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SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING  
FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES

First Session

SUMMARY RECORD OF THE FIFTH MEETING

Held at Mexico City  
on Tuesday, 1 September 1964, at 10.45 a.m.

CONTENTS

- I. Consideration of the four principles referred to the Special Committee in accordance with General Assembly resolution 1966 (XVIII) of 16 December 1963, namely:
  - (a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations (A/C.6/L.537/Rev.1; A/5470 and Add.1 and 2, A/5725 and Add.1 and 2, A/AC.119/L.1, L.2, L.6, L.7 and L.8)  
(continued)

PRESENT:

<u>Chairman:</u>	Mr. PECHOTA	(Czechoslovakia)
<u>Rapporteur:</u>	Mr. BLIX	Sweden
<u>Members:</u>	Mr. COLOMBO	Argentina
	Mr. COCK	Australia
	U SAN MAUNG	Burma
	Mr. CHARPENTIER	Canada
	Mr. PRUSA	Czechoslovakia
	Mr. IGNACIO-PINTO	Dahomey
	Mr. MOMOD	France
	Mr. DADZIE	Ghana
	Mr. HERRERA IBARGÜEN	Guatemala
	Mr. KRISHNA RAO	India
	Mr. ARANGIO RUIZ	Italy
	Mr. OHTAKA	Japan
	Mr. FATTAL	Lebanon
	Mr. RATSIMBAZAFY	Madagascar
	Miss TELLEZ	Mexico
	Mr. RIPHAGEN	Netherlands
	Mr. ELIAS	Nigeria
	Mr. BIERZANEK	Poland
	Mr. CRISTESCU	Romania
	Mr. KHLESTOV	Union of Soviet Socialist Republics
	Mr. KHALIL	United Arab Republic
	Mr. SINCLAIR	United Kingdom of Great Britain and Northern Ireland

PRESENT (continued):

<u>Members</u> (continued):	Mr. SCHWEBEL	United States of America
	Mr. ALVARADO	Venezuela
	Mr. SAHOVIC	Yugoslavia
<u>Secretariat</u> :	Mr. STAVROPOULOUS	Representative of the Secretary-General
	Mr. BAGUINIAN	Secretary of the Committee

I. CONSIDERATION OF THE FOUR PRINCIPLES REFERRED TO THE SPECIAL COMMITTEE IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTION 1966 (XVIII) OF 16 DECEMBER 1963, NAMELY:

- (a) THE PRINCIPLE THAT STATES SHALL REFRAIN IN THEIR INTERNATIONAL RELATIONS FROM THE THREAT OR USE OF FORCE AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF ANY STATE, OR IN ANY OTHER MANNER INCONSISTENT WITH THE PURPOSES OF THE UNITED NATIONS (A/C.6/L.537/Rev.1; A/5470 and Add.1 and 2, A/5725 and Add.1 and 2; A/AC.119/L.1, L.2, L.6, L.7 and L.8)  
(continued)

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that the Committee had before it two proposals submitted by Czechoslovakia and Yugoslavia. The proposal by Czechoslovakia (A/AC.119/L.6), which had already submitted a draft declaration to the General Assembly at its seventeenth session, was a new and positive contribution to the formulation of the legal principles of peaceful coexistence between States. The Yugoslav proposal (A/AC.119/L.7), too, was drafted in concrete terms which would help to give the Committee's work a practical character. The United Kingdom delegation had likewise submitted a proposal (A/AC.119/L.3) and his delegation was happy to note in that connexion that a growing number of delegations recognized the value of preparing concrete texts.

During the consideration of those proposals, his delegation would make some remarks on the method to be followed in formulating the four principles submitted to the Committee, particularly the principle of the prohibition of the use of force which, as was known, already existed in general form in contemporary international law.

The Soviet Union, for its part, had worked actively since the beginning of its existence to eliminate war from society, and from 1917 onwards, and then after the end of the Second World War, the efforts of all progressive forces had established in international law the principle of refraining from the use of force in relations between States, a principle which was reflected in Article 2 (4) of the Charter of the United Nations.

