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*Chairman : Mr. Manfred LACHS (Poland).*

**Draft Declaration on Rights and Duties of States :  
report of the Secretary-General (A/1850) (*continued*)**

[Item 48]\*

1. Mr. TARAZI (Syria) said that his delegation supported the Egyptian amendment (A/C.6/L.174) to the draft resolution submitted by Yugoslavia (A/C.6/L.171), because it provided for a debate on the question now before the Committee. Such a debate would guide the International Law Commission when the question again came before it. It would give all Member States an opportunity of expressing their views, without however committing themselves, since General Assembly resolutions were simply recommendations. In his view, the question had still not progressed beyond the discussion stage.

2. He maintained that the exercise of the domestic jurisdiction referred to in Article 2, paragraph 7, of the United Nations Charter, which proclaimed the principle of the equal sovereignty of States, was not the monopoly of the great Powers.

3. With regard to the question of once again referring the item to the International Law Commission, the Committee might recall the precedent created at the fifth session when the General Assembly, after having considered the International Law Commission's formulation of the Nurnberg principles, confined itself in resolution 488 (V) to inviting the governments of Member States to furnish their observations on that formulation and requesting the International Law Commission, "in preparing the draft code of offences against the peace and security of mankind, to take account of the observations made on this formulation by delegations during the fifth session of the General Assembly and of any observations which may be made by governments".

4. Mr. ROLING (Netherlands) said that up to now the Sixth Committee had done no more than discuss whether the draft before it should be examined or not. If the Committee did decide to examine the draft, it was doubt-

ful whether in present circumstances it could find any solution. His delegation, in agreement with the Belgian and Luxembourg delegations, had therefore proposed (A/C.6/L.172 and Corr.1) that examination of the draft should be postponed. They considered that the international legal atmosphere was not calm enough to allow useful discussion of this question. As for referring the draft to the International Law Commission, that would unnecessarily increase the burden on the Commission. It would therefore appear preferable for the Sixth Committee to wait until the Secretary-General had received a sufficient number of replies from States (rather than a majority, as some Committee members desired) before taking any decision on this subject.

5. After commenting on the French amendment (A/C.6/L.173) to the draft resolution submitted by Belgium, Luxembourg and the Netherlands, he said he would support it.

6. Mr. ALI (Pakistan) said that he appreciated the reasons for which a number of delegations had asked for a debate in the Committee. In view of the problem's complexity, however, his delegation would vote for postponement of the debate until a sufficient number of States had sent in replies, and would abstain on the other draft resolutions.

7. Mr. ITURRALDE (Bolivia) said that the establishment of the United Nations had marked the birth in the world of a new juridical order based on peace, law and justice. The General Assembly had the responsibility of framing the rules which were to govern the relations between States. A declaration on the rights and duties of States would merely be a recapitulation of the purposes and principles of the Charter, which ruled the civilized world. There was therefore no question of preparing an original document, but simply of formulating principles already accepted by the Members of the United Nations. Each of the rights of States had its corresponding duty, and Mr. Iturralde cited a few examples. The formulation of a clearly-defined list of the rights and duties of States, and what they involved, was an urgent task. Those rights and duties should rest on the categorical moral principles which had guided mankind since antiquity; in that way, States violating those principles would meet with general condemnation, which

\* Indicates the item number on the General Assembly agenda.

would have the effect of restraining their dangerous enterprises.

8. The fact that only a small number of replies had been received on the draft Declaration was not in his view as important as some members had considered; the document to be drafted was a declaration, not an international convention. The Sixth Committee was in duty bound to examine this question; if the Committee postponed it or referred it to the International Law Commission, it would be failing in its duty, and the result would be that the draft would be relegated to oblivion. Such a dereliction of duty by the General Assembly would lead to a situation similar to that which would arise in a private corporation if the founders were unable to draw up its articles of association.

9. In conclusion, he expressed the hope that, thanks to such a declaration on rights and duties of States, the principles formulated for the American community of States by the Seventh and Ninth International Conferences of American States, held respectively in Montevideo in 1933 and at Bogotá in 1948, would be extended to the rest of the world.

