to protect the weak State against a supposed threat, was a violation of Article 2 of the Charter. In that respect, consideration should also be given to Article 51, which dealt with the right of self-defence. It appeared from that Article that the right existed only when a Member State of the United Nations was the object of an armed attack, and then only temporarily until the Security Council had taken the necessary measures. On that point the Charter had marked a considerable advance from the pre-existing law according to which military preparation on a sufficient scale had justified the exercise of the right of self-defence. Now a State which found itself threatened by preparations for war could have immediate recourse to the Security Council. The aim of the Charter was to limit as far as possible cases in which a State could take justice into its own hands, and to give Article 51 a broad interpretation would be a step backward. The rule in Article 51 should therefore be restated.

8. The principle of non-intervention derived directly from the principle enunciated in Article 2, paragraph 4, of the Charter. Even before the adoption of the United Nations Charter, intervention by a State in the internal affairs of another State had been condemned by international law, and any treaty purporting to give a State the right of intervention in the internal affairs of another State had been considered illegitimate by the majority of authors. In fact, a State could not by treaty or otherwise contract out of the substance of its internal sovereignty and independence while still being a sovereign and independent State. Any other conception of a State would run counter to the basic principles of the Charter. Since the adoption of the Charter of the United Nations, several instruments had formally reaffirmed the principle of non-intervention. If a State party to a treaty considered that another party had not discharged its commitments, it was not entitled to intervene in a dictatorial way, but had the possibility of submitting the question to the United Nations. Whenever that method had been practised, it had enabled conflicts to be prevented and peaceful solutions to be reached.

9. The principle of non-intervention, a restriction imposed by international law in order to protect the independence of States and preserve peace, was not applicable to collective measures taken by a world organization in the exercise of its peace-keeping functions in the common interest. A very clear distinction should therefore be drawn between the concept of the absolute sovereignty of States in relation to each other, and that of the limited sovereignty of States in relation to the United Nations. In fact, the principle of sovereignty as set forth in the Charter was not incompatible with the obligations deriving from membership of the United Nations. A State which accepted the obligations arising from the establishment of a world order could not be considered to detract from its sovereignty.

10. Since the adoption of the Charter, the general tendency had been to prohibit interventions by States to extend the possibilities of intervention by the United Nations. Thus Article 2, paragraph 7, of the Charter had repeatedly been interpreted by the General Assembly as allowing the United Nations to intervene in the internal affairs of a State in case of a flagrant violation of human rights or of the provisions of the Charter. That was a logical and wise interpretation, because intervention by an organization of world-wide scope such as the United Nations, which served the common interest and acted in the spirit of justice required by the Charter, was impartial. Through its intervention, individual interventions in support of particular interests could be avoided.

11. At the present stage of the debate he would not deal with the principle of the sovereign equality of States or with that of the peaceful settlement of disputes. With regard to the latter principle, he saw value in the proposal by the Netherlands delegation to set up a special fact-finding centre.

12. Mr. CHAMMAS (Lebanon) said that the main concern of the legislator was not the past but the future, and that law placed in the proper perspective was not static but dynamic. Though the legal structure was more rigid than either the economic or the social structure, it nevertheless must be capable of adaptation to the conditions of life. Thus international law, which consisted of accepted norms and established practices, should permit those norms and practices to be adapted to the future life of the international community. Abstract rules of law and the concrete realities of life influenced one another.

13. In the past eighteen years the international situation had been transformed. The countries of Asia and Africa which had acceded to independence had brought to international life new forces and new ideas which were bound to influence law. That influence had already manifested itself at the United Nations Conference on Consular Relations held at Vienna in 1963. Some of the provisions in the Vienna Convention on Consular Relations [2/] had been included on the initiative of new States. Indeed, it would be difficult to deny that at least some of the established international norms and practices were nothing but the product of a world ruled by power politics. International law must be just law, for the peace which the world required was a peace based on justice. Whenever international law was at variance with justice it must be revised. In the preamble to the Charter the United Nations had declared that it was determined to establish conditions under which justice could be maintained. In Article 1, paragraph 1, it had proclaimed that its goal was to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. The Lebanese delegation remembered and noted with regret instances where those principles were ignored or taken lightly as though they did not exist either in the letter or the spirit of the law. That had been possible

2/ United Nations Conference on Consular Relations, Official Records, Volume II, Annexes (United Nations publication, Sales No.: 63.X.2).

because the principles proclaimed by the Charter were not yet anchored securely enough in the consciousness of peoples. The task of the jurist was precisely to stimulate an awareness followed by a consciousness which would ensure the more effective application of principles, as the General Assembly required by its resolution 1815 (XVII).

