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SUMMARY RECORD OF THE SIXTY-NINTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 4 August 1967, at 10.30 a.m.

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GE.67-25289

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Chairman:	Mr. ENGO	(Cameroon)
later:	Mr. de la GUARDIA	(Argentina)
Rapporteur:	Mr. SAHOVIĆ	Yugoslavia
Members:	Mr. ABDELAZIZ	Algeria
	Mr. de la GUARDIA) Mr. DELPECH)	Argentina
	Sir Kenneth BAILEY	Australia
	U MAUNG MAUNG	Burma
	Mr. HAPPY-TCHANKOU	Cameroon
	Mr. MILLER	Canada
	Mr. VARGAS	Chile
	Mr. PECHOTA	Czechoslovakia
	Mr. VIRALLY	France
	Mr. Van LARE	Ghana
	Mr. DUPONT-WILLEMIN	Guatemala
	Mr. KARTHA) Mr. KRISHNAN)	India
	Mr. ARANGIO-RUIZ	Italy
	Mr. TOGO	Japan
	Mr. MWENDWA) Mr. OMBERE)	Kenya
	Mr. ANDRIAMISEZA	Madagascar
	Mr. GONZÁLEZ GÁLVEZ	Mexico
	Mr. HOUBEN	Netherlands
	Mr. SHITTA-BEY	Nigeria
	Mr. ZDROJOWY	Poland
	Mr. GLASER	Romania
	Mr. LEVIN	Sweden
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	Mr. SINCLAIR	United Kingdom of Great Britain and Northern Ireland
	Mr. REIS	United States of America
	Mr. MOLINA LANDAETA	Venezuela
Secretariat:	Mr. WATTLES	Secretary of the Committee

CONSIDERATION, PURSUANT TO GENERAL ASSEMBLY RESOLUTION 2181 (XXI) OF 12 DECEMBER 1966, OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS (agenda item 6)

A. CONSIDERATION, IN THE LIGHT OF THE DEBATES WHICH TOOK PLACE IN THE SIXTH COMMITTEE DURING THE SEVENTEENTH, EIGHTEENTH, TWENTIETH AND TWENTY-FIRST SESSIONS OF THE GENERAL ASSEMBLY AND IN THE 1964 AND 1966 SPECIAL COMMITTEES, OF THE FOUR PRINCIPLES LISTED BELOW WITH A VIEW TO COMPLETING THEIR FORMULATION:

...

(c) THE PRINCIPLE OF EQUAL RIGHTS AND SELF-DETERMINATION OF PEOPLES (A/AC.125/L.40 and Corr.1, A/AC.125/L.44, A/AC.125/L.48) (continued)

Mr. SAHOVIĆ (Yugoslavia) said that a positive decision by the Special Committee on the formulation of the principle under discussion was bound to have a favourable effect on the codification and progressive development of all the seven principles concerning friendly relations and co-operation among States, and on the formation of the new international law based on the United Nations Charter.

Any modern formulation of the principle must stress its legally binding character and its universality; in his delegation's view, it constituted a general rule of contemporary international law.

Bearing in mind the federal character of the Yugoslav constitution, his delegation understood the right of self-determination in the broadest sense and recognized the inalienable right of all peoples to choose their own political, economic and social systems and their international status. Peoples were entitled to claim the right to secede and to fight by all means for their national liberation and the establishment of their own independent States, but they could also express their will by establishing, freely and without outside interference, other types of relationships with the other peoples.

The process of decolonization which had taken place since the San Francisco Conference had given rise to new legal and political ideas which called for a broader formulation of the principle under discussion. Chapters XI, XII and XIII of the Charter had been very valuable in the early years of the United Nations in connexion with the decolonization process, but they had in a certain sense been left behind by subsequent developments. The struggle against colonialism had become an essential feature of international relations in general and was no longer confined to the relationships between the colonial powers and the peoples under their domination. In

formulating the principle under discussion, the Committee should therefore take into account the experience gained in that struggle, the main objectives of which were laid down in the Declaration in General Assembly resolution 1514 (XV). Much could be said on the implementation of that Declaration in the light of the survival of colonialism, which constituted one of the main obstacles to the peaceful development of international relations.

It was also necessary to take into account the decisions on self-determination reached by United Nations organs in connexion with human rights.

The formulation proposed by the Yugoslav and the other non-aligned delegations (A/AC.125/L.48) began with the statement of the general rule that all peoples had the inalienable right to self-determination and complete freedom, and stressed that the ultimate purpose of the principle was to ensure the exercise of full sovereignty and the integrity of their national territory.

Paragraph 2(a) condemned all forms of domination as a violation of international law, and that was the basis of the other sub-paragraphs which concerned the application of the right of self-determination.

Paragraph 2(b) stated the right of self-defence of peoples under colonial domination and their right to receive assistance from other States. Paragraph 2(c) prohibited any action aimed at the disruption of the national unity and territorial integrity of another country, and thus forbade interference by one State in the affairs of another on the pretext of the struggle for liberation; although those provisions were a corollary of the principle of non-intervention, they had their place in the statement of the principle of self-determination. Paragraph 2(d) dealt with the duty of all States to render assistance to the United Nations in the liquidation of colonialism. Lastly, paragraph 2(e) was simply a reflection of the vital role of the struggle against colonialism in contemporary international relations.