10. Mr. BARTOS (Yugoslavia) said that his delegation would vote for the Egyptian amendment. It did not, however, desire that amendment to be incorporated in its own draft resolution, since it wished to avoid prejudging the Sixth Committee's decision after the general discussion which the draft resolution proposed to open.

11. Mr. BELAUNDE (Peru) expressed the fervent hope that the draft declaration would become the Magna Carta of international law. The framing of such a declaration, however, was so delicate a task that it was essential to devote to it all the time it required. The Sixth Committee was not an academic institution but a politico-legal organ. The declaration was intended to supplement the United Nations Charter; it was important, therefore, to act prudently, so that a solid edifice might be constructed for all time. For that reason, States which had not yet sent their comments should be urged to do so, and their replies should be awaited. The delegation of Peru accordingly supported the French amendment to the draft resolution submitted by Belgium, Luxembourg and the Netherlands.

12. A postponement of the question would not mean, as the representative of Bolivia had stated, that the Committee had jettisoned the draft; on the contrary, it would underline the necessity of giving the declaration the authoritative character which was essential.

13. The CHAIRMAN said that the list of speakers on the preliminary question was exhausted, and asked the Committee to vote on the draft resolutions and amendments before it.

14. In accordance with rule 130 of the General Assembly's rules of procedure, votes would be taken in the order in which drafts had been submitted. He would therefore first put to the vote the draft resolution submitted by the Ukrainian SSR (A/C.6/L.170).

15. Mr. ROBINSON (Israel), rising on a point of order, proposed that the Ukrainian draft resolution should be divided into four parts, and that a separate vote should be taken on each. These parts were as follows: (1) the first paragraph of the preamble; (2) the second paragraph of the preamble; (3) the first part of the operative part ending with the words "Duties of States"; (4) the remainder of the operative part.

16. Mr. MAJID ABBAS (Iraq) doubted whether a draft resolution could be divided up in this way.

17. The CHAIRMAN, in view of the objection raised by the representative of Iraq, asked the Committee, in accordance with rule 128 of the rules of procedure, to vote on the point of order submitted by the representative of Israel.

*The motion on a point of order submitted by Israel was rejected by 27 votes to 6, with 13 abstentions.*

18. Mr. TARAZI (Syria) said that under the amendment submitted by the delegation of Egypt, any recommendations made by the Sixth Committee after the reopened general discussion would be transmitted to the International Law Commission. Under the Ukrainian draft resolution, again, discussion on the draft Declaration on Rights and Duties of States would be postponed, and comments on the draft Declaration which had already been submitted by States would be transmitted to the International Law Commission, together with any additional observations which might be made by representatives of States that had not yet expressed their views. It would therefore be logical to vote first on the Egyptian amendment, since if the reverse order was followed and the Ukrainian draft resolution was adopted, there would be no point in taking a vote on the second part of the Egyptian amendment.

19. The CHAIRMAN replied that in accordance with rule 129 of the rules of procedure, the Committee had to vote on the Egyptian amendment immediately, before voting upon the Yugoslav draft resolution which, under rule 130, could not be put to the vote until after the Ukrainian draft resolution.

20. He accordingly put the draft resolution of the Ukrainian SSR (A/C.6/L.170) to the vote.

*The draft resolution of the Ukrainian SSR was rejected by 30 votes to 7, with 13 abstentions.*

21. The CHAIRMAN invited the Committee to consider the Yugoslav draft resolution (A/C.6/L.171) and the amendment thereto submitted by the Egyptian delegation (A/C.6/L.174).

22. Mr. PESCATORE (Luxembourg) commented on the Yugoslav draft resolution.

23. As regards the third paragraph of the preamble, he said that reference to rule 67 of the rules of procedure was not pertinent. Moreover, the Yugoslav draft resolution erroneously interpreted rule 66 of the rules of procedure since it suggested that, under the terms of that rule, the main Committees of the General Assembly were required in all cases to open a general debate on the items referred to them by the General Assembly. Under rule 66, however, the Committees were only required to draft a report, which could very well relate merely to the procedural aspect of the items and could conclude that they should be deferred. The adoption of the Yugoslav draft resolution as it stood would therefore create an unfortunate precedent with regard to the interpretation of rule 66.