14. That resolution was based on Article 13, paragraph 1a, of the Charter. It must be construed with due regard to its ultimate objective of promoting friendly relations and co-operation among States. It provided that that objective should be attained by a more effective application of the principles of international law relating to friendly relations and co-operation among States. That more effective application would be secured by a study of those principles with a view to their progressive development and codification. The Committee was therefore instructed to make a study, which should be a study in depth. The debate in the Committee had already shown the extent to which the four principles were interdependent and how difficult it was to study them separately. His delegation was of the opinion that the Committee's task should not be confused with an amendment of the Charter, which could be carried out only in accordance with the provisions of Chapter XVIII. Yet to invoke that chapter in order to prevent any study which went beyond a restatement of the principles of the Charter would be to deny that those principles were living. His delegation did not agree with those who thought that a restatement of the principles of the Charter was futile. Nor did it think that a declaration could be nothing more than a restatement of the principles as they were presented in the Charter. His delegation approved the establishment of a working group composed of jurists chosen in accordance with the rule of equitable geographical distribution. It would support any proposal for that purpose which could command a majority. It hoped that the Committee's work would strengthen the cause of peace and security in justice by promoting the rule of law.

15. Mr. ULLOA (Peru) said that, when the item had been included in the Committee's agenda, his delegation had been of the opinion that a concrete solution could not be worked out quickly, for the issues were such that it would be difficult to reach agreement on them without a long process of adaptation. The current debate had been enlightening in many respects. From it two unshakable conclusions were to be drawn: first, the General Assembly had power under the Charter to establish such subsidiary organs as it deemed necessary for the performance of its functions; secondly, the subsidiary organ specializing in the progressive development of international law which had been expressly established for that purpose by the Assembly's resolution 174 (II) was the International Law Commission, within whose competence the question now being studied by the Committee would normally fall. The Committee was seized of that question solely because the International Law Commission's work programme was already very heavy. Nevertheless, the scope of the task was such that the Committee was obliged to request the General Assembly to establish a new ad hoc organ to advance its work. Generally, when a problem had to be settled which gave rise to vehement antagonisms, the debate was adjourned, either until the following session, as in the case of the present item, or for the purpose of referring the problem to a special committee, as the General Assembly was about to do; the Committee, however, would have a time-limit set for its work. His delegation did not question that the General Assembly was empowered by Article 22 of the Charter to establish such a committee, but would have preferred not to remove from the competence of the International Law Commission a matter which lay within it. The only justification for doing so would be that the subject was more political than legal. Yet, the majority of representatives seemed to consider it mainly legal, and his delegation accordingly hoped that the ad hoc committee would be composed of jurists. Others thought that the issue was chiefly one of political principles which had not yet reached the stage where they could be formulated; if that were so, then both the International Law Commission and an ad hoc committee would be powerless. It could not be claimed that problems of international law were alien to politics in their origin, statement, application or consequences. International law was precisely an attempt to impose legal limits on the policies of States. There were, however, two classes of subjects which could more easily be given a legal character: those for which the practice of States had created an international custom giving rise to law; and those concerning which States entrusted to law their practice, their experience, their aspirations and even their conflicts, and sought or accepted new norms to govern their relations. In the absence of international practice and the will of States, law lacked an adequate foundation. The exact line of demarcation between politics and law was difficult to discern. In the case before the Committee the issues were undoubtedly legal, for they derived from the United Nations Charter itself, which was undeniably an organic legal structure prescribing rules of international law. Nor could it be denied that the principles grew not only out of life and history but also, and very particularly, out of the Charter. The draftsmen of the Charter had not created them, but had gleaned them from the history of international relations and made them the goals of those relations: to abolish war once and for all, to strengthen peace, to recognize the equality of States, to create among them an atmosphere of co-operation and friendship, and to prevent intervention in the domestic affairs of States. It was thus possible to say that the Charter bore within itself the seeds of its development, which would be brought about by interpretation and by applying such interpretation as did not distort either the letter or the spirit of the Charter.