Thus the formulation submitted by the non-aligned countries met existing requirements and took into account the general legal framework in which the struggle against colonialism had developed, starting from the provisions of the Charter. It reaffirmed the principle of equal rights and self-determination, laid down in Article 1(2) of the Charter, as a general rule of international law.

The proposal by Czechoslovakia (A/AC.125/L.16) contained ideas that were very close to those put forward by the non-aligned countries, and he therefore urged the Drafting Committee to pay special attention to that proposal.

He had given careful consideration to the proposals submitted by the United States of America in 1966 (A/AC.125/L.32) and the United Kingdom (A/AC.125/L.44) which were very similar in content. He noted, however, that the latter proposal laid considerable stress on the application of the principle of equal rights and self-determination of peoples as a human right. Although the Yugoslav delegation recognized that it was possible to establish a link between human rights and the observance of the right of self-determination, it believed that that approach weakened the legal force of the principle under discussion. That principle was one of the fundamental principles of general international law, as was shown by the fact that the Charter proclaimed it separately from human rights and fundamental freedoms in Article 1(2). It was also mentioned in Article 55 as one of the foundations of peaceful and friendly relations, of which the observance of human rights and fundamental freedoms was only one of the instruments, in the same way as the raising of standards of living and the solution of international economic and social problems.

Hence, it was difficult to see how a violation of the principle of self-determination could be regarded as a denial of fundamental human rights, as suggested in part VI, paragraph 1 of the United Kingdom formulation.

His delegation would not oppose the inclusion of a reference to human rights, provided it was given its subordinate place; it was essential to make it clear that any infringement of the principle under discussion was nothing less than a violation of international law. A provision could perhaps be included to the effect that observance of the right of self-determination was the foundation of human rights and fundamental freedoms, since individuals could only benefit from those rights within the framework of broad national communities formed through self-determination. That was precisely the meaning which should be given to the statement of the principle of self-determination in the first article of each of the two International Covenants on Human Rights.

The proposals made by the United States and the United Kingdom did not explicitly state the inalienable right of all peoples to self-determination, but only the duty of every State to respect the principle under discussion - a duty which was only the corollary of the right of all peoples to self-determination.

Those two proposals, moreover, attempted to restrict the scope of the principle by referring to certain particular situations and territories. It was also strange to see in them a reference to zones of military occupation, a question which had nothing to do with the subject under discussion.

If the intention had been to refer to the Charter, the best course would have been to use its language in general terms, taking into account the interpretation given to its provisions by the practice of the Organization and, particularly, by the General Assembly, which had demonstrated that it was possible to apply the Charter constructively and in a manner calculated to meet the requirements of international life, in particular, the practice of decolonization.

In conclusion, he expressed the hope that the Drafting Committee would soon be able to produce a draft formulation of the principle under discussion, after thorough consideration of the various proposals which had been put forward.

Mr. de la Guardia (Argentina), First Vice-Chairman, took the Chair.

Mr. PECHOTA (Czechoslovakia) said that the irresistible tide of independence, freedom and progress was the most striking historical feature of the age. The principle of equal rights and self-determination of peoples was the moral, political and legal basis of a higher stage in the development of international relations, which compared favourably with the past epochs, when inequality and subjugation were regarded as natural phenomena of international life.

Czechoslovakia had re-established its independence in 1918 after several centuries of foreign domination; its people knew the price of liberty, having been subjected to the horrors of Nazi occupation from 1939 to 1945. Consequently, it could not be indifferent to the struggles of other peoples for freedom and it considered that colonialism and any form of subjugation of peoples were not only incompatible with human dignity, but also calculated to disrupt peaceful relations among nations.

As the USSR representative had said, the great socialist revolution of October 1917 had marked a turning point in world history. Great benefits from that revolution had accrued to many peoples of the world in their struggle for self-determination.

The Charter of the United Nations proclaimed respect for the principle of equal rights and self-determination as a condition for the development of friendly relations among States. The twenty-two years which had elapsed since the adoption of the Charter had witnessed the collapse of the colonial system, but some remnants of it had nevertheless survived. The peoples of such territories as Angola, Mozambique, Zimbabwe and South West Africa were still subjected to open colonial rule, and the ideology and practice of inequality found expression in various forms of neo-colonialism. It was against that political background that his delegation had proposed its formulation of the principle under discussion which had been introduced at the 40th meeting of the Special Committee in 1966.

The duty to respect the principle under discussion constituted an obligation of all States and the Czechoslovak delegation could not accept the idea that self-determination was a purely political concept, as suggested by certain delegations which in 1962 had opposed the inclusion of that principle among those to be considered in the codification and progressive development of the legal principles of friendly relations. Nor could his delegation approve the approach which denied the evolution of the concept of self-determination during the past two decades, and which was adopted in the United Kingdom proposal and in the similar text proposed by the United States delegation in 1966. The general philosophy of those proposals and their silence on certain truly essential elements of the principle bore witness to the basic differences which existed with regard to the legal content of the principle under discussion. The main source of those differences was undoubtedly the fact that certain States did not recognize the right of dependent peoples to self-determination and independence and to the free choice of their own political, economic and social system without outside interference. Contrary to the very essence of law and justice, it was being alleged that the struggle of dependent peoples was not compatible with the standards of law and order.

The United States representative had suggested at the 68th meeting that the Czechoslovak proposal distorted the Charter principle under discussion by limiting its scope to the colonial application. In fact, part VI, paragraph 1 of the Czechoslovak proposal clearly dealt with the right of peoples in general to self-determination, but the United States statement had served to illustrate the crux of the whole problem, which was the standing of the Declaration adopted in resolution 1514(XV) and its bearing on the legal principle of self-determination.