24. Referring to the Egyptian draft amendment to the operative part of the Yugoslav draft resolution, he thought the text itself showed how little chance there was, for the time being, of achieving anything positive. Those desirous of opening a discussion on substance could not show the Committee what practical value there would be in such an exchange of views.

25. For those reasons, the Luxembourg delegation would vote against the Yugoslav draft resolution and against the Egyptian amendment thereto.

26. The CHAIRMAN, in reply to an objection raised by the representative of Iraq, said that the discussion on the preliminary question of procedure was closed and that the debate was on the actual text of the draft resolutions referred to the Committee. He had no authority to prevent representatives from speaking, so long as their remarks remained pertinent to the matter under discussion.

27. Mr. BARTOS (Yugoslavia) said he was sorry to note that the discussion on the draft resolutions, during which representatives should confine themselves to commenting solely on the formal aspect of the question, was apparently being transformed into a fresh general debate on its substance.

28. In reply to the objections put forward by the Luxembourg representative, he stated that there was no foundation for the criticism that the Yugoslav draft resolution would give an erroneous interpretation of rule 66 of the rules of procedure, since the reference to rule 66 which appeared in brackets after the phrase "in order to carry out its task and make its report to the General Assembly", was not applicable to the remainder of the third paragraph of the draft resolution, which did not, therefore, constitute an interpretation of the rule in question. Nevertheless, every delegation was perfectly entitled to interpret any of the rules of procedure, while the other delegations, for their part, were entitled to disagree with such interpretation.

29. Finally, as regards the Egyptian amendment, he had made only juridical reservations, since it did not conflict in substance with the Yugoslav draft resolution. He had, moreover, made it quite clear that he would vote for the amendment.

30. Mr. ROMERO HERNANDEZ (El Salvador) said that, anticipating the difficulties to which discussion on the draft resolutions would give rise, he had intended to put forward a draft resolution of his own which would have embodied the Yugoslav proposal in another form. To his regret, he had been unable to submit his draft within the specified time-limit, and he asked whether he could still do so.

31. The CHAIRMAN said that he could not grant the Salvadorean representative's request since the time-limit had expired.

32. Mr. MOUSSA (Egypt) noted, as the Yugoslav representative had done, that the Egyptian amendment did not differ in substance from the Yugoslav draft resolution and emphasized that the paragraph of the preamble which he proposed adding to the Yugoslav draft crystallized, so to speak, the views expressed by the Yugoslav delegation during the discussion. The operative part which his amendment proposed should replace that of the Yugoslav draft resolution, had the advantage of leaving the Committee quite free to decide, after the closure of the general debate, what action to take.

33. Mr. CASTAÑEDA (Mexico) said he would vote for the Yugoslav draft resolution, although he did not agree with the third paragraph of its preamble. That paragraph gave the impression that the main Committees of the General Assembly were legally obliged to open a general discussion on the items referred to them by the General Assembly, which was not the case. It was

unfortunate, in that respect, that the Salvadorean delegation had been unable to submit its draft resolution, as its wording might have been more acceptable.

34. The first part of the Egyptian amendment had the great merit of strengthening the fundamental thesis of the Yugoslav proposal. As regards its second part, however, he shared the Yugoslav representative's views.

35. In conclusion, he proposed that the part of the third paragraph of the preamble to the Yugoslav draft resolution which referred to the legal necessity of opening a general discussion should be deleted, and that the paragraph should be drafted as follows:

"Considering that the opening of a general discussion is the only means by which the representatives of States can make statements of substance on the agenda item concerned;".

36. Mr. VAN GLABBEKE (Belgium) said that the Yugoslav representative had not replied to the objections put forward by the Luxembourg representative.

37. There was no doubt that in accordance with the third paragraph of the preamble to the Yugoslav draft resolution, the Committee would seem, on the basis of the two rules of procedure mentioned, to be obliged to open a general discussion on the substance of the item transmitted by the General Assembly, the apparent justification for which was that such discussion would constitute the only means by which delegations could express their views on the substance of the question. He himself felt that a great danger was inherent in that part of the Yugoslav draft resolution since, if adopted, it would create an unfortunate precedent as regards the interpretation of the rules of procedure concerned. Such an interpretation would infringe the sovereignty not only of the Sixth Committee, but of all the committees, which were alone competent to judge whether, when an item was referred to them by the General Assembly, they should open a discussion on its substance or should merely report on procedural questions. He therefore appealed to all delegations, whatever their general views, to consider carefully the exact scope of the final paragraph of the preamble to the Yugoslav draft resolution before voting.