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(Mr. Khlestov, USSR)

In its resolution 1966 (XVIII), the General Assembly had requested the Special Committee to submit proposals for the progressive development and codification of four principles concerning peaceful coexistence among States irrespective of their social order so as to secure their more effective application. According to United Nations practice, the Committee should therefore formulate and systematize the rules of international law relating to those principles, taking into account the practice of States, precedent and doctrine. With regard to the principle of the prohibition of the use of force, great importance should be attached to the developments of the past twenty years, i.e., since the drafting of the United Nations Charter. Among the important new factors were the development and progress of the socialist countries, particularly in the economic field, and the growth of progressive forces in all countries, particularly in the economic field, and the growth of progressive forces in all countries. Another major factor was the collapse of the colonial system and of the theories of bourgeois jurists concerning the so-called "international law of civilized peoples", coupled with the emergence of new independent countries. Texts such as the Charter of the Organization of African States and the Bandung Declaration had underlined the importance of the role played by the African and Asian States. Another factor influencing modern life was the leap forward in technology over the past twenty years, in the field of the atom and the exploration of outer space. For all those reasons, it was important that the Committee should give detailed consideration to the legal principles of peaceful coexistence.

Indeed, mankind was now faced with a dilemma: international relations could be based on legality and order, which led to peaceful coexistence, or on thermonuclear war. The Soviet Government had always striven to promote the

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(Mr. Khlestov, USSR)

principle of peaceful coexistence which, as the Head of the Soviet Government, Mr. N. Khrushchev, had said, required States to renounce not only the use of force, but also the very idea of destroying another social or economic regime by military means. At Stockholm on 23 June 1964, Mr. Khrushchev had stressed that the principle of peaceful coexistence of States having different social systems was the fundamental and immutable law of international relations, indeed, peaceful coexistence was in the interest of all peoples and was the only alternative to thermonuclear war.

Relations among States should be founded on the principle of international legality and legal order. That was why his country attached very great importance to the drawing up of rules of international law and their observance by all States, irrespective of their social system. International law should be binding on all countries, large or small, weak or strong.

Accordingly, taking into account the events and changes of the past twenty years, the Committee should express in general form the rules of international law aimed at maintaining the security of the peoples. For all danger of conflagration had not been removed and some Governments persisted in maintaining by force their control over peoples fighting for their independence. The peaceful countries which favoured the progressive development and codification of the principle of refraining from the use of force could therefore not approve those who had savagely bombarded the Democratic Republic of Viet-Nam and Cyprus and threatened Cuba with force. There was no justification for those acts of aggression, which were condemned by all peoples; the Soviet Union, for its part, pursued a foreign policy aimed at peace and disarmament. A more precise formulation of the principle of the prohibition of the use of force could make a major contribution to normalizing the

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(Mr. Khlestov, USSR)

international situation and to the security of peoples; his delegation therefore unreservedly endorsed the Committee's work and was ready to take an active part in it.

He was surprised that the United States delegation was not convinced of the need to formulate the principles submitted for the Special Committee's consideration. The Nigerian representative had rightly emphasized the danger of a method of work which consisted simply of repeating the debates already held in the General Assembly or going over the provisions of the Charter again. It was clear that the Committee had met to formulate, in concrete terms, principles which were of vital importance for all peoples, including the people of the United States and those who wanted to divert the Committee from that goal could only wish to resort to force in international relations. He called upon the delegation of the United States to review its position and to make a positive contribution to the work of the Committee.

