



CONTENTS

	Page
<i>Agenda item 75:</i>	
<i>Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations (continued)</i>	115

Chairman: Mr. Constantine EUSTATHIADES
(Greece).

AGENDA ITEM 75

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations (A/5192, A/C.6/L.505, A/C.6/L.507 and Add.1) (continued)

1. Mr. OKANY (Nigeria) said that his delegation, which was one of the sponsors of draft resolution A/C.6/L.507 and Add.1, believed that the principles of the Charter were the barest minimum requirement for friendly international relations. Adherence to them would help the nations to find realistic and sensible solutions to the problems of their relationship. His country's Prime Minister, Alhaji Sir Abubakar Tafawa Balewa, had called the United Nations Charter the best instrument for reducing the differences between nations and bringing the world closer together. The Charter was based on the sovereign equality of the States Members, irrespective of their size and influence. That was as it should be, for international law dealt with States and not with individuals. Article 2, paragraph 7 said:

"Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter ..."

His delegation did not believe, however, that the claim of domestic jurisdiction should be used to perpetuate situations which threatened the peace and security of the world, or to justify apartheid and the oppression of Africans in Central and South Africa.

2. The principle of equality in international customary law meant equality of status and before the law. His Government would reject any attempt to qualify or restrict the application of that principle. On 7 October 1960, the day of his country's admission to the United Nations, the Nigerian Prime Minister had stated in the General Assembly that Nigeria would never impose its will upon any other country and would treat every African territory, large and small, as an equal, since it honestly felt that only on that basis of equality could

peace be maintained on the African continent. ^{1/} That was also his Government's attitude towards the countries of Asia which had regained their independence since the Second World War. In formulating the rules of international law governing friendly relations and co-operation among States, it was necessary to bear in mind the dynamic quality of international society. Before the First World War the usefulness of international law had been greatly limited by power politics and the rule of force. In 1939 they had killed the League of Nations and embroiled the world in another major and destructive war. It was regrettable that States had not even yet abandoned the use of force in achieving their objectives. His Government firmly believed that the principle of the pacific settlement of disputes as laid down in the Charter was a fundamental rule of international law which should be applied in all cases. His Government's Prime Minister had said in the General Assembly that, although certain African boundaries had been artificially created by European Powers in the nineteenth century, they should nevertheless be respected and remain the recognized boundaries until the peoples concerned decided of their own free will to merge into one unit.

3. At a time when suspicion and hatred threatened the very existence of mankind, his people believed in the rule of law and the application of legal rules to the solution of international problems. For that reason his delegation had been glad to join the sponsors of draft resolution A/C.6/L.507 and Add.1, not as a propaganda move but in order that the Sixth Committee might play a useful part in the progressive development and codification of international law. That purpose could best be achieved if the Committee restricted itself to the legal aspects of friendly relations and co-operation—which for his delegation had the same meaning as coexistence—among States, and did not attempt to deal with their economic, cultural or social aspects.

4. Mr. LUTEM (Turkey) said that the item under discussion was the most important that had come before the Sixth Committee in many years. His Government's Foreign Minister, speaking before the General Assembly, had said that unswerving respect by the States Members for the rule of law was at the very basis of the United Nations concept, and that the International Law Commission had already done valuable work in preparing the draft Declaration on Rights and Duties of States (General Assembly resolution 375 (IV)).

5. The so-called "realistic" concept of international law was not perfect and bore within it the seeds of danger; but there was no doubt that its supporters had played an important part in the founding of the United Nations. In the opinion of many Powers international law had not prevailed, and they had attempted to give

^{1/} See *Official Records of the General Assembly, Fifteenth Session (Part I) Plenary Meetings*, vol. 1, 893rd meeting, para. 195.

it a secondary role. Nevertheless, good international lawyers and the United Nations as a whole were now trying to find a middle way, since it was impossible to admit that might was right and that international law operated in a vacuum. Although the United Nations was a political institution where political factors weighed heavily in the balance, it was based upon the rule of law and operated under a legal constitution. The terms of that constitution were stated specifically in Articles 1 and 2 of the Charter, the first of which said that the purposes of the United Nations were, among others, to develop friendly relations among nations, to achieve international co-operation in solving international problems, and to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion. The last purpose played a particularly important part in bringing about friendly relations and co-operation among States, since a country which respected the Universal Declaration of Human Rights within its own borders was bound to be influenced by those principles in its foreign relations.

