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**CONTENTS**

	<i>Page</i>
<i>Agenda item 71:</i>	
<i>Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations (continued) . . . . .</i>	271

*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, A/C.6/L.540, A/C.6/L.541 and Add.1, A/C.6/L.542, A/C.6/L.543) (continued)\*

*In the absence of the Chairman, Mr. Dadzie (Ghana), Vice-Chairman, took the Chair.*

1. Mr. HERRERA (Guatemala) introduced draft resolution A/C.6/L.541 and Add.1 on behalf of the forty-one sponsors and said that the text represented a merger of draft resolutions A/C.6/L.538 and Corr.1 and A/C.6/L.539, achieved by friendly negotiation in a spirit of conciliation. Each side had conceded some of its own points and accepted some of the other's contentions so that the text submitted might be adopted unanimously, for the negotiators had realized that in the progressive development and codification of international law universality was indispensable. The major compromise, of course, was the statement of the special committee's terms of reference in operative paragraph 1. Operative paragraph 4 had been included in view of the Legal Counsel's statement that the Secretary-General required precise instructions to undertake such an extensive task. His delegation considered that the special committee would have all the material necessary for a careful, scientific, systematic and exhaustive study of the principles relating to friendly relations and co-operation among States, and was convinced that a scientific procedure was the only possible way in which the special committee could successfully make recommendations for the codification and progressive development of the four principles in question.

2. Mr. KHELLADI (Algeria) warmly thanked the representatives of Ecuador, Ghana, Guatemala, Indonesia, Venezuela and Yugoslavia who by their experience and wisdom had made possible the submission of draft resolution A/C.6/L.541 and Add.1. That draft resolution was a compromise, and as such

would certainly not evoke enthusiasm. Many of the countries sponsoring the draft resolution had done so however, because they considered it the only possible compromise which included the minimum they could accept. The forty-one sponsors were all developing countries which especially needed an international law that would enable them to protect their interests and to develop freely.

3. The draft resolution provided that the special committee should be appointed by the President of the General Assembly, "taking into consideration the principle of equitable geographical representation and the necessity that the principal legal systems of the world should be represented". Thus, each of the groups and each of the regions of the world was assured of a hearing for its opinions and of participation in the special committee on the basis of equality.

4. The terms of reference of the special committee, according to the draft resolution, would be to draw up a report containing recommendations for the progressive development and codification of the four principles so as to secure their more effective application. The special committee should therefore submit a report containing recommendations to the Sixth Committee at the nineteenth session, because the Sixth Committee under General Assembly resolution 1815 (XVII) was supposed to secure the more effective application of the four principles through their progressive development and at a later stage, if possible, through their codification.

5. In the view of the sponsors, the words "as soon as possible" in operative paragraph 3 of draft resolution A/C.6/L.541 and Add.1 meant that the special committee would meet if possible in 1963, but if it were not possible to appoint the committee in time, it would then start work at the earliest possible date, which, according to the Legal Counsel's statement (824th meeting), would be 20 August 1964.

6. Mr. PLIMPTON (United States of America) was in favour of draft resolution A/C.6/L.540 for a study of fact-finding methods. He recognized the many constructive elements in draft resolution A/C.6/L.541 and Add.1 and hoped to be able to vote for a draft resolution like it, but regretted that he would be unable to vote for it as drafted. It would be a pity not to preserve the tradition of reasonable accommodation and unanimity which had characterized the Committee in the past. Seven delegations, including his own, had therefore introduced three amendments (A/C.6/L.542) to the draft resolution which would make it generally acceptable. The first amendment added a reference to the paramount importance of the Charter in the progressive development of international law and in the promotion of the rule of law among nations. The Charter, which was itself a great advance over the international law of the nineteenth century, represented the consensus of the community of nations regarding the international law of the present and the

\*Resumed from the 825th meeting

future. The principles that the Committee had discussed at the present session were Principles of the Charter. All the Member States were bound by the provisions of the Charter and looked to it as the fount of the international law of the future. The draft resolution should, therefore, emphasize the importance of the Charter.

7. The second amendment would add a paragraph stating that the debate at the present session had made a useful contribution to the study initiated by the Committee. The inference was that the debate had not been a full or conclusive study and that there was still a great deal of work to do.