The Czechoslovak delegation regarded that Declaration as the most authoritative pronouncement on the principle under consideration since the adoption of the Charter itself. The Declaration represented a mandatory source for the purposes of the work now in progress. The Committee had a duty to pay due regard to General Assembly resolution 2160(XXI) and other important decisions which expressed the will of the totality or the overwhelming majority of the membership of the United Nations on the subject. His delegation shared the views so ably expressed at the 68th meeting by the Indian delegation regarding resolution 2160(XXI), which should provide guidance on the elements to be included in the formulation of the principle under discussion. That resolution reminded States of the fundamental obligations incumbent upon them under the Charter. In adopting it, the General Assembly had acted fully within its

competence to interpret the rights and obligations arising under the principles of the Charter and had stated certain specific corollaries of those principles. As far as the principle under discussion was concerned, the third and fourth paragraphs of the preamble and operative paragraphs 1(b) and 2(b) were of direct relevance and the Committee should treat them as a clear indication of the direction in which it should proceed with its work, since they were an authoritative pronouncement by the General Assembly.

The Czechoslovak delegation found itself in agreement with the text proposed by the non-aligned delegations which had much in common with its own proposal and therefore called for no substantive comments on its part.

In conclusion, he stressed that the development of the concept of equal rights and self-determination was the most significant example of the vitality of the Charter and its capacity to respond to the changing conditions of international life. The mandate of the Special Committee derived from a sound evaluation of those conditions, and he hoped that when dealing with the principle under discussion the Committee would remain in touch with contemporary realities and carry out its mandate in the manner expected by the General Assembly.

Mr. MILLER (Canada) said that his delegation appreciated the stress placed by previous speakers on the fact that respect for the principle of equal rights and self-determination of peoples was an essential prerequisite for the maintenance of international peace and security, for the development of friendly relations and co-operation among nations and for the promotion of economic, social and cultural progress throughout the world. The importance of the principle was clearly established by its proclamation in Articles 1 and 55 of the Charter and by the guidelines set out for its implementation and application in Chapters XI, XII and XIII of the Charter. For those peoples who had not yet attained full self-government, the principle constituted an objective leading to the assertion of sovereign equality, political self-determination, territorial integrity and, last but not least, freedom from external intervention. Apart from being defined in the Charter, the principle had been extended in scope and content, with particular reference to the emancipation of colonial peoples, by several declarations, resolutions, treaties and the like, many of which had already been mentioned during the debate.

Although it was quite understandable that the main emphasis should still be on the desire and determination of all colonial peoples to be free and equal under the law - a desire which all Canadians appreciated - it was necessary to formulate the

principle as a genuine statement of international law and not to allow it to become subordinated to, or circumscribed by, present events which, by their very nature, were not only diminishing but were characteristically temporary and transitory. An undue preoccupation with the remaining colonial situation, for example, might produce a legal formulation which, subjected to the test of history, would prove to have been far too rigid and inflexible to weather many years of effective application. Moreover, despite the argument that full independence per se was the only correct manner of exercising true and free self-determination, there were many peoples in Non Self-Governing Territories who neither wished nor perhaps were able to assume the responsibilities of independent status and, consequently, would freely determine to enter into an association with another country. The Committee should avoid adopting any definition of self-determination which, directly or indirectly, was open to the interpretation that it meant independence alone.

His delegation considered that the Committee's task was to define the principle in such a way that all its legal components were clearly constituted, with the inclusion, if possible, of some guidance as to the situations to which it was to apply. In other words, because the principle was founded on basic human rights and fundamental freedoms and on justice under the law, it was essential to state clearly by whom those rights should be enjoyed and against whom and under what conditions they could be invoked. Unless that were done, there would be some danger that peoples could be misled into attempting to invoke such rights to justify the dislocation of a State within which various ethnic communities had been successfully cohabiting for a long time. That aspect of the subject was directly related to and governed by the principles of sovereign equality and non-intervention.

While his delegation would not wish the Committee to ignore the General Assembly's declaration on colonialism (resolution 1514 (XV)), which was an important political document, it did not regard that declaration as a mandatory source. There was a balance in the General Assembly's resolution between the declaration that all peoples had the right to self-determination and were accordingly entitled freely to determine their political status and freely to pursue their economic, social and cultural development, and the affirmation that attempts aimed at the partial or total disruption of the national unity and territorial integrity of a country were incompatible with the purposes and principles of the Charter. He hoped the same balance would be maintained in any legal formulation produced by the Committee.

Turning to the specific proposals before the Committee, he said that there was a measure of common ground in them which encouraged his delegation to believe that the Committee should be able to produce a balanced and generally acceptable definition. The Czechoslovak proposal unfortunately produced an unbalanced effect. Paragraph 1, though in the nature of a general statement, began with the words; "All peoples have the right to self-determination ...", an expression which, without more precise definition as to its application, could create considerable practical problems. The following paragraphs accented colonialism and racial discrimination, promoted wars of liberation and made no obvious attempt to take into account dependent territories which were administered in accordance with the Charter. It even went so far as to state unequivocally that "nothing in the entire declaration on sovereign principles shall be construed as affecting the right of peoples to eliminate colonial domination by whatever means for their liberation, independence and free development", thus, apparently, overriding important principles such as the prohibition of the threat or use of force, the duty not to intervene in matters within the domestic jurisdiction of any State and the peaceful settlement of disputes.