6. Article 2, paragraph 1 of the Charter, stated that the Organization was based on the principle of the sovereign equality of all its Members, while paragraph 3 provided that all Members should settle their international disputes by peaceful means in such a manner that international peace and security, and justice, were not endangered. In the latter paragraph the word "justice" had been inserted at the San Francisco Conference because, in the light of experience of unjust settlements, Committee 1 had felt that it was not sufficient to assure that peace and security were not endangered.^{2/} Only the concept of justice, which included the ways of negotiation, conciliation, arbitration, and judicial settlement, would guide nations in their efforts to bring about mutual friendly relations and co-operation. Paragraph 4 provided that all Members should refrain from the threat or use of force against the territorial integrity or political independence of any State. That, incidentally, was one of the most important obligations included in the draft Declaration on Rights and Duties of States prepared by the International Law Commission (General Assembly resolution 375 (IV)).

7. His delegation supported the eight-Power draft resolution (A/C.6/L.507 and Add.1) for the following reasons. First, the preamble not only expressed awareness of the significance of the emergence of many new States and the contribution which they were in a position to make to the progressive development and codification of international law, but also stated that certain areas of international law were in need of clarification. Second, it confined the Committee's terms of reference to workable dimensions, and postulated a clear-cut course of action capable of producing definite results. Third, it followed the general lines of the Charter, which enshrined the principles of equality, justice and respect for the rights of others, and to which all Members must turn when in doubt or in need of guidance.

8. Mr. NEDBAILO (Ukrainian Soviet Socialist Republic) noted that the item under discussion, far from being academic and theoretical, was closely connected with the immediate requirements of modern life and contemporary international relations, which were governed by the idea that peace was the only means

whereby mankind could develop along the paths of progress. It was encouraging to see that the Sixth Committee was fully aware of its duty to promote that idea.

9. As the Turkish representative had just pointed out, the Committee constantly faced the problem of the relationship between law and politics. The idea, upheld by many, that law could not be confused with politics would not in itself be prejudicial if it did not carry with it the intention to sever politics from international law so as to vitiate the latter and diminish its importance. Law, though of course not synonymous with politics, was one of the means of carrying out policy; its peculiar feature was that it laid down specific rules and principles which were strictly binding on all participants in international relations. Thus law did not constitute a kind of extra-political domain, and the principles of international law defended by States were closely bound up with the principles of their foreign policy if it was directed towards peace, friendship and co-operation among nations.

10. Accordingly, modern foreign policy governed by law should be based on the concept of peaceful and friendly relations. The provision in the programme of the Communist Party of the Soviet Union that all means should be used to prevent a world war, and that conditions should be created for the complete exclusion of war from the life of mankind, was in fact a universal goal and represented the quintessence of contemporary international policies. Consequently, a primary purpose of modern international law must be to ensure the maintenance of peace and the development of friendly relations among nations. That purpose had been set forth cogently in the second preambular paragraph of General Assembly resolution 1505 (XV); and the very same purpose underlay the Czechoslovak draft resolution (A/C.6/L.505), as might be seen from its preamble.

11. The principles of international law, in his delegation's view, were its basic general provisions, its fundamental rules and its guiding outlines, reflecting the profoundest needs of the international community. The principles of international law had all the attributes of law and all the normative and binding power of rules of law. For example, the principle of non-aggression bound States not to resort to war, and also prohibited the threat and use of force against the territorial integrity and political independence of any State. Thus a principle possessed the attributes of a rule but was broader and more general, containing all the guiding concepts and requirements on which contemporary international law was based.

12. Moreover, principles could not be regarded as rigid or static, for an inherent quality of a principle was its capacity for development and elaboration. Thus such time-honoured principles as respect for State sovereignty, non-interference in domestic affairs, equality of States, and observance of international obligations had lately been supplemented by the newer principles of non-aggression, prohibition of war propaganda, peaceful settlement of disputes, self-determination and others. Careful study of those principles, which were the very core of modern international law, was an indispensable condition for enhancing the role of international law in international relations.

13. General principles assumed yet further importance in international law because of their mandatory character; agreements between States which in any

^{2/} United Nations Conference on International Organization, I/1/34.

way deprived those principles of effect or conflicted with them were invalid. As Mr. Khrushchev had pointed out, the need for mandatory principles was increasing with the expansion of the international community, and with the increase in the number of problems of which a bilateral or multilateral solution could prejudice the interests of other States. Mr. Tunkin had written that the fundamental principles of international law were the criteria of the legality of all other norms formulated by States in international relations. Accordingly all other norms must be brought into line with those principles, and contrary provisions of international agreements must be regarded as void.

14. The principles of international law now in force were contained either in conventional norms such as the United Nations Charter, or in norms of customary international law. Nevertheless, a number of norms and instruments of international law required deeper study, considerable clarification, broader formulation of existing principles, and progressive development of new principles. That was why the General Assembly had included the third preambular paragraph and operative paragraph 4 in its resolution 1686 (XVI).

15. The Committee's difficult and challenging task, therefore, was to study all the general principles of international law relating to peaceful coexistence among States. All, not only two or three, of such principles should be studied, since only the global approach would make it possible to put into practice a policy of peace and friendly relations among States which would prevent actions likely to lead to a catastrophic world war. The Committee should systematize those principles, codify them, elaborate them where necessary, and promote their progressive development.