38. Mr. BELAUNDE (Peru) considered that rule 66 could not be regarded as requiring committees to open discussion on the substance of an item, since such an interpretation would be equivalent to saying that a committee could not decide to defer an item, which was quite wrong.

39. Mr. BARTOS (Yugoslavia) said that he would not repeat the arguments he had already put forward in reply to the Luxembourg representative's objections. In the final analysis, the Committee had to decide whether or not to re-open the general debate and in order not to prolong indefinitely a discussion which would hold up the Committee's work unnecessarily, he said that he would withdraw the third paragraph of the preamble to his draft resolution.

40. Mr. ROMERO HERNANDEZ (El Salvador) said that, in view of the deletion of the third paragraph of the preamble, he was now prepared to vote for the Yugoslav draft resolution.

41. Mr. MAJID ABBAS (Iraq) adhered to the opinion that the third paragraph of the preamble to the Yugoslav draft resolution did not entail the risk which some representatives had mentioned; he could not accept the inter-



pretation placed on it by the representatives of Luxembourg and Belgium.

42. The CHAIRMAN invited the Committee to vote on the Yugoslav draft resolution, from which the third paragraph of the preamble had been deleted by its sponsor. Under rule 129 of the rules of procedure the amendment submitted by the Egyptian delegation (A/C.6/L.174) would have to be voted on first.

43. He put to the vote the first part of that amendment, which would add a third paragraph to the preamble of the Yugoslav draft resolution.

*The first part of the Egyptian amendment was rejected by 21 votes to 19, with 10 abstentions.*

44. The CHAIRMAN put to the vote the second part of the Egyptian amendment.

*At the request of the representative of Chile, a vote was taken by roll-call.*

*Luxembourg, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour :* Panama, Saudi Arabia, Syria, Yemen, Yugoslavia, Bolivia, Chile, China, Costa Rica, Cuba, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Iran, Iraq, Lebanon.

*Against :* Luxembourg, Netherlands, Norway, Peru, Sweden, Union of South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Australia, Belgium, Brazil, Canada, Denmark, Dominican Republic, Ecuador, India, Indonesia, Israel.

*Abstaining :* Mexico, Pakistan, Philippines, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Argentina, Burma, Byelorussian Soviet Socialist Republic, Colombia, Czechoslovakia, France, Greece.

*The second part of the Egyptian amendment was rejected by 20 votes to 18, with 13 abstentions.*

45. The CHAIRMAN put the Yugoslav draft resolution to the vote.

*At the request of the Yugoslav representative, a vote was taken by roll-call.*

*Thailand, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour :* Yemen, Yugoslavia, Argentina, Bolivia, Chile, China, Cuba, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Iran, Iraq, Lebanon, Mexico, Panama, Saudi Arabia, Syria.

*Against :* Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Australia, Belgium, Brazil, Burma, Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, Denmark, Dominican Republic, Ecuador, India, Indonesia, Israel, Luxembourg, Netherlands, Norway, Peru, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa.

*Abstaining :* Colombia, Costa Rica, France, Greece, Pakistan, Philippines.

*The Yugoslav amendment was rejected by 26 votes to 19, with 6 abstentions.*

46. The CHAIRMAN invited the Committee to consider the joint draft resolution submitted by Belgium, Luxembourg and the Netherlands (A/C.6/L.172 and Corr.1).

47. Mr. ABDOH (Iran), before submitting an oral amendment to the draft resolution, said that although,

as he had stated at a previous meeting, he doubted the feasibility of formulating a draft resolution in existing circumstances, he had voted for the Yugoslav draft resolution, considering that a general discussion of the question would act as a reminder of the important principles which should govern international relations. Such a reminder would have been useful in the case of certain States which were not always prepared to respect those principles. Moreover, if some States had not yet replied, it was because they were reflecting on the matter and wished to find a basis for compromise with a view to a majority agreement. After a general discussion those States might perhaps have been able to reach a decision and would thus have been in a position to reply.

