



CONTENTS

	Page
Agenda item 94: Declaration and resolutions adopted by the United Nations Conference on the Law of Treaties: (c) Resolution relating to article 66 of the Vienna Convention on the Law of Treaties and the annex thereto (concluded)	283
Agenda item 89: Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States	284

Chairman: Mr. Gonzalo ALCÍVAR (Ecuador).

AGENDA ITEM 94

Declaration and resolutions adopted by the United Nations Conference on the Law of Treaties:

(c) Resolution relating to article 66 of the Vienna Convention on the Law of Treaties and the annex thereto (concluded) (A/7592; A/C.6/397; A/C.6/L.743, A/C.6/L.774/Rev.1)

1. The CHAIRMAN invited delegations wishing to explain their votes on draft resolution A/C.6/L.774/Rev.1 adopted at the previous meeting by the Committee, to do so.
2. Mr. ARANGIO-RUIZ (Italy) said that in voting for the draft resolution his delegation had merely wished to signify its approval of the acceptance by the United Nations—of the time being by the Sixth Committee—of the costs of the conciliation procedures envisaged in sub-paragraph (b) of article 66 of the Vienna Convention on the Law of Treaties and the annex to the Convention. Its affirmative vote in no way prejudged any decisions it might take on other issues which might arise in the future in connexion with the Convention, including the Declaration on Universal Participation in the Convention. It considered that any such questions should be examined on their merits by the General Assembly, which should take decisions in the best interests of the progressive development of international law, and similar considerations applied to its affirmative vote on the recommendation attached to the draft resolution. It reserved its position on the financial implications of the draft resolution when it was discussed in the Fifth Committee.
3. Mr. SHAW (Australia) said that, since his delegation had not been a party to the Vienna “package deal”, it had felt

completely free in the vote on the draft resolution and had voted solely in the light of the particular merits and shortcomings of the draft. It would also thereafter feel free to vote in all other respects unaffected by the “package deal”.

4. Mr. KOSTOV (Bulgaria) regretted the haste with which the Committee had tried to dispose of the delicate questions raised by the draft resolution. He was glad that the representative of Ghana had pointed out that the course taken by the Committee should not prejudice the future consideration of the Declaration on Universal Participation in the Convention. In accordance with the position it had taken on article 66 at Vienna, his delegation had voted against the draft resolution. It still maintained the view that the United Nations should not be burdened by costs which might be incurred by non-member States. Furthermore, it did not consider that the Sixth Committee was the right place in which to take decisions on questions such as that dealt with in the foot-note to the draft resolution.

5. Mr. EL-ATTRASH (Syria) agreed with those delegations which had expressed the view that the annex to the Vienna Convention, and particularly the principle laid down in the final sentence of paragraph 7 of the annex that the expenses of conciliation commissions should be borne by the United Nations, had already been approved. His delegation nevertheless felt that the draft resolution was of great importance, not only because it requested the Secretary-General to “take action accordingly”, but because it also invited the Sixth Committee to recommend that the General Assembly should take a number of decisions, which in fact constituted measures of implementation of the principle laid down in the annex to the Convention. Thus the very fate of the annex to the Convention, and hence that of the conciliation commissions, was closely bound up with the decision taken by the Committee and those to be taken in due course by the Fifth Committee and the General Assembly.

6. The Syrian delegation continued to believe that the two elements of the “package deal” adopted at Vienna were inseparable. Like many other delegations, it attached great importance to the Declaration on Universal Participation in the Vienna Convention on the Law of Treaties and greatly regretted that the examination of the question of that Declaration had been deferred until the following year without any indication whether the outcome would be favourable when it did come to be discussed. His delegation had therefore abstained in the voting on the draft resolution. It had refrained from voting against it so as to signify its approval of the constructive efforts made during the Vienna Conference by many delegations to make the Convention a reality.

7. Mr. NALL (Israel) said he had voted for the inclusion in the Committee's report of the text contained in the foot-note to the draft resolution, while at the same time maintaining the reservations his delegation had made on the subject at the 1157th meeting.

8. Miss LAURENS (Indonesia) said that her delegation had abstained at Vienna when the vote had been taken on the "package deal", because it had been unable to accept the financial implications of the procedure for the settlement of disputes under that arrangement. However, it had voted for the Convention as a whole, subject to a reservation in regard to the provisions of article 66 and the annex to the Convention. Consequently, it had abstained in the vote on the draft resolution in question.