16. It remained to determine which organ was competent to interpret the Charter. In accordance with a universal principle of law, it was the legislator who interpreted legal norms, or, if the original legislator could not do so, then his successor or delegate. The original legislator of the Charter had been the States present at the United Nations Conference on International Organization, held at San Francisco, which had delegated their powers to the General Assembly but only for the interpretation of the Charter, since they had reserved the right to amend it in accordance with certain special provisions. The General Assembly's function was therefore to understand the Charter by explaining it, and to apply it by interpreting it. Still more important, the General Assembly was empowered by Articles 10 and 11 of the Charter "to discuss any questions or any matters ... relating to the powers and functions of any organs provided for" in the Charter, and to make recommendations thereon and on the maintenance of international peace and security. Clearly, therefore, in studying and interpreting the principles of the Charter the Committee would be in

order and would not be revising it, as was feared by those who held the Charter untouchable. That negation of the right to interpret the Charter might impair its application. It should not be forgotten that international law was essentially dynamic and that its rule therefore evolved with history. Today, thanks to a transformation of the human conscience, man as a human being had become the primary subject of international law, and the State existed only for his well-being. That moral concept was constantly extending from the national to the international spheres. The United Nations could therefore not treat as a dead letter those principles of the Charter which were directly concerned with the well-being of mankind, such as peace and security, the peaceful settlement of disputes, and non-intervention, which was the international corollary of the political equality of citizens, for if States were not equal at law, their nationals would likewise not be equal in their mutual relations.

17. The principles of the Charter had to be made clearer and more specific, for the Charter was more than a declaration on which everyone could draw as he saw fit. If the Charter had been no more than that, it could not have been used to establish the existence of a breach of international law or a threat to peace and would have left room for disputes between States over the meaning of its provisions—an unthinkable state of affairs. It was desirable, then, to explain the Charter, provided that that did not entail changing it. If the process of interpretation was to be sound and fruitful, it must be carried out sincerely and sensibly. In his delegation's view it was a matter, not of codification, but of progressive development of international law in accordance with the definitions given in article 15 of the Statute of the International Law Commission. That embraced two successive stages in the regulation of international life, the first of which was development. Whatever stage their development had reached, the doctrines and rules of international law must be moral, namely, just. Morality and justice were two inseparable concepts, but justice was not necessarily law. That was why mankind, at a time when it knew no social justice, had created an international law based mainly on the interests of States. Christianity had introduced the idea of the humane into international law; the French Revolution had introduced the concept of self-determination of peoples; the independence of States had won recognition for revolution as a means of creating States; and the failure of the Holy Alliance had been the first attack on the great-Power system. The tenacious struggle of the small countries in the nineteenth century, especially those of Latin America, had shattered international inequality. The Monroe Doctrine and the Pan American Union had shown the usefulness of regional organizations. The First World War had opened the door to independence for subject countries by creating the international responsibility of the colonial Powers in the transitory mandates system of the League of Nations, while at the same time war had been outlawed and peaceful settlement advocated for disputes. Lastly, as a result of the Second World War, anti-colonialism and self-determination had become legal facts and the politico-legal organization known as the United Nations had come into being. Thus a new international law had been created, geared to the economic and social solidarity of mankind, with non-intervention as one of its essential principles. Although the independence of States was now guaranteed by the principle of self-determination, States were still at the mercy of economic pressures, which were much more insidious than military aggression. Those States which granted loans or encouraged their nationals to invest abroad were not the creditors, but the partners, of the recipient States. They were fulfilling a legal obligation they had assumed in acceding to the Charter, which called for an international policy of economic solidarity. Moreover it was in the political and economic interest of the rich States to practise co-operation for the benefit of all, for in so doing they helped to create a political and social stability abroad which affected their stability at home.