The text proposed by the non-aligned countries, which was based very largely on the earlier text (A/AC.125/L.31), suffered from a similar imbalance. It did, however, appear to define the conditions under which the principle was to apply. His delegation had been particularly pleased to note that paragraph 2 (c) stipulated that each State should refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any country. That provision helped, in a small way, to maintain the balance found in General Assembly resolution 1514 (XV).

The text submitted by the United Kingdom delegation had the distinct virtue of beginning with the statement "Every State has the duty to respect the principle ..." which was in line with what the Committee was attempting to do, namely to draw up a code of conduct for States based on certain principles contained in the Charter. It was also clear from the first paragraph, which formed the basic statement of the first paragraph, which formed the basic statement of the principle, that the principle was to have universal application. The language used in paragraph 2 seemed to represent a valid and progressive attempt to give legal effect to that part of General Assembly resolution 1514 (XV) which dealt with self-determination and, like the draft of the non-aligned countries, it carefully maintained the balance of that resolution. Paragraph 3 correctly stressed self-government through the free expression or choice of the people, which accurately reflected the aims and purposes of the relevant Chapters of the Charter on Non-Self-Governing Territories. It also emphasized that

self-government, or self-determination, could take forms other than independence. Paragraph 4 made it abundantly clear that the presence of an effectively functioning government, representative of all distinct peoples in a territory, satisfied that principle in the case of a sovereign independent State. The Canadian delegation supported the United Kingdom proposal and hoped that the Drafting Committee would give it the serious consideration it deserved.

Mr. VIRALLY (France) expressed the hope that the Committee would be able to agree on a formulation of the important principle under discussion, or at least achieve substantial progress in bridging the gap between the various views on the subject; the French delegation would make its contribution to the Committee's efforts in that direction.

The French Revolution had been the first in Europe to proclaim the right of self-determination of peoples. From the beginning, recognition of the equality of rights and self-determination of peoples had been the inevitable and the logical outcome of the recognition of human rights, from which it was inseparable. Without political freedom, civil rights could not be fully respected and the equality of all men before the law could not be assured unless the nations to which they belonged were also recognized as equal.

It followed that the right of self-determination of peoples had the same universal character as human rights. Any attempt to confine the benefit of self-determination to certain peoples or to certain historical situations would falsify the principle and render it meaningless; it would introduce an element of discrimination among peoples which, in the end, would be discrimination among men, in defiance of the Charter of the United Nations.

For a long time the right of self-determination had only been recognized in the form of a political principle - the principle of nationality - and it had not been possible to translate that principle into a rule of positive international law. There were undoubtedly historical, political and even sociological explanations for that situation, but there could be no doubt that the delay had been largely due to an inherent difficulty connected with the legal formulation of the rights in question. As the representative of Ghana had pointed out, the main difficulty resided in the determination of the beneficiary of the right - that was to say, in the definition of the term "people".

During the nineteenth century, it was the term "nation" which had prevailed and, although that concept was much narrower, it had not been possible to reach universal agreement on a definition. The difficulty had increased with the much more vague and imprecise notion of "people". In certain cases, a people was clearly identifiable by means of objective factors, but that was far from being always the case. Moreover, even where the identity was well established, historical circumstances could intimately bind two distinct communities together. In such cases, the rights of one community, whether it was a majority or a minority, should not be so exercised as to destroy the rights of the other or to lead to the formation of entities that were not viable as separate units.

The absence of a general criterion for the identification of a people and the uncertainties which arose meant that self-determination often became a tool to undermine the territorial integrity and political unity of States; peoples were thus used, more often than not against their genuine interests, to further designs of aggression and subversion for the benefit of foreign interests. No State - old or new - could hope to escape that threat, since the population was always of a composite character, even in those States which, ethnically and historically, had achieved the greatest measure of unification; any State could be the object of envy or attempts at disruption.

At the same time, any unduly narrow or restrictive definition of the right of self-determination would have the effect of depriving of that right certain groups which were endowed with strong individual characteristics and a genuine desire for autonomy, but the identity of which was not based on differences of race, language or religion.

Those difficulties, which had not yet been fully surmounted, no doubt explained the fact that it was not until 1945, with the adoption of the United Nations Charter, that the right of self-determination had found its place in a legal instrument. It was significant that its formulation in the Charter had been so complex and so cautious that it had given rise to a variety of different interpretations. It was open to question whether the Charter had given recognition to a genuine right in favour of peoples, or whether it had merely laid down an objective for the United Nations. All things considered, and particularly taking into account State practice since 1945, he believed that the first interpretation should prevail.

As far as the beneficiary of the right was concerned, the French delegation regarded as unduly narrow the view held by Kelsen and certain other writers that the only possible beneficiaries were States. States undoubtedly had the right of self-

determination; the fact that a people had set up an independent State did not deprive it of that right, which meant that the people concerned were free to choose their institutions and their economic and social system and free to conduct their own internal and external affairs.

The question arose, however, whether the same right should be granted to the various peoples living within the borders of a single State in their relations with that State. The arguments made against the affirmative view seemed rather lacking in substance in view of all the evidence of a different intention of the authors of the Charter, which had been confirmed by the practice of States since 1945.