9. Mr. SECARIN (Romania) said that his vote against the draft resolution and against the inclusion in the Committee's report of the foot-note to the draft was in keeping with the position taken by the Romanian delegation at the Vienna Conference in regard to article 66 of the Convention; it had felt that the procedure proposed by the International Law Commission and set forth in article 65 of the Convention was more relevant to the fundamental principles applicable to the settlement of international disputes, and it had therefore been opposed to the inclusion of article 66 in the Convention. His delegation would like to point out in that respect that to examine the two elements of the Vienna "package deal" separately would destroy it, and thanked the delegations which had proposed as a means of keeping it intact that the debate on the resolution concerning article 66 of the Vienna Convention on the Law of Treaties should likewise be adjourned.

AGENDA ITEM 89

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/7619)

10. Mr. SAM (Ghana), Rapporteur of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, introducing the Special Committee's report on its 1969 session (A/7619), said that the Special Committee had devoted the session essentially to completing the work on the principle prohibiting the threat or use of force and the principle of equal rights and self-determination of peoples. Noticeable progress had been made, and for the first time the Special Committee had reached an agreed, though limited, statement of that principle.

11. With regard to the principle prohibiting the threat or use of force, resolute efforts had been made to enlarge the scope of agreement in respect of the separate elements. Points 1, 2, 4 and 11 reproduced in paragraph 117 of the report contained formulations on which agreement had been reached at the 1968 session. They had been left untouched; on the other hand, points 3, 10 and 12, which had been agreed upon only in principle at the 1968 session,

had on the present occasion been the subject of an agreed formulation. Point 7, on which no agreement had been reached the previous year had also given rise to a complete formula, subject to a reservation which it was hoped could be settled in due course. Progress had also been made in the matter of points 5, 6 and 10, and he was confident that at the next session of the Special Committee an agreement could be reached on introducing into the declaration a formulation concerning military, political or economic coercion.

12. The Special Committee had fortunately been able to agree, for the first time, on a formulation, however limited and incomplete, of the principle of equal rights and self-determination of peoples. However, there was still much to be done in that direction.

13. In examining the reports of the Drafting Committee on each of those principles, it should be borne in mind that the agreement achieved in private was actually far wider than appeared from the report of the Special Committee. The reason was that during the final stages of the work of the Special Committee delegations had not been ready to negotiate on the general balancing of the statements on the two principles, because negotiations would have called for important concessions by both sides on a number of points on which views differed widely. As a result, some delegations had felt they must withdraw the preliminary consent given during private discussions. Nevertheless, the consensus achieved during those discussions would be useful at the appropriate time, and the extremely delicate nature of the questions examined by the Special Committee and the profound differences of opinion they had traditionally aroused between States meant that the little progress achieved was of great value. Moreover, there was no doubt that the Special Committee had reached the final stage of its work, which could constitute a solid foundation for a draft declaration on the seven principles of international law listed in General Assembly resolution 1815 (XVII). For that reason, as could be seen in chapter II, section 3, of the report, many delegations had expressed the opinion that its work should or could be rounded off by the adoption of a declaration on the seven principles to coincide with the twenty-fifth session of the General Assembly. If a spirit of co-operation and political goodwill continued to prevail in the international community, that wish could come true.

14. Mr. DELEAU (France) said that in 1969, the Special Committee had made substantial progress towards the completion of its task; it was particularly to be congratulated in that the two principles it had examined in 1969—the principle prohibiting the threat or use of force, and that of equal rights and self-determination of peoples—were of fundamental importance for contemporary international relations and were extremely delicate.

15. It had been possible to reach general agreement on the principle prohibiting the threat or use of force, although one problem, namely the question when the use of force might be considered lawful, was still in abeyance. That problem was closely bound up with the principle of equal rights and self-determination of peoples, because in addition to the cases in which it was allowed under the Charter, the question arose of the resort to force to put an end to foreign domination. The express recognition of that right

called for a precise definition of those cases of foreign domination which would justify the use of force.

16. France, more than any other nation, had placed the self-determination of peoples foremost among the great principles it proclaimed. The French had been one of the first peoples in history to claim the right of self-determination, and it had proved that it also recognized that other peoples had the same right. Since its advocacy of that principle was beyond question, France was all the more anxious that the scope of the principle should be clearly defined by the General Assembly.

17. His delegation believed that the right of peoples to self-determination implied the condemnation of unjust domination. But that did not mean that it was always possible to draw a distinction between oppression of a strictly colonial nature and oppression of one people by another that could not be so described. History showed that the idea of the right of peoples to self-determination had been born in Europe at a time when some European peoples were under the domination of neighbouring States. Those were not colonial situations. Moreover, the current international situation showed that cases of domination existed within the same continent, between neighbouring countries, as well as between one continent and another.