18. His delegation was in favour of setting up a special committee to carry the progressive development of the essential principles of the Charter of the United Nations to a successful conclusion as quickly as possible, interpreting the Charter with due regard to the realities of history, the legal possibilities and the human requirements of the present time.

19. Mr. BOUZAIANE (Tunisia) said that he wished only to make a few general, practical and procedural remarks. Resolution 1815 (XVII) had given the Committee a clearly defined task, which it could evade only by dint of tendentious misintrepretation. That task was to undertake, pursuant to Article 13 of the Charter, a study of the four principles listed in the resolution. The four principles in question were given great prominence in the Charter by the important role they could play in eliminating every source of international tension and in maintaining peace. They had been proclaimed in the Bandung and Belgrade Declarations, the Charter of the Organization of African Unity and the Charter of the Organization of American States. Although they had been adopted unanimously, their application had nevertheless given rise to differences of opinion, for their interpretation was still influenced by extra-legal factors. His delegation was in favour of having them codified in order to clear up any ambiguity and thus render the principles more effective.

20. The principle prohibiting the threat or use of force should apply not only to physical force but also to economic and political measures which merely disguised aggression and perpetuated gunboat diplomacy. Blockade and quarantine were nothing else but secondary, yet definite, forms of coercion. Any other interpretation would contradict the precepts of jus contra bellum. The only exception recognized by the Charter was self-defence. His delegation thought that wars of liberation should also be excepted.

21. He recognized that the Charter prohibition applied to wars of liberation. It should be noted, however, that a war of liberation was a war waged on their own soil by a people who had been denied international personality against a State which had arrogated to itself the right to administer and represent that people at variance with another fundamental principle of the Charter: the principle of self-determination of peoples. The use of force in such circumstances was to some extent a borderline case of self-defence against a foreign invader. Those concepts were thus intimately linked and could be understood only in their historical context.

22. With regard to the principle that States should settle their international disputes by peaceful means, the procedures of settlement should be strengthened and made more specific. The proposal by the Netherlands representative (803rd meeting) for the establishment of a permanent centre for international fact-finding was worth considering in that connexion. It

should, however, form part of a wider set of measures for encouraging the use of peaceful means, e.g., the establishment of a permanent commission of conciliation and enquiry, which would also make it easier to apply the means of settlement specified in Article 33, paragraph 1, of the Charter.

23. The principle of non-intervention by one State in matters within the domestic jurisdiction of another State raised difficulties of interpretation. A study of the practice followed by United Nations organs prompted a number of questions. For example, could the inclusion of an item in the agenda of the General Assembly, the issue of a recommendation to a State by the General Assembly, the examination of the domestic policy of a State by a commission of inquiry set up under Article 34 of the Charter, or the adoption by the Security Council of a resolution offering its good offices to the parties to a dispute or inviting them to settle the dispute, be deemed to constitute intervention in the domestic affairs of a State? Again, it was difficult to determine what questions were essentially within the domestic jurisdiction of a State, and it was open to question whether the definition given by the Permanent Court of International Justice in its advisory opinion of 7 February 1923 with regard to the Nationality Decrees issued in Tunis and Morocco (French zone) on 8 November 1921,[3] was sufficient.

24. The sovereign equality of States must be at the same time a legal principle and a political ideal. That principle, which derived from the sense of solidarity between individuals and between nations, acquired a special meaning in the context of economic development and gained international acceptance as awareness grew regarding the situation of the developing countries, which were entitled to unconditional aid from the international community. In practical relations between States, that spirit of solidarity should prompt the adoption of measures of economic aid innocent of political motives.

25. His delegation attached great importance to the study of those principles, whose recognition and more effective application could only favour co-operation among States and the maintenance of peace. The time had come to state the principles in greater detail, taking into account the changes that had taken place in the world.