The authors of the Charter had been well aware that the right of self-determination could come into conflict with the sovereignty of the State, despite the fact that that sovereignty was based precisely on self-determination. They had endeavoured to avoid that conflict and to overcome the difficulty by defining the scope of the principle of equal rights and self-determination of peoples in a whole series of specific provisions, which had been described as compromise texts, but which were intended mainly to strike a balance between the various principles embodied in the Charter which the Special Committee had been asked to codify. It was necessary to take into account not only Article 1(2), Article 55 and Chapters XI and XII of the Charter, but also Article 2(7), which contained a principle that the Committee was also called upon to consider.

Those various provisions undoubtedly imposed positive obligations upon Member States with respect to their dependent peoples. Under contemporary conditions, the application was primarily to peoples under a colonial regime. It was in relation to them that the principle of equal rights prohibited the domination of one people by another, and the right of self-determination implied that peoples under a colonial regime should be allowed to express themselves freely with regard to their political future; they were thus free to pronounce in favour of independence or of any other solution which might better serve their interests.

France, for its part, fully recognized the principle under discussion and had applied it with all its consequences to dependent peoples. That process had led to the establishment of numerous independent sovereign States, which were now Members of the United Nations.

Although the French delegation agreed that, in the formulation of the principle under discussion, special prominence should be given to the problem of peoples still under a colonial regime, that should not detract in any way from the universal validity of the principle.

The relevant Charter provisions, considered in the light of subsequent practice, clearly also imposed a negative obligation on States; they prohibited any action to suppress or prevent the exercise of the right of self-determination by the people of another State.

Certain delegations had maintained that the principle under discussion could serve as a basis for intervention by one State in the affairs of another, by organizing or encouraging the formation of irregular forces or armed bands or by carrying out of acts of terrorism against its Government. The French delegation could not accept that unwarranted extension of the principle, which would bring it into conflict with all the other principles before the Special Committee, more particularly with the prohibition of the use of force and the principles of non-intervention and sovereign equality. Thus extended, the principle would serve as a cover for every possible abuse, and recent history unfortunately provided far too many examples in which the right of self-determination had served merely as a cloak for a policy of aggression and subversion.

The opinion of those delegations had no basis whatsoever in the Charter, which absolutely prohibited all threat or use of force against the territorial integrity or the political independence of all States without exception and only authorized the resort to force in the cases of self-defence under Article 51 and collective action decided in accordance with Chapters VII and VIII.

It was in the light of those remarks that his delegation would consider the various proposals before the Committee, all of which had some positive aspects, but none of which had succeeded in overcoming all the difficulties. Some of the proposals were even in direct conflict with the Charter, the provisions of which were, of course, mandatory for the Special Committee. The United Kingdom proposal seemed to be closest to the present state of the law which the Committee had been instructed to codify. The French delegation reserved its right to propose amendments in the Drafting Committee, with a view to arriving at a better formulation of the important principle under consideration.

Mr. TOGO (Japan) said that it was one of the most important and fundamental policies of his Government to oppose any form of inequality or subjugation of peoples to foreign domination. As all those present were aware, Japan had reappeared as a member of the community of nations a little more than a 100 years previously. For domestic reasons, it had obstinately closed its door for more than 250 years prior to that, and when at last forced to open its eyes to the cold facts of international life by the visit of the "black ships" of the Great Powers of the time, Japan had found itself in a very difficult situation. Very few independent countries then existed in

Asia and Africa, and what was taking place in China had profoundly alarmed the Japanese leaders. Had any time been lost, the Japanese people would have suffered the same fate as the peoples of Asia and Africa. Since then, Japan's struggle to develop as a nation without losing its independence had been a long and strenuous one. It had taken years to get rid of unequal treaties. Japanese people had encountered racial discrimination everywhere and had also been deeply hurt to see so many peoples under subjugation throughout Asia and Africa.

It was against that background that the Japanese Government had made every effort, in the Drafting Committee for the Covenant of the League of Nations at Versailles in 1919, to establish the principle of equality of peoples, unfortunately without success. A quarter of a century later, however, the principle of equality of peoples that the Japanese Government had so vigorously advocated at Versailles had been finally incorporated in the preamble and various articles of the United Nations Charter.

Since the end of the Second World War, the great winds of equality and self-determination of peoples had begun to blow with irresistible force, first from Asia, then from Africa, and finally they had swept all over the world. The Japanese people were gratified to see that inequality and subjugation were now becoming the exception rather than the rule, but that did not mean that they were not anxious about, or did not sympathize with, peoples which were still living under such conditions. They most ardently desired that equality and self-determination should be achieved by all peoples for all time.

The Japanese delegation had supported General Assembly resolution 2160 (XXI) as an expression of political intent by the Members of the United Nations. When it came to stating principles of international law, however, it was obliged to take a more cautious view, as the Japanese delegation had said when the resolution had been adopted.

His delegation had gained the impression that each of the various proposals submitted to the Committee reflected the desire of its authors for the attainment of equality and self-determination for all peoples; the differences between them seemed to lie in the ways suggested for achieving it. In the light of what he had said earlier, it would be obvious that his delegation shared the sentiments expressed in some of the proposals, in particular that of the non-aligned countries in which it read a deep sense of impatience and frustration that the ultimate goal of equality for all men could not be achieved.