The Czechoslovak proposal (A/AC.119/L.6) took account of the changes that had occurred in the past twenty years. It developed the general provisions of the United Nations Charter and also included certain new elements which it was impossible to disregard. That proposal began with a statement of the principle set forth in Article 2 (4) of the United Nations Charter, but introduced a new element, stating that the threat of force or use of force as a means of solution of territorial disputes and problems concerning frontiers between States should be prohibited. That new element was of vital importance since throughout world history territorial disputes had been the primary cause of wars and the political map of the world had constantly been altered by the peace treaties that had put an end to those wars. Experience therefore showed that modern international law should

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(Mr. Khlestov, USSR)

prohibit the threat or use of force as a means of settling such disputes and problems. Moreover, several international documents, including the Charter of the Organization of African Unity (article XIX), contained provisions to that effect. In that regard he wished to stress the importance of the message which the Head of the Soviet Government had sent on 31 December 1963 to other Heads of State. The replies so far received to that message (more than seventy, including one from the Government of Mexico) proved that all the peoples of the world were in favour of the peaceful settlement of territorial disputes and frontier problems.

From the legal point of view, Article 2 (4) of the United Nations Charter contained only a general prohibition and some States had claimed that the use of armed force as a means of settling frontier disputes did not fall within its scope. That was why the first paragraph of the Czechoslovak proposal was of special importance.

The provision stipulating that the preparation and initiation of a war constituted international crimes appeared in the Charter of the International Military Tribunal at Nürnberg (article 6 (a)) and the Charter of the International Military Tribunal for the Far East (articles 5 and 6) and had been confirmed by a resolution of the General Assembly.

The provision concerning the prohibition of any propaganda for war appeared in a resolution which the General Assembly had adopted in 1947.

The provision that "States shall refrain from economic, political or any other form of pressure" responded to the wishes of the Asian, African and Latin-American States and appeared in various international documents, such as the Bandung Declaration, the Belgrade Declaration, and the Charter of the Organization of African Unity.

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(Mr. Khlestov, USSR)

The inclusion in the Czechoslovak proposal of the right of self-defence of nations against colonial domination in the exercise of the right to self-determination was also of vital importance; that right was confirmed by the historic United Nations Declaration on the granting of independence to colonial countries and peoples and by the Preamble to the Charter of the Organization of African Unity. The Soviet Government had always striven for the eradication of colonialism and the liberation of all peoples. His delegation therefore unreservedly supported that provision of the Czechoslovak proposal because it confirmed the inalienable right of peoples to defend their freedom and independence.

The Czechoslovak proposal also rightly emphasized that general and complete disarmament was an essential condition for the prohibition on the threat or use of force to be fully effective; as the Head of the Soviet Government had stated at Oslo on 30 June 1964, general and complete disarmament was the road to peace.

The Czechoslovak proposal could serve as a basis for the drafting of the final text of the principle of prohibiting resort to the threat or use of force. The Yugoslav proposal (A/AC.119/L.7) also expanded the general principle of refraining from the use of force and was a valuable contribution to the drafting of the final text. The Committee therefore had before it two specific proposals and the comprehensive documentation prepared by the United Nations Secretariat, which should contribute to the success of its work.

In conclusion, his delegation wished to propose the following method of work: delegations wishing to submit amendments or make observations should do so either orally or in writing so that the Special Committee, and later the drafting committee, would be able to draw up the final text on the basis of those amendments and observations.

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Mr. SCHWEBEL (United States of America), exercising his right of reply, regretted that the Soviet delegation had seen fit to introduce an element of polemics into the Committee's work. In his statement, the USSR representative had, in particular, alluded to "those who had savagely bombarded" North Viet-Nam and Cyprus and those who had threatened to use force against Cuba; he had also referred to the Soviet Union's activities in the field of foreign policy.

So far as North Viet-Nam was concerned, the facts were clear. Certain United States warships, navigating on the high seas, as they had every right to do, had been twice attacked by North Vietnamese motor torpedo-boats. The United States Government, exercising its right of self-defence which was recognized in the Charter had made a limited and restrained response to those attacks. Secondly, the fact that the Organization of American States had condemned Cuba as an aggressor was the most eloquent reply that could be made to the allegations which the USSR delegation had made in respect to that country. Thirdly, as to Cyprus, it was not the place of the United States to respond except to say that its silence was not to be construed as agreement with the Soviet charge. Lastly, since the Soviet Union so earnestly wished to make noble efforts in the field of foreign policy, he suggested that it should refrain from encouraging aggression in Viet-Nam and Cuba and from fomenting discord on Cyprus and devote its activities to advancing the work of the Committee. He noted that he was more interested in the observations which the Soviet representative had made in regard to frontier disputes and hoped that the USSR delegation would confine its interventions to constructive proposals of that kind.