26. His delegation congratulated the Czechoslovak delegation on the part it had played in the Committee's discussions on the question under consideration. In the Tunisian view, the adoption of a declaration was not an end in itself, but could serve as a milestone in the Committee's work of codification and facilitate the work of the committee set up to formulate the principles.

27. Mr. SAARIO (Finland) said that, now that the political and the geographical worlds coincided, international law had a much more important part to play, and its rules ought to reflect universally recognized values and opinions if it was to become a workable instrument for solving world problems. Those problems were of more immediate concern to all States than ever before, for science and technology had made such progress that no country could any longer remain isolated in any respect. The idea of international co-operation, then, did not arise from any idealistic theory of international relations; the force of circumstances had made States aware of their solidarity and of their shared responsibility for the conduct of the international community's affairs. To maintain the efficiency of such international co-operation, Governments should approach their common problems in a constructive spirit and concentrate mainly on the substance of those problems; that applied particularly to the examination of the item now before the Committee.

28. No one would deny that friendly relations and co-operation among States were essential to the maintenance of peace and security, for the very survival of mankind was at stake. The international community therefore needed a body of rules and principles of action which States could agree to obey.

29. If order was to prevail in the world, international law must be felt by States to be as imperative as their national law. The United Nations had been created, not to fit into the pattern of existing circumstances, but, to a large extent, to modify the character of relations among nations. The Charter of the United Nations, which stated the fundamental principles of modern international law, established an international legal order aiming at friendly relations among States. That was why the Committee was examining at the present session four principles already embodied in Article 2 of the Charter.

30. The principle of the sovereign equality of States, which the authors of the Charter had undoubtedly meant to be the cornerstone of the United Nations, made it possible to define the legal position of Member States in their relations with one another and with the Organization. One of the most important consequences of that principle was that all States Members of the United Nations were entitled to equal protection for their rights and, in practical terms, that the United Nations gave their votes equal weight irrespective of their economic or political strength.

31. Sovereignty, originally an attribute of the sovereign of a State, had become an attribute of the State itself in its relations with other States. It had sometimes been asserted that such sovereignty placed States above the law. If that were so, States could not at the same time be subjects of international law as at present understood; and that theory also conflicted with the international order established by the law. It would be an obstacle to effective international co-operation within international organizations, including the United Nations. It was therefore vital to define accurately the relationship between State sovereignty and the international legal order established by international law. United Nations practice showed that the traditional concept of absolute sovereignty had changed. The unanimity rule, not long ago considered as a logical consequence of the sovereignty of States, had been maintained in the establishment of the League of Nations, whose decisions had had to be taken unanimously by all Members present. That did not apply to the General Assembly.

32. The principle of non-intervention in matters within the domestic jurisdiction of any State was a safeguard in particular for the independence of small States, for its corollary was that no State might claim jurisdiction over another State or call into question the validity of the official acts of another State within the latter State's jurisdiction. Nevertheless, the scope of domestic jurisdiction was not a static concept but varied with the degree of States' interdependence and

[3] Publications of the Permanent Court of International Justice, Series B, No.4, February 7th 1923. Collection of Advisory Opinions, Advisory Opinion No. 4.

integration in the international community. Thus the adoption of the Charter of the United Nations had made human rights—hitherto a purely domestic problem—a matter of international concern. Moreover, the growth of international co-operation, by bringing States closer together, increased their power to influence one another in domestic matters. However, there would always be certain matters which by their very nature would lie exclusively within the domestic jurisdiction of States; their scope should be clearly defined in order to avert friction.

33. The principle that States should refrain in their international relations from the threat or use of force was designed to establish a basic standard of conduct in the international community. Its effective application was the best guarantee of world peace and security. It should therefore be thoroughly studied, especially since its codification raised many controversies, for example over the idea of "force" and the exercise of the right of self-defence. Those controversies arose partly because no undisputed definition had yet been found for the concept of aggression. He therefore advocated a comprehensive study of the practice followed by the United Nations and by States in applying that principle.