His delegation fully realized that the principle of equal rights and self-determination of peoples was one of the most important principles embodied in the Charter and that all Member States had an obligation under the Charter not only to respect that principle but also to implement it. It was difficult, however, to accept a formulation such as that contained in paragraph 2(b) of the non-aligned countries' draft. In spite of the clear statement in the Charter of the principle of equal rights and self-determination of peoples, his delegation was not fully convinced that such rights could be called rights under international law in the same sense as the right of sovereign equality or other rights of States. In saying that, he did not wish for a moment to deny the existence of equal rights or the right of self-determination of peoples. The Charter also contained a clear statement of "human rights and fundamental freedoms for all without distinction as to race, sex, language or religion", and his delegation did not deny that those were also rights; by neglecting human rights and fundamental freedoms, a State would, without doubt, be violating the Charter. An individual, however, had not the means of redress, against such violations by the State, so that such rights could not be considered as being established under international law. What his delegation would like to have clarified was whether "peoples" could be considered as subjects of international law, with all the rights and obligations accruing thereunder.

His delegation also had misgivings about the use of the term "self-defence" in regard to peoples, in paragraph 2(b) of the non-aligned countries' draft. The concept of self-defence should be treated with the utmost caution. For many years, scholars of international law had done their utmost to give a proper definition of the concept, particularly in recent times because, under the Charter of the United Nations, self-defence was one of the few reasons for which States could legally resort to the use of armed force. To expand the application of the concept without due regard to all its implications would be detrimental to the maintenance of international peace and security.

Lastly, his delegation had some difficulty with the phrase "by virtue of which they may receive assistance from other States" at the end of paragraph 2(b), since it might well be exploited as a pretext for interfering in the internal affairs of other States.

While sharing the sense of impatience and frustration at not being able to realize ultimate justice and equality for all mankind, his delegation nevertheless considered that a principle of international law should not be hastily formulated, since international law was the main bulwark of peace and stability in the world.

Mr. SINCLAIR (United Kingdom) referred members to what he had said about the scope and content of the principle of self-determination at the 57th meeting and at the 45th meeting in 1966. The United Kingdom proposal on the principle of equal rights and self-determination was an amalgam of elements from the 1966 United States proposal, the non-aligned proposal and resolution 1514 (XIV). His delegation had also incorporated two new elements in paragraphs 2 (a) and 2 (b) and did not anticipate any objection to them, since it was common ground that self-determination could only operate effectively when human rights and fundamental freedom were respected and safeguarded.

Paragraph 2 (b) of the proposal had been carefully drafted in an endeavour to reconcile the differences on the question whether the concept of self-determination was to be regarded as a right or as a principle. In the past his delegation had opposed its being formulated in terms of a right, primarily because of the almost insuperable difficulty of defining or identifying the category of persons possessing the right. The new proposal was a serious and far-reaching attempt to overcome that difficulty. If the essential element of the principle were expressed in the form of a duty imposed on States to accord to peoples within their jurisdiction, in the spirit of the Universal Declaration of Human Rights, the right freely to determine their political status, the Committee would be able to avoid most of the serious conceptual and logical problems involved. The wording of paragraph 2 (b) largely avoided those problems by expressing self-determination in the form of a fundamental human right and by imposing upon States the duty to accord that right to peoples within their jurisdiction. His Government hoped that that new initiative, which meant holding in abeyance the views it had consistently maintained in the past, would meet with understanding.

Paragraph 2 (c) of the United Kingdom proposal originated in the corresponding paragraph of the non-aligned proposal which in turn was based upon paragraph 6 of General Assembly resolution 1514 (XIV).

Paragraph 2 (d) derived in part from paragraph 2.A (3)(a) of the 1966 United States proposal, revised and expanded to incorporate language closer to that of Article 73 (b) of the Charter. Paragraphs 3 and 4 of the United Kingdom proposal were based largely on the corresponding paragraphs in the United States proposal of 1966, with certain textual modifications to meet the criticisms then advanced. The fundamental concept expressed in paragraph 3 came from the provisions of General Assembly resolution 1541 (XV).

Commenting on the Czechoslovak proposal he said that it had a number of serious and obvious difficulties. The first sentence of paragraph 1 seemed to imply that all "peoples" - a term which was presumably deliberately left undefined - had the right to self-determination including the right to establish an independent national State. The provision was not qualified in any way and the effect must surely be, if the word "peoples" were given its ordinary, natural meaning, to encourage secessionist or irredentist movements. In answer to a point made by the representative of Burma at the 68th meeting, he said that the United Kingdom proposal was not intended to encourage or condone secessionist or irredentist movements. As he had pointed out in his statement at the 45th meeting, his delegation could find nothing in the language of the Charter about the principle of equal rights and self-determination to support the claim that part of a sovereign independent State was entitled to secede. Because of its concern to establish the falsity of that claim it had inserted paragraph 4 in its new proposal as an additional safeguard to that in paragraph 2 (c). Paragraph 2 (c) aimed at establishing the duty of every State to refrain from acts which might disrupt the national unity of another State, but within the framework of that principle it was necessary to provide that fully sovereign and independent States were conducting themselves in conformity with the principle as regards peoples subject to their jurisdiction, if they had representative and effective internal machinery of government. The use of the word "representative" in paragraph 4 was not intended to mean that only one system of government properly met the criterion; the essence of the provision was rather to protect the territorial integrity of fully sovereign and independent States. Possibly the drafting of the provision could be made clearer, but he hoped that his explanation would have dispelled any doubts.

Paragraph 2 of the Czechoslovak proposal had no basis in the Charter or in international law. His delegation respected the strong views held by many members of the Committee about the evils of colonialism, but was unable to subscribe to the thesis that colonialism as such was contrary to the Charter or international law. As an administering power with continued responsibilities for certain Non-Self-Governing Territories, his Government was fully aware of its obligations under Article 73 and was constructively discharging them. Its record in the process of decolonization required no defence.