Mr. SINCLAIR (United Kingdom) expressed his delegation's gratitude for the hospitality which the Mexican Government had extended to the members of the Committee Mexico, with its wealth of jurists dedicated to the development and teaching of

(Mr. Sinclair, United Kingdom)

international law, was signally fitted to be the host of a gathering devoted to the study of four of the basic principles of international law enshrined in the United Nations Charter.

Introducing the United Kingdom proposal (A/AC.119/L.8), he said that he would confine himself for the moment to explaining the origin of the proposal, outlining what his delegation conceived to be the task of the Committee, and describing briefly the principal elements of the statement of principles and commentary on the prohibition of the threat or use of force contained in that document.

Thanks to the statements which a large number of delegations, including his own, had made in the Sixth Committee at the eighteenth session, the Special Committee had available to it a considerable amount of material which it could draw upon in an attempt to achieve a synthesis of views on each of the four principles which it was to study. The debate in the Sixth Committee had revealed that some delegations held widely diverging views, and it was because of the wide range of opinions thus revealed that the General Assembly had decided to establish the Special Committee and to request the Secretary-General to prepare a systematic summary both of the comments, statements, proposals and suggestions made by Member States on the four principles and of United Nations practice in that field.

The four principles on the Committee's agenda were basic to a true understanding of the meaning of the Charter. Although they had been the subject of many analyses, they still gave rise to differences of interpretation and it was the Committee's task to consider how far it was possible to reconcile the various points of view and hence to prepare a document expressing the consensus of its members.

In the light of the debates in the Sixth Committee and of the documentation prepared by the Secretary-General, the United Kingdom Government had drawn up a statement of principles on each of the four topics under discussion, accompanied in each case by a /...

(Mr. Sinclair, United Kingdom)

detailed commentary, because it had considered that the most useful and positive contribution it could make to the Committee's work would be to submit a document setting out its views on the content and meaning of the four principles.

On the one hand, the terms of reference of the Committee required it to submit to the General Assembly the conclusions of its study of those principles. On the other hand, the terms of reference of the Committee required it to submit recommendations to the General Assembly having in mind the progressive development and codification of the four principles with a view to their more effective application. The method used by his delegation - of appending a commentary to each statement of principles - was based on the practice of the International Law Commission in drawing up draft articles for purposes of codification and progressive development, and was eminently suited to the Committee's work.

The commentaries to each of the four statements of principles explained in some detail the significance of, the background to, and the interrelationship between the various principles. In view of the plan of work adopted by the Committee, he would just say a few additional words about his delegation's proposal concerning the principle of prohibiting the threat or use of force.

Paragraph 1 of the first statement of principles reproduced the language of Article 2 (4) of the Charter. But Article 2 (4) could not be interpreted in isolation; it must be considered in the context of the Charter as a whole, as paragraph (1) of the commentary stated.

Paragraph 2 of the statement of principles defined what was meant by the term "force". In that regard, his delegation found itself at variance with certain other delegations because it took the view, on the basis of the travaux préparatoires of the San Francisco Conference and United Nations practice, that the term "force"

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(Mr. Sinclair, United Kingdom)

connoted armed force and did not include other forms of political or economic pressure. He did not believe that Article 2 (4) of the Charter was open to an extended interpretation. The history of the drafting of that paragraph and subsequent United Nations practice pointed to the opposite conclusion. The Charter itself served to confirm the clear distinction that existed between measures involving economic pressure and measures involving the use of armed force. Article 41 cited among "measures not involving the use of armed force" such measures as "complete or partial interruption of economic relations". Now, if such severe measures were classified as measures not involving the use of armed force, it was difficult to see how lesser methods of economic pressure could be categorized as violations of the prohibition on the threat or use of force. Certain forms of economic pressure were either undesirable in themselves or violated the principles of international law. But, however reprehensible they might be - and they could affect the interests of developing and developed countries alike - they could hardly be brought within the ambit of the prohibition on the threat or use of force.