16. The best approach to that goal seemed to be to prepare a declaration of those principles. It would not be a mere supplement to the Charter, but a synthesizing document based on the Charter, and would have not only informative but also great practical value. Although a declaration did not bind States as an agreement bound parties, United Nations experience had shown that its adoption was a solemn act and that it had much greater force than a mere recommendation. The organ adopting a declaration—in the present case the General Assembly—expected the signatories to meet that declaration's requirements. Thus, the Universal Declaration of Human Rights, and the Declaration on the granting of independence to colonial countries and peoples (General Assembly resolution 1514 (XV)), had obviously had considerably more influence than any simple recommendation could have had.

17. Moreover, while a declaration was not yet a formal source of international law, it might become one if recognized by States as a norm of international law. Such recognition might be expressed by the practice of the international community, in which case the provisions of the declaration would become provisions of customary international law; alternatively the declaration might create a specific practice leading to the acceptance of a definite binding rule. A declaration on the principles of peaceful coexistence would have such a law-making character, particularly since it would state a number of principles which already existed in international law. The systematization of those norms would give them a new significance, make many of them more categorical, raise some of them to the level of more universal requirements, and promote their correct interpretation. The declara-

tion would undoubtedly enhance the progressive development of international law.

18. The need for a comprehensive document on the subject was the more obvious because the scope of international law had been greatly expanded by the disintegration of colonialism and the establishment of many new sovereign States. Since international law had become universal law, a favourable atmosphere had been created for the inculcation of its progressive principles in the life of the world community. A declaration such as that proposed by Czechoslovakia would also have an important political and moral influence, because its principles were already acknowledged to be the legal principles for friendly relations and co-operation between States under the Charter, and also expressed the aspiration of all peoples to maintain and strengthen international peace and security.

19. The Czechoslovak delegation had prepared a draft declaration comprising the nineteen principles determining the most important features of contemporary international law. Part I related to the peaceful settlement of disputes, the prohibition of the threat and use of force, and the prohibition of aggressive war. It also included the principle of the prohibition of weapons of mass destruction, and that of general and complete disarmament, both of which might be described as normative, since they prescribed a definite course of behaviour and created an obligation both moral and legal. The legal obligation of disarmament derived from the contemporary legal prohibition of resort to war as a means of settling international disputes and situations. That principle was set forth in rudimentary fashion in Articles 11 and 47 of the Charter, which contained provisions against the armaments race and stressed the need for the reduction of armaments. The principle of general and complete disarmament, which reflected the spirit and letter of the Charter, was amplified in paragraph 5 of the draft declaration. Its adoption would incorporate it in international law, the progressive development of which it would promote, since elimination and prohibition of the means of waging war would greatly heighten both the legal and the practical efficacy of international law.

20. Part II covered the important principles of State sovereignty, territorial inviolability, respect for the independence of a State, sovereign equality, and non-intervention. State sovereignty was the cornerstone of the whole structure of international law, and relations based not on equal rights but on inequitable treaties were not based on law.

21. Part III included the closely interconnected principles of elimination of colonialism in all its forms, the right of self-determination, and respect for human rights. No real sovereignty or equality was possible without self-determination of peoples and equality of all nations and races; and those in turn were unthinkable without equality for all people, and respect for human rights and fundamental freedoms for all. International law could not ignore the interests, rights and freedoms of the individual, for otherwise the principles and rules governing relations between peoples and States would largely lose their meaning. Moreover, in the final analysis there could be no stable peace or peaceful coexistence unless human rights and fundamental freedoms were ensured. Paragraph 16 of the draft declaration was therefore of paramount importance. The principle of economic, social and cultural co-operation was also a vital condition of peaceful coexistence, which called for active co-operation by

countries with different systems to eliminate anything which might hamper the development of the friendship and well-being of peoples. The draft Declaration ended with the principles of the observance of international obligations and of State responsibility; that was a perfectly logical conclusion, since State responsibility resulted from non-observance of the basic principles set forth in the draft.

22. He noted with satisfaction that the purpose of the eight-Power draft resolution (A/C.6/L.507 and Add.1) was very similar to that of the Czechoslovak draft, as the two preambles showed. Nevertheless, the Czechoslovak draft came much closer than the other to fulfilling General Assembly resolution 1686 (XVI), which set forth the objectives extremely broadly.

23. The task was complex and difficult, but that was no reason for refusal to face it. Time was, of course, important; but that was no excuse for a merely partial solution of the problem. The Ukrainian delegation was optimistic, for the Committee had ample joint experience, skill and courage. The most important fact was that the task did not belong to the Committee alone; its fulfilment was eagerly awaited by the whole world, and the Committee would no doubt cope with it in its traditional spirit of constructive co-operation and devotion to duty.

The meeting rose at 12.15 p.m.