He had already commented on the so-called right of self-defence against colonial domination set out in paragraph 3 of the Czechoslovak proposal in the form of an asserted right "to eliminate colonial domination". Such a provision as well as that

in paragraph 4 of the proposal was wholly unacceptable and inconsistent with the responsibilities imposed by the Charter on administering Powers. The responsibilities could not be abdicated until the peoples of the Territories concerned had achieved self-government and freely chosen their future status and no conscientious trustee could or would accept conditions fundamentally inconsistent with the terms of the trust he was called upon to discharge, particularly as those conditions would only lead to chaos because of deliberate encouragement of violence as a means of achieving the desired objective. He hoped that those proposals would not be pressed because they constituted a serious obstacle to agreement.

Referring to the non-aligned countries' proposal, he said that his delegation had considerable difficulty in accepting paragraph 1; moreover, it believed that the essence of that paragraph and of paragraph 2 (a) was covered by paragraphs 1 and 2 (b) of the United Kingdom proposal. Paragraph 2 (b) of the non-aligned countries' text was open to the same objection as the corresponding provision of the Czechoslovak text and paragraph 2 (c) was covered by paragraph 2 (c) of the United Kingdom proposal. Paragraph 2 (d) of the non-aligned countries' text raised some fundamental problems about the relationship between the responsibilities of the United Nations and those of the administering Powers to bring about the attainment of full self-government by the people of Non-Self-Governing Territories. Article 73 of the Charter clearly imposed obligations upon the administering Powers as such and it was their primary responsibility to discharge those obligations in co-operation with the United Nations. For that and other reasons his delegation would find it difficult to accept paragraph 2 (d).

For somewhat different reasons it also had difficulty over the wording of paragraph 2 (e). If it meant that the legal status of a particular territory in constitutional law as an integral part of a State did not preclude the principle of self-determination from being applicable within that territory, then little exception could be taken to the text; but as draft it appeared to create a prohibition on certain forms of constitutional relationship between a Non-Self-Governing Territory and the administering Power. That seemed prima facie inconsistent with the terms of the Annex to General Assembly resolution 1541 (XV), which envisaged integration with an independent State as one of the acceptable means of attaining a full measure of self-government. Consequently, his delegation could not accept that paragraph, and in any case it believed that the point was covered by the last sentence of paragraph 1 in its own proposal.

Much had been heard from the Soviet Union representative about wars of national liberation and he had cited many examples of what in his view were rightful wars of such a nature. By some coincidence, every one of them seemed to be taking place in a country whose regime he disapproved, but although he had, in a wide sweep, referred to trouble spots in a number of continents, he had failed to mention the Havana Conference taking place at that moment, which was considering ways and means of stepping up interventionist activities and of supporting so-called national liberation movements in Latin America. The Committee might wish to hear the views of the Soviet Union representative on the relevance of that Conference to his thesis.

The Soviet Union representative had also referred to military bases, giving as an example the agreements between the United Kingdom Government and the Governments of the Maldive Islands and of Cyprus. The agreements had been the result of long and detailed negotiations and did not bear out the Soviet Union representative's arguments. Discussions with certain Governments had taken place about the United Kingdom Government's plans to reduce its defence commitments and they had expressed concern about the economic effects of such cuts. The establishment and maintenance of military bases depended upon the agreement of the Government of the territory concerned, which received advantages and benefits that it was naturally reluctant to forego.

In conclusion, he confirmed his delegation's absolute and unqualified commitment to the implementation of the principle of self-determination which, as stated in the Charter, reflected the noblest aspirations of mankind and its yearning to strive for a society in which the rights of all would be safeguarded and respected and in which all peoples would be able to pursue their development without fear of persecution or violence.

Mr. ENGO (Cameroon), Chairman, resumed the Chair.

Mr. MWENDWA (Kenya) said that the subjugation of peoples under colonial domination and exploitation was a manifest outrage on human dignity and a violation of the principle of equal rights and self-determination, which was the reason why the authors of the non-aligned proposal had focused attention on self-determination in the colonial context. His country had had first-hand experience of that form of denial of self-determination and though it welcomed co-operation by the colonizing States in the granting of independence, it would not allow them to rest while a single territory remained under subjection. First priority must be given to the process of decolonization.

The non-aligned countries' proposal had the merit of not framing the principle in an East-West context.

The principle was enshrined in Article 1, paragraph 2 of the Charter and had made an important contribution to reducing empires. It was no longer a moral or political postulate, but a recognized principle of contemporary international law and its full recognition was a prerequisite for the maintenance of peace and security, the development of friendly relations among States and progress throughout the world.

In framing the principle, the Committee should bear in mind historical situations in which equal rights and self-determination had been denied. It should also remember the Declaration of Independence, the French Revolution, the October Revolution in Russia and the Mau Mau movement, which might have been considered by some as rebellions, but by others had been considered as a national liberation movement and a demand for equal rights and self-determination.