Paragraphs 3 and 4 concerned what was sometimes called "indirect aggression". The Special Committee on the Question of Defining Aggression had failed to achieve concrete results in that sphere, but there were certain activities which could, in any view, be regarded as falling within the prohibition of the threat or use of force.

Lastly, paragraph 5 set out the principal circumstances in which the use of force might be lawful.

Those were, in his view, the most significant features of the first principle which the Committee was to consider.

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Mr. OHTAKA (Japan) said that his delegation had given careful study to the proposals submitted by Czechoslovakia and Yugoslavia (A/AC.119/L.6 and 7), which it would continue to study together with any new proposals which might be submitted. Before putting certain questions to the sponsors, it wished to state that in view of the very special importance of the four principles the Committee should take its time in considering them and should not be in a hurry to enunciate them. If the Committee was to adopt a declaration, in no matter what terms, it could only do so after making a very thorough study and reaching agreement on the principles under consideration. In order to do that, all delegations should express their views, particularly on any drafts before the Committee.

With regard to the fourth paragraph of the Czechoslovak proposal and the second paragraph of the Yugoslav proposal, he was not sure that he understood properly what was meant by "economic [or] political ... pressure aimed against the political independence or territorial integrity of any State". Did that mean economic or political pressure sufficiently powerful to endanger the political independence or territorial integrity of a State, or did it refer to the purpose for which the pressure was applied? In any case, it would be difficult to distinguish between such pressure and the less severe political and economic pressure to which States inevitably resorted in their diplomacy every day.

With regard to the fifth paragraph of the Czechoslovak proposal and the fourth paragraph of the Yugoslav proposal, could and should a nation or race which had not yet achieved independence use force in its struggle for independence? Could an independent nation use force to prevent the State from which it had won its independence from continuing to intervene in its internal affairs? In the first case, that would amount to encouraging a nation to use force, which would be

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(Mr. Ontaka, Japan)

contrary to the role which the United Nations ought to play. In the second case, the provisions of Article 51 concerning the right of self-defence seemed amply sufficient.

With regard to the second paragraph of the Czechoslovak proposal, in what way did the Czechoslovak representative think a State could be condemned for the use of force and how would that State's political, material and penal responsibility be established? Lastly, with reference to the third paragraph of the Yugoslav proposal, how could a situation brought about by force or pressure be declared null and void? His delegation reserved the right to speak again on those proposals at a later meeting.

Mr. DADZIE (Ghana) said that the Committee, whose terms of reference were laid down in resolution 1966 (XVIII), had been established as a result of the work on friendly relations and co-operation among States undertaken by the United Nations to meet the desire of all peoples for peaceful coexistence. Coexistence without peace was as futile as peace without coexistence. That dynamic notion, which went back to Pancha Sila, had been embodied in such instruments as the Atlantic Charter and the Bandung Declaration. It had been reaffirmed by the Accra Conference in 1958 and Addis Ababa Conference in 1960, in the final Declaration of the Conference of non-aligned countries at Belgrade, and by the Accra conference on a "world without the bomb" and the two conferences of the Organization of African Unity.

In that respect, resolution 1315 (XVII) drew attention to certain points - the need for States to fulfil their duty to co-operate actively with one another and the increased importance of the role of international law and its faithful observance - which the Committee should take into account if it wished its work to

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(Mr. Dadzie, Ghana)

be successful. It was already evident that some representatives wanted to keep to the actual terms of the Charter without formulating new principles of any kind. While recognizing the fundamental value of the Charter, his delegation could not accept the argument that the Charter was perfect in every particular and fulfilled all its objectives. The fact that the General Assembly had adopted such instruments as the Universal Declaration of Human Rights, the Declaration on the granting of independence to colonial countries and peoples and the Declaration on the Elimination of All Forms of Racial Discrimination - each of which corresponded to principles contained in the Charter - showed that it was incomplete. Moreover, the fact that, despite the Charter, universal peace had not been achieved, that those principles still gave rise today to many different interpretations which were used to justify illegal acts, and that nations had yet to learn to practise tolerance, to unite their efforts and to live in peace with one another made the codification of the four principles essential.