8. The third amendment—the most important—stressed the need for continued study, which had not been mentioned in draft resolution A/C.6/L.541 and Add.1. It contained the exact language of resolution 1815 (XVII), calling for continued study of the principles with a view to their progressive development and codification as to secure their more effective application. His delegation had an open mind as to the extent to which the four principles could be codified. It did not think, however, that a detailed code of the principle of non-intervention, for example, was feasible or desirable. It tended to the opinion that the meaning of the expression "non-intervention" had to be determined at the time of the event in question, in the light of the circumstances at the time. But, in any event, the special committee should not be committed to a detailed codification of the principles, and while the present wording of draft resolution A/C.6/L.541 and Add.1 did not require the special committee to produce such a code, his delegation was opposed to wording which might give rise in any minds to such an interpretation. The three-Power amendment in document A/C.6/L.543 went even further in the wrong direction. The special committee should be given the utmost flexibility in its terms of reference. The debate at the present session had raised many interesting questions, but those questions had not been completely explored and no answers had been found. Legal questions were never so easy as they seemed on the surface. The Committee should not put the special committee in a strait jacket by requiring it to prepare draft formulations of the principles, which would be premature and would lead to the ossification of international law, but should give the special committee a flexible mandate in the interests of the genuinely progressive development of international law.

*Mr. Ruda (Argentina) took the Chair.*

9. Mr. CRISTESCU (Romania), introducing document A/C.6/L.543, said that he considered that the amendment proposed in it was of a drafting nature since the idea it contained appeared already in draft resolution A/C.6/L.541 and Add.1. The sponsors of the amendment believed that to enable the special committee to succeed in its task, it was essential that its terms of reference should be perfectly clear and in accordance with the terms of operative paragraph 2 of resolution 1815 (XVII). The amendment proposed in document A/C.6/L.543 met those requirements and would make the special committee's task easier and its success more certain.

10. Mr. PECHOTA (Czechoslovakia) said that members of the Committee had often stressed the importance of the item before them, and now had the chance to make a great contribution to the development of international law. As the representative of Algeria had pointed out, draft resolution A/C.6/

L.541 and Add.1 was the result of a compromise, and could not be expected to arouse the enthusiasm of all the members of the Committee. The delegation of Czechoslovakia nevertheless congratulated the African and Asian delegations on their efforts, which had culminated in that draft; after due study and friendly discussion, it should be possible to make draft resolution A/C.6/L.541 and Add.1 a basis for the solution of the question before the Committee, provided that some of the most important points of the draft, such as its operative paragraph 1, were restudied and clarified as suggested, for example, in document A/C.6/L.543, the terms of which were in complete harmony with the letter and spirit of resolution 1815 (XVII).

11. The Czechoslovak delegation considered that the amendment proposed by the United States and other delegations in document A/C.6/L.542 would, if adopted, be a retrograde step and an abandonment of resolution 1815 (XVII), so it could not support that proposed amendment. The United States representative had tried to persuade the Committee not to issue a clear-cut, detailed mandate to the special Committee at the present stage, on the grounds that such a mandate would hamper the special committee in its work and that hasty action might lead to the ossification rather than the codification of the principles of international law in question, but the Czechoslovak delegation entirely rejected those arguments. It was the Committee's urgent task to make international law exert a beneficial influence on international relations, and, if international law was to do that, it was essential that it should contain principles and ideas governing all forms of relations between States.

12. Mr. KRZYZANOWSKI (Poland) said that the Polish delegation fully shared the views expressed by the representatives of Romania and Czechoslovakia regarding document A/C.6/L.543, which the delegation of Poland had sponsored because it felt that the United Nations should strive for the progressive development and codification of international law, in accordance with Article 13 of the Charter. The Polish delegation did not deny the value of studies and preparatory work, but it felt that the present situation required prompt and vigorous action to take account of the changes which had taken place in the world in recent years.

13. Mr. MOROZOV (Union of Soviet Socialist Republics) said that the first amendment proposed in document A/C.6/L.542 was completely valueless, and was merely an attempt to include a further reference to resolution 1815 (XVII) by quoting the whole of the second preambular paragraph of that resolution. Likewise, the second amendment proposed in document A/C.6/L.542 was, on the surface, a superfluous statement of a well known fact and was really an attempt to imply that the Committee had already made an attempt to codify the four principles before it in its discussions. That implication was untrue and was intended to camouflage the desire of the sponsors of document A/C.6/L.542 to maintain the status quo in international law so as to exclude the possibility of the codification of any principles which might embarrass certain countries interested in using international law for their own ends. The whole idea of the third amendment in document A/C.6/L.542 was to stifle any immediate possibility of the progressive development and codification of international law by attempting to substitute interminable discussions and preparations for real action.

14. In the view of the Soviet delegation, the document sponsored by Czechoslovakia, Poland and Romania

(A/C.6/L.543) contained a valuable proposal which would greatly improve the clarity and significance of operative paragraph 1 of draft resolution A/C.6/L.541 and Add.1 and the Soviet delegation would certainly vote for its adoption.