Those examples clearly showed that to formulate the principle exclusively on the basis of colonial situations would be to cover only a part of the problem. While concentrating essentially on the colonial problem, the formulation should include all other situations where peoples were illegitimately denied equal rights and the exercise of the right of self-determination. In saying that, he was not introducing an East-West element into the issue. There were two examples in Africa itself of a flagrant breach of the right of self-determination where the colonial issue did not arise. In South Africa and Rhodesia a minority was subjecting the majority to indescribable indignities and inhumanity. It was an understatement to speak of those peoples as having been denied equal rights and the exercise of the right of self-determination. That type of denial of the right of self-determination must be covered in the Committee's formulation. The situation relating to South-West Africa should also be included in a formulation dealing with colonialism and neo-colonialism.

He did not agree that the text of the non-aligned countries dealt with the principle solely in the colonial context. Paragraphs 2 (a) and 2 (b) adequately covered other situations.

His delegation considered that in formulating the principle great care should be taken with regard to the question of secession. Self-determination must not be used as a licence for the fragmentation or emasculation of sovereign States exercising their sovereignty under conditions of equal rights for all their people. As set out in the Charter, the principle did not sanction an unjustifiable claim to secession by a

minority group which traditionally formed part of an independent sovereign State. Such a claim could not be justified on the ground that the principle was a provision of lex lata. It was also important that the principle should be formulated in the context of paragraph 2 (c) of the non-aligned countries' draft. Cases in which subversive activities were carried out under guise of helping to hasten the process of self-determination would be avoided if the language of that paragraph was adopted.

The object of exercising the right of self-determination was full sovereignty and independence. All must strive to ensure that as a result of the exercise of that right, the people exercising it could, so far as was practicable, choose to live under a form of government that was truly sovereign and fully independent. Only then could the ultimate aim of the sovereign equality of States be attained.

Mr. CHKHIKVADZE (Union of Soviet Socialist Republics), exercising his right of reply, said that everything he had said at the 68th meeting about the colonialist and imperialist governments which were opposing the termination of the colonial system remained true and he would not withdraw a single word. What he had said might not have been agreeable to certain members, but it was not his function to please; his aim was to speak the truth in the light of realities, public opinion and the views of the Soviet Government and people.

The United States representative had observed at the 68th meeting that the existence in the Soviet Constitution of a provision concerning the right to equality and self-determination proved that there was a problem in that country. That was totally untrue. No problem existed and all questions connected with self-determination had been completely and definitively settled. On the other hand, a problem did exist in the United States, the United Kingdom and some imperialist countries, and it had manifested itself during the post-war period. However, he hoped that in the near future all subject peoples would have gained their independence. The United States representative had implied that he (the Soviet Union representative) had been at pains to select colonial and dependent territories to prove his point, but that was totally unnecessary as there were so many examples. Moreover, he had refrained from mentioning such places as the Marshall Islands.

The United States representative had said that the people of the United States, though respecting the Secretary-General, subscribed to the President's view concerning his declaration about the war in Viet-Nam. However, no one should be a judge in his own cause and the President was not likely to be objective about a war in which his own country was actively engaged. As a representative of the Soviet Government and

people and because of his own personal convictions he was forced to say what he thought about that war. He wondered by what right the United States was pursuing a policy of destruction in Viet-Nam and leaving its people to die of hunger. Morality and justice required him to condemn the barbarous behaviour towards a people whose only fault had been to desire freedom. It would be far better if the United States representative kept quiet on the subject.

The CHAIRMAN asked the Soviet Union representative to direct his remarks to the Chair and not to individual members of the Committee.

Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) said that it was easy to understand why the United Kingdom representative had found unpalatable the reproaches levelled against colonial regimes and the references to what was happening in Aden, although he (the Soviet Union representative) had not in fact made any mention of the use of armed force in Aden by the United Kingdom.

He was unable to understand why the United Kingdom representative should have dragged in the question of the Havana Conference and of national liberation movements in the Latin American continent.

Mr. MOLINA LANDAETA (Venezuela) said that there was no national liberation movement in his country but only groups of guerilla that were encouraged from outside to disrupt the social order.

Mr. REIS (United States of America) said that he had been misunderstood by the Soviet Union representative. What he had said was that the constitutional provisions in the Soviet Union concerning self-determination testified to the fact that the principle was not purely one applicable to colonial situations. He had never suggested that it had caused problems in the Soviet Union. He was glad to have heard of the state of perfection which had been achieved in that country. The United States did have serious problems, but he doubted whether its people would benefit from the Soviet Union's call to freedom. There were minimum standards of conduct to be observed even in international deliberations that called for restraint in references to the heads of other States. Instead of fruitless condemnations and propaganda against the United States policy in Viet-Nam, the Soviet Union representative might better do something effective towards ending that terrible war and helping the peoples of Viet-Nam to settle their own affairs.

The CHAIRMAN asked the United States representative to address his remarks to the Chair and not to individual members of the Committee.

ORGANIZATION OF WORK

Mr. REIS (United States of America), referring to the progress of the Committee's work, said that there had been some informal discussion of the possibility of extending the session by a fortnight. His delegation would strongly oppose any such extension because the General Assembly would be meeting in mid-September and delegations must return home and prepare for it. If more meetings were necessary, further use could be made of the time still available by holding night meetings or devoting part of each morning to meetings of working groups.

The CHAIRMAN said that the progress in plenary meeting was satisfactory and the Committee was adhering to the time-limit set at the beginning of the session. He hoped that the session would not be prolonged unless absolutely necessary and then for only one or two days at the most. It would be particularly difficult for delegations from remote countries to prolong their stay in Geneva. He earnestly appealed to members to exercise restraint and not to take up too much time with their speeches.

The meeting rose at 1 p.m.