18. International law proclaimed that all peoples had the same rights, and France, which had made the principle of self-determination one of its major policy rules, could not conceive how that right could be granted to peoples suffering from colonial domination and denied to peoples suffering under foreign but not colonial oppression. To do so would be to create a legal inequality between peoples in situations that were similar in law.

19. Nor did it seem morally right to acknowledge the lawfulness of the use of force against colonial oppression and to declare it unlawful against other forms of domination. After all, was it right for colonization, which was domination by a foreign people from a distant country, to be the only justification for the use of force, and thus more deserving of condemnation than domination by a neighbour? Further, the discrimination which could be made in the right to use force could not rest on a clear distinction between situations that could be described as colonial and those that could not.

20. If the use of force was allowed only in cases of colonial domination, all situations involving domination would be bound to be described as colonial and the rule would thus be distorted. At present, the only way of differentiating between a colonial situation and any other oppressive situation was on the basis of geography: domination or oppression by neighbouring or nearby States was not colonialism, while domination by a distant State was or might be described as colonialism. His delegation did not think it was reasonable or juridically right to base on such a distinction an inequality in the right to self-determination or a possibility of the resort to force as an exception to the provisions of the Charter.

21. In comparison with that fundamental issue, the other questions on which differences of opinion appeared to exist

would seem much less difficult to resolve. The delicate question of respect for lines of demarcation appeared to be in the process of being solved. Lines of demarcation meant, of course, *de facto* territorial boundaries which had come into existence more often than not as a result of hostilities and had not been sanctioned by international law. From the legal point of view, therefore, there was no question of lines of demarcation being placed on the same footing as frontiers. But, to take the argument one stage further, it should be recognized that they included boundaries that had resulted, in the case of Europe, from the Second World War, in Asia from the conflicts of the 1950s, in the Middle East from other events, and in other areas of the world from *de facto* situations not recognized by a number of States. It should be possible to give different treatment to boundaries of which the legal nature and perhaps even the validity were different. It should be possible to reach a compromise on that matter, as well as on the non-recognition of situations brought about by the use of force.

22. The draft declaration on the principle of equal rights and self-determination of peoples had not made much progress when the Special Committee had taken up the question during its 1968 session. It now appeared to be accepted that the text should include an affirmation of the right of peoples to self-determination and also a statement of the obligations that the existence of that right imposed on States. The latter obligations in particular should be specified to the extent that they defined rules applicable to the conduct of States. A consensus had already been reached on the assistance that States might give to the United Nations to enable it to discharge its responsibilities under the Charter. Agreement had also been reached on the non-violation of the national unity and territorial integrity of another State or another country. Finally, an agreement in principle had been reached on the inclusion of a formula condemning foreign domination and exploitation, of which only the text remained to be decided. The Special Committee now had to settle the remaining differences concerning the application to colonial situations of the last principles examined. France hoped that a single legal régime would be applied without discrimination to States under foreign oppression or domination. All that would then remain to be done would be to complete the drafting of the principle of non-intervention in matters within the domestic jurisdiction of any State and to draft the general preamble to the declaration on the seven principles.

23. He had no doubt that if the Special Committee applied sound and effective methods, it could achieve a consensus on the various points in one more session. The 1970 session should be held early enough to enable Governments to examine whatever text was adopted before the twenty-fifth session of the General Assembly. France agreed with the many delegations that had urged that the session should be held at Geneva or in some European country, if an invitation to that effect was received.

24. In view of the considerable amount of work already accomplished, he was convinced that the Assembly would be in a position, at its next session on the occasion of the twenty-fifth anniversary of the United Nations, to adopt a unanimous and far-reaching declaration on the principles of international law concerning friendly relations and co-operation among States.

25. Mr. SPACIL (Czechoslovakia) spoke of the importance, not only legal but political, of the question of the principles of international law concerning friendly relations and co-operation among States. The establishment of peaceful and friendly relations among States was an aim of all peace-loving peoples and was among the cardinal objectives of the United Nations. It was no accident that it was embodied in the draft Appeal to all States of the world on international security submitted to the First Committee by the Soviet Union,¹ nor was it fortuitous that the General Assembly, by resolution 2499 A (XXIV), adopted at its 1797th plenary meeting, on 31 October 1969, had invited the Special Committee to expedite its work so as to enable the General Assembly, at the session commemorating the twenty-fifth anniversary of the United Nations, to adopt the declaration which the Special Committee was preparing. The fact that on the eve of that anniversary the declaration needed little more than finishing touches, because of the progress achieved in the previous seven years, was certainly gratifying. The report of the Special Committee on its 1969 session created favourable conditions for the fulfilment of that task. Unlike the previous reports, it contained agreed elements relating to the principle of equal rights and self-determination of peoples. His delegation regarded that as an outstanding success because it had opened the way to the final stage of codification, which could be concluded by the Special Committee after informal consultations, thus enabling the General Assembly, at its twenty-fifth session, to approve a draft declaration embracing the seven principles enumerated in resolution 1815 (XVII).