48. That solution had now been ruled out, and only one draft resolution was before the Committee. He proposed a minor amendment—the substitution of the words “the majority of Member States” for the words “a sufficient number of States” in the first paragraph of the operative part.

49. The text as it stood seemed vague, since it was not clear exactly what was meant by “a sufficient number of States”. Moreover, under the draft resolution as at present worded the question could not be included in the agenda of the next session of the Assembly unless a State so requested; with the amendment he had proposed, the Secretary-General would automatically take steps to include it on receiving replies from the majority of States.

50. Mr. VAN GLABBEKE (Belgium) did not think that the sponsors of the joint draft agreement could accept the Iranian amendment. The amendment would deprive the draft resolution of its flexibility, which was a particularly desirable quality. As the representative of the Netherlands had said, the Committee must be left full discretion to decide at the appropriate moment whether a sufficient number of replies had been received.

51. In agreement with the other two authors of the draft resolution, he was prepared to accept the French amendment (A/C.6/L.173) which could be embodied in the text of the joint draft resolution.

52. Mr. ABDOH (Iran) said that the flexibility mentioned by the Belgian representative might be a source of misgiving for those who feared that the draft Declaration was being finally shelved. The amendment he proposed, which would result in the automatic inclusion of the item in the agenda, would dispel such misgiving and would enable those who now entertained it to vote for the joint draft resolution.

53. Mr. PESCATORE (Luxembourg) said that, at the 253rd meeting, he had expressed the same view as the Iranian representative; on reflection, however, that solution seemed to him to have its drawbacks. It would be difficult to determine precisely when a “majority of replies” had been received. Some replies touched upon substance, others merely acknowledged receipt, still others were dilatory. It seemed difficult to decide which of them should be considered in making up a “majority”. In view of that difficulty, he was now in favour of the solution at present suggested, which would permit any Member State to place the question on the General Assembly's agenda whenever it considered the moment appropriate.

54. Mr. CORTINA (Cuba) said that the votes just taken pointed to an almost equal division of opinion.

A greater measure of support for the joint draft resolution might perhaps be obtained if the hesitations due to the words "a sufficient number of States" were dispelled by fixing a definite date for the consideration of the question. The final paragraph of the operative part might thus read:

*"Requests the Secretary-General to publish the suggestions and comments which will be furnished by Member States, for such use as the General Assembly may find desirable at its seventh session".*

55. For similar reasons, however, it seemed to him that the solution proposed by the Iranian representative was an excellent one, since it laid down a condition which, if fulfilled, would result in consideration of the question by the General Assembly.

56. He thought that many delegations shared his view and were opposed to the opening of a general discussion, not for reasons of substance but of expediency.

57. Mr. MAKTOU (United States of America) did not agree with the Cuban representative's suggestion, the adoption of which could only lead to a waste of time; such apparently innocuous amendments were responsible for the fact that the Committee embarked on an unnecessary discussion year after year.

58. He fully appreciated the reasons for which the Iranian amendment was unacceptable to the representatives of Belgium and Luxembourg, but considered

that the phrase "a sufficient number of States" was too vague to be satisfactory. Moreover, the Committee itself should take a decision on the point and should not leave the responsibility to the Secretary-General. Twelve States had already replied and only eighteen more replies were needed to make a majority. Failure to reach that number would be clear evidence that the question was of little interest.

59. Finally, he asked for a separate vote on the French amendment, which had been accepted by the sponsors of the joint draft resolution and embodied in its text. He reserved the right to vote against that amendment, since he considered that it would be undignified for the General Assembly to make a third appeal to Member States to reply.

60. Mr. CORTINA (Cuba) said, in answer to the United States representative, that he had merely informed the Committee of a suggestion he might have put forward; he did not submit it, however, because the Iranian amendment was quite satisfactory to him.

61. Mr. SPIROPOULOS (Greece), speaking on a point of order, requested the adjournment of the meeting to give members an opportunity for reflection and consultation before a vote was taken.

*The motion for adjournment was adopted unanimously.*

The meeting rose at 1.10 p.m.