34. The principle of pacific settlement of international disputes could be approached in either of two ways: the disputing parties might be induced either to resort to arbitration or to judicial settlement or to agree on terms of settlement brought about by some of the other methods mentioned in Article 33, paragraph 1, of the Charter. Any method would serve if it led to a just settlement. The parties would naturally start by direct negotiations, and would have to seek other means of settlement only if negotiation failed. For such a case there should be certain methods and machinery available to the parties to the dispute. The possibility that the parties could not agree upon what other method should be used for the settlement of the dispute should also be taken into account. The best method in each case would depend on the nature of the dispute. Some disputes were inherently susceptible of being decided on the basis of law whereas disputes arising from conflicts of political interests were more likely to be settled by non-judicial methods (negotiation, inquiry, mediation, conciliation, or resort to a regional agency), especially where one party was dissatisfied with the status quo and made demands which could not be met without a change in the existing legal situation. History showed that demands of that kind had often led to war. It was therefore necessary to improve and develop suitable means of resolving disputes of that kind. The establishment of a permanent international fact-finding body, as proposed by the Netherlands representative, might be helpful in that connexion.

35. The wider grew the domain of international law, the greater would be the possibility of settlement on the basis of existing law. It was therefore desirable that States should show greater readiness to accept the settlement of their disputes by an arbitral or judicial tribunal, especially the International Court of Justice. The present practice of entering reservations against the compulsory jurisdiction of the Court reflected a lack of confidence and solidarity among States. So long as that attitude remained, no great advance could be expected in the compulsory judicial settlement of international disputes. If recourse to the International Court of Justice or to an arbitral tribunal became more common, and, as a result, the general principles of international law were more frequently put into effect, the uncertainty alleged by some representatives could be gradually eliminated. Merely to restate the principles of the Charter in yet another document would do little towards the progressive development of international law. Only a comprehensive examination of each of those principles and of the practice of States in applying them, conducted in the light of present-day requirements and realities, would serve to determine their legal substance, as an indication of the areas in which existing international law needed developing and in which those principles must be applied more effectively in the future.

36. The present debate in the Committee had given representatives an opportunity to deduce the real meaning of those principles from their history, and to interpret them in the light of the changes which had taken place in the international community. As several representatives had stated, a working group could do what was needed better than the full Committee could. Nevertheless, before setting up a group the members of the Committee should agree on its objectives, for unless it had clear terms of reference it would find itself in as difficult a position as the Committee itself. That did not preclude the possibility of establishing a special group to sum up the results of the debate and perhaps to consider what other principles should be studied more closely in connexion with the current item. His delegation hoped that whatever decision the Committee took would be unanimous.

37. Mr. SINCLAIR (United Kingdom) stated that the principle of non-intervention and the principle of sovereign equality were closely linked, for the principle of sovereign equality would be rendered void of all real content if States did not fully respect the principle of non-intervention.

38. In considering the principle of non-intervention it would be well to bear in mind the very cogent point made by the representative of the United Arab Republic (811th meeting) that a distinction should be drawn between the general principle of non-interference by one State in the internal affairs of another State and the principle set forth in Article 2, paragraph 7, of the Charter, prohibiting the United Nations from intervening in matters essentially within the domestic jurisdiction of any State. The Committee was required to examine the former principle and not the latter.

39. Several Governments had drawn attention to the question of subversive activities directed against a State and organized by or on behalf of a neighbouring State. It might not be an easy matter to define with precision the activities on the part of a foreign Government which were to be regarded as subversive, or to determine whether activities carried out by non-governmental agencies or private persons which were undoubtedly subversive in purpose involved governmental responsibility if they were merely tolerated and not actively encouraged by the foreign Government. Certain activities, such as the organization of hostile expeditions against a neighbouring State, undoubtedly fell within the prohibition imposed by the principle in question. However, where the activity of the foreign State or of private persons was confined simply to the making of hostile propaganda the legal position might be more uncertain. It was clear, however, that all subversive activities of that nature, whether conducted by a foreign Government or with

the approval of that Government, were prima facie inconsistent with the principle of non-intervention.