15. As far as the draft resolution (A/C.6/L.541 and Add.1) was concerned, the Soviet delegation, which had always supported a broader and more dynamic approach to the item before the Committee, recognized that it was a compromise draft which could not be expected to satisfy any delegation completely. Resolution 1815 (XVII) had also been a compromise resolution, and the Soviet delegation had hoped that positive measures might be taken at the present session under its terms, but document A/C.6/L.542 showed that there were still delegations which wished to undermine the principles of peaceful coexistence rather than strengthen them by their development and codification. It was now high time for the Committee to set about the task of formulating the principles under consideration, and although the pace envisaged in draft resolution A/C.6/L.541 and Add.1 was disappointingly slow, the Soviet delegation considered that that draft resolution, as amended by document A/C.6/L.543, represented a reasonable compromise which should receive the unanimous support of the members of the Sixth Committee.

16. Mr. TABIBI (Afghanistan) said that the small States, which were the first to seek protection under international law, had worked very hard to achieve the compromise reflected in draft resolution A/C.6/L.541 and Add.1. The United States and the Soviet Union would lose nothing by voting in favour of that agreed text because they would have another opportunity, when the item was considered at the nineteenth session, to make specific proposals in connexion with the recommendations to be submitted by the special committee to be established under operative paragraph 1.

17. His delegation shared the opinion of all the sponsors of the draft resolution that the Charter represented a document of paramount importance in the progressive development of international law. It considered that in view, however, of the radical changes which had taken place in the world since 1945 and the recognition by the authors of the Charter (Articles 13, 108, 109) themselves that the basic instrument might have to be adapted to new circumstances ten years after it had come into force, it was logical for the sponsors to seek to reaffirm the Charter principles and render them more applicable to present-day conditions.

18. With regard to the amendments submitted by the United States and six other States (A/C.6/L.542), he observed that the first was covered by sub-paragraph (a) of operative paragraph 1 of the draft resolution, and that the second was inaccurate because the debate on the item had actually been begun by the Sixth Committee at the sixteenth session. Replying to the objection that the draft resolution "dictated" terms of reference to the proposed special committee, he emphasized that the mandate conferred on that organ was wholly in conformity with the Sixth Committee's task as defined in General Assembly resolution 1815 (XVII), a resolution which had been adopted unanimously.

19. With regard to the amendment submitted by Czechoslovakia, Poland and Romania (A/C.6/L.543), he pointed out that nothing in the draft resolution

would prevent the proposed special committee from proceeding eventually to the formulation of the four principles. But it was an arduous task and could not be accomplished overnight. In its report to the nineteenth session, the special committee would be free to discuss the prospects of such a formulation.

20. Lastly, he appealed to the great Powers to support the draft resolution because it covered the main points to which they attached importance. It was essential that the draft text should be adopted unanimously.

21. Mr. NINCIC (Yugoslavia) also appealed for unanimous agreement on draft resolution A/C.6/L.541 and Add.1, to enable the General Assembly to carry out the task entrusted to it under resolution 1815 (XVII). Although the Committee had not been able to complete work on the four principles selected for examination, it had had a valuable discussion, which, together with the documentation which would be available represented an adequate basis for the work of the proposed special committee. It would be a disservice to the special committee not to give it clear terms of reference indicating the practical work it was expected to accomplish. His delegation would have liked those terms of reference to be worded with greater care but it was satisfied that operative paragraph 1 of the draft resolution, which reflected a hard-won compromise, was sufficiently flexible to enable the special committee to work out proposals for more concrete advances at the nineteenth session.

22. With regard to the amendments (A/C.6/L.542 and A/C.6/L.543), the Yugoslav delegation felt that their effect would be to weaken the original compromise text, and, in the case of the third amendment contained in document A/C.6/L.542, to render the terms of reference of the proposed Special Committee so vague as to make it difficult for that body to do useful work.

23. Mr. CHAMMAS (Lebanon) said that his delegation was co-sponsoring the draft resolution because it regarded it as a constructive and well-balanced text worthy of general support. He could not speak for the other co-sponsors but he found no difficulty in accepting the first of the amendments in document A/C.6/L.542, even though the idea it contained had already been expressed in the compromise text in the title and the first two preambular paragraphs. In order to allow more time for consultation between the sponsors of draft resolution A/C.6/L.541 and Add.1 and the movers of amendments and to enable them to agree on a text likely to obtain unanimous support, he moved the adjournment of the debate on the item until the following Monday, 9 December 1963.

24. Mr. BLIX (Sweden) supported the motion for adjournment. He noted that not all the small States had been consulted when the compromise text had been drafted and that many delegations were not fully in accord with its terms. His delegation hoped that the further consultation suggested by the representative of Lebanon would result in a text acceptable to all and obviate the need for a vote on the amendments.

25. Mr. ROSSIDES (Cyprus) also supported the motion for adjournment.

*The motion for adjournment was adopted.*

The meeting rose at 6.10 p.m.