Not only was the first principle ambiguous and capable of many interpretations, as had already been found, but it was worded in the Charter in terms which a State could invoke in order to embark upon precisely those acts which it sought to prohibit. And yet several General Assembly resolutions - 192 (III), 290 (IV), 291 (IV), 373 (V) and 380 (V) - and many post-war international instruments underlined its importance. His country had subscribed to it as set forth in the Bandung Declaration, the final Declaration of the Conference of non-aligned countries, the Charter of the Organization of American States and, naturally, the Charter of the Organization of African Unity and the Declaration of Heads of State and Government at the Second Cairo Conference. In his delegation's view, therefore,

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(Mr. Dadzie, Ghana)

no codification of the principle would be complete if it did not take account of those international decisions which, taken together, were one of the most solid bases of peaceful coexistence. His delegation accordingly accepted in principle the Czechoslovak and Yugoslav draft texts (A/AC.119/L.6 and L.7), on which it had no comment to make, and proposed that a drafting committee should draw up a single text containing their various provisions. In that respect, the drafting committee should make use of the value suggestion by the Nigerian representative (A/AC.119/SR.4).

In his delegation's opinion, further study of the principles was not required of the Committee, whose task was simply to formulate them. That was a responsibility it could not evade. His delegation believed that whatever argument had prevailed at the San Francisco Conference, the course of events had shown that economic force was a force to be reckoned with just as much as military force. It therefore shared the view of the representative of India and of the Czechoslovak delegation, for it could not separate the economic, political and military components of force from force itself. Its position was therefore that put forward in the two draft texts - particularly in the Czechoslovak proposal - which it would like to see merged into a single text, as it had just proposed. It would willingly agree to any recommendations which the Committee might make to the General Assembly being drafted in the form of a declaration. He joined in praising the Secretariat and reserved his delegation's right to speak again on the proposals, particularly that of the United Kingdom (A/AC.119/L.8).

Mr. SCHWEBEL (United States of America) said that as his delegation saw it the Committee's terms of reference were very clear. The Committee was to study the principles referred to it and make recommendations to the General Assembly

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(Mr. Schwebel, United States)

on them. It must discharge that twofold task in full. He considered that after making a thorough examination of the four principles the Committee should endeavour to arrive at a unanimous recommendation. His own delegation for its part would do everything in its power to bring that about. It had already formulated some general observations on certain of the problems raised by Article 2 (4). It intended to comment on the proposals submitted to the Committee as soon as it had received instructions from the United States Government and it was possible that it would submit some amendments at that time.

The Japanese representative, he thought, had indicated in his statement the path that the Committee should follow. Thanks to the questions that members would raise, the comments they would make and the exchanges of views that would ensue, the Committee would make progress and be able to determine the points of agreement or disagreement. It would be appropriate at that time to formulate the conclusions on which agreement had been reached, but it was still too soon to do so. Moreover, without wishing to commit itself on the actual principle of setting up a drafting committee, his delegation thought that it would be better, before considering that problem, to have an exchange of views on the principles.

Mr. ELIAS (Nigeria) did not agree with the United States representative that it would be premature to ask a drafting committee to prepare a draft principle on the basis of the proposals submitted. In any event, the Committee should not approach its task as though the four principles had never been studied by the General Assembly and its organs. In his view, the Committee should consider separately the proposals on each principle, try to determine the points on which there was unanimity, instruct a drafting committee to prepare a text and, when the study of the four principles had been completed, review the texts that had been drawn up in order to combine them in a single recommendation to the General Assembly.

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Mr. PRUSA (Czechoslovakia) thanked those representatives who had commented on the Czechoslovak proposal and reserved his delegation's right to reply to those comments in detail when it had studied them more thoroughly.

The meeting rose at 12.25 p.m.