40. With regard to the position of the State which was the object of subversive activities of that nature, which were sometimes termed "indirect aggression", it seemed to the United Kingdom Government quite clear that the State concerned could request the assistance of other States for the purpose of repelling "indirect aggression." As the Secretary of State for Foreign Affairs had explained on 16 July 1958 in the House of Commons, any State had the right to respond to such a request. In such circumstances armed assistance was lawful if given at the request or with the consent of the State concerned. Nevertheless the United Kingdom Government considered that, if civil war broke out in a State and the insurgents did not receive outside help or support, it was unlawful for a foreign State to intervene, even on the invitation of the régime in power, to assist in maintaining law and order.

41. His delegation had reserved its right of reply with respect to certain issues referred to by the representative of Ceylon (805th meeting) concerning oil interests in Ceylon. The United Kingdom delegation had come to the conclusion that debate on a specific matter of that kind would not be appropriate to the item under consideration and that the matter should not be pursued further; but his delegation associated itself with the United States representative's comments (805th meeting) about the payment of prompt and adequate compensation whenever property was expropriated. In general the duty of States not to intervene in matters within the domestic jurisdiction of other States in no way prejudiced the right of a Government to afford protection to the contractual and commercial rights of its nationals abroad within the limits of international law and normal diplomatic practice. As his delegation had pointed out in its statement on the principle of pacific settlement of international disputes, if a dispute developed in circumstances where the legal rights of the party were in issue, and if the States concerned could not settle the dispute by negotiation, or similar means, it was up to them to have recourse, in the last resort, to a suitable form of judicial settlement.

42. The representative of Indonesia had suggested (809th meeting) that the withholding of recognition from a new Government, combined with various forms of economic and financial pressure, might offend against the principle of non-intervention. His delegation did not share that view. Intervention might take many forms but in principle it involved a positive act of interference. There might be a case for the argument that an act of premature recognition could in certain circumstances constitute intervention; but it was doubtful, to say the least, whether an omission to accord recognition could ever amount to intervention.

43. He stressed the importance and value of the efforts made by the Latin American States to define and delimit the principle of non-intervention. He trusted that the Committee, in making its study, would benefit by their valuable experience.

44. The principle of the sovereign equality of all peace-loving States, which was embodied in the Preamble and Article 2 of the Charter, was one of the foundation stones on which the United Nations was built. According to the analysis of that principle adopted by Committee 1 of Commission I at the San Francisco Conference in 1945, it was interpreted as comprising juridical equality, the rights of sovereignty, the right to respect of a State's personality, political independence and territorial integrity, and the duty of States to comply faithfully with international obligations. However, that principle could be analysed in different ways; for example, it might be said that equality consisted of the possession by all States of equal fundamental rights of Statehood, some "active"—such as the right to conclude treaties, the right to exercise jurisdiction within their own territory—and others "passive", such as the right to respect for their territorial sovereignty and political independence. Nevertheless, juridical equality would be meaningless unless it entailed, as a logical consequence, the duty to respect the rights of other States and to carry out obligations owed to other States.

45. In the view of the United Kingdom Government, one of the points which the Committee should consider in its study of sovereign equality was the relationship between the legal notion of sovereign equality and the factual disparities which undoubtedly existed between States. The view might be taken, for example, that there was a distinction between the fundamental and inherent rights which a State enjoyed because it was a State and the sum total of those rights which a State might be capable of exercising at a particular time, and which might not necessarily be equal as between one State and another. However, those practical differences in no way diminished the importance of the principle of the sovereign equality of States. They merely served to stress the value of the incorporation of that principle in the Charter.

46. In the exercise of the rights inherent in full sovereignty, a State might by treaty or other arrangements undertake obligations qualifying or indeed even surrendering a measure of its sovereignty. As his delegation had repeatedly pointed out, the act of concluding such a treaty was itself an exercise of full State sovereignty and could not be construed as derogating from it.

47. The principle of sovereign equality, as the Canadian Government had cogently suggested in its written comments on resolution 1815 (XVII) (see A/5470), might be regarded as summing up all the other principles set out in Article 2 of the Charter. Sovereign equality was therefore the central theme of the Charter itself, upon which the United Nations was based.

The meeting rose at 6.5 p.m.

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