26. Commenting on his delegation's position with regard to certain points raised by the agreed text of the two principles endorsed by the Special Committee, he said that as far as the principle prohibiting the threat or use of force was concerned, it fully approved the various statements on which agreement had been reached and wished to explain its views on some of the elements which the Special Committee had discussed without achieving agreement. It seemed that it would be impossible to draw up a generally acceptable definition of international lines of demarcation and accordingly the Sixth Committee had to consider afresh whether it was really appropriate to refer to that controversial problem in the declaration.

27. In the light of the General Assembly resolutions on the problems of colonialism, his delegation considered that the paragraphs on the organization of armed bands, intervention in a civil war and terrorist acts should be supplemented by a statement that peoples under colonial domination were entitled to request and receive material, political and moral assistance from other States. In fact, the declaration on the principles of international law concerning friendly relations and co-operation among States would be incomplete without an explicit statement on the prohibition of the threat or use of force and any other form of coercion against peoples under foreign or colonial domination. His delegation believed that the prohibition should be based on the very wide concept formulated under point 8 included in the report of the Drafting Committee

reproduced in paragraph 117 of the Special Committee's report; it could also be included in the enunciation of the principle of equal rights and self-determination of peoples, where it logically belonged.

28. With regard to the statement on the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State—also referred to in the report of the Drafting Committee—his delegation had participated in the preparation of that text, adopted by the Special Committee. It proposed that the text should be included in the declaration as one of the general statements, since it related to more than one principle.

29. Turning to the principle of equal rights and self-determination of peoples, he welcomed the fact that for the first time the Special Committee had agreed on certain important elements of that principle. Referring to the alternatives proposed in paragraph I of the Drafting Committee's report, reproduced in paragraph 180 of the Special Committee's report, he said that the enunciation of the principle should start with a reference to the rights of peoples and only subsequently enumerate the obligations which the existence of those rights laid on States. His delegation fully agreed with the statement formulated in paragraph II of the Drafting Committee's report with regard to the obligations incumbent on States deriving from the principle of equal rights and self-determination of peoples.

30. His delegation preferred the second of the two alternatives proposed in paragraph III of the Drafting Committee's report because it mentioned "any other forms of colonialism".

31. Every dependent people had the right to establish an independent State and only those nations which had first gained independence could immediately or subsequently decide on association or integration with another State. His delegation therefore regarded paragraph IV of the Drafting Committee's report as one of the most important elements of the principle of equal rights and self-determination of peoples.

32. A modern and progressive formulation of the right of self-determination had to be accompanied by an unequivocal prohibition of the use of force by administering Powers against colonial peoples in their struggle for independence. Likewise, legal rules had to be laid down to the effect that colonial territories were not an integral part of the territory of the administering Power. His delegation would do all it could to ensure that the notions contained in paragraphs V, VI and VII of the Drafting Committee's report appeared in the final version of the statement of the principle.

33. The Declaration on the Granting of Independence to Colonial Countries and Peoples and the resolutions adopted in that connexion by the General Assembly specified precisely how the colonial Powers should discharge the obligations flowing from the right of self-determination. It was obvious from that Declaration which were the colonial Powers and peoples. Anyone still in doubt on the matter need only refer to the Charter and to the work of the

¹ For the text, see *Official Records of the General Assembly, Twenty-fourth Session, Annexes*, agenda item 103, document A/7903, para. 7.

Fourth Committee and the Committee of Twenty-Four.² The texts he had mentioned required the colonial Powers to transfer their authority to colonial peoples without delay, unconditionally and without any reservations. The second formula proposed in paragraph VIII of the Drafting Committee's report fully reflected that concept and his delegation would strive for its inclusion in the final Declaration in one form or another. On the other hand, it found the proposals in paragraphs IX and X of the Drafting Committee's report unnecessary.

34. He referred to the proposals put forward by his delegation at the closing meeting of the Special Commit-

² Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

tee's 1969 session concerning its organization and methods of work for the 1970 session, and summarized in paragraph 206 of its report. If the proposed time-table was observed, it should be possible solemnly to proclaim the declaration on the principles of international law concerning friendly relations and co-operation among States in the autumn of 1970.

35. With regard to new terms of reference for the Special Committee in connexion with its further activities, his delegation was collaborating with others in the preparation of a draft resolution and would raise the matter later in the Sixth Committee.

The meeting rose at 4.40 p.m.