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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. SUNOBE (Japan) said that his delegation had felt from the outset somewhat at a loss to know how to approach the broad and loosely-phrased item before the Committee. The key lay in the words "international law". The Committee must concentrate on the legal aspect, on those principles which had matured into legal concepts. It could either make an exhaustive list of rules of conduct, or concentrate on a few specific principles of international law of immediate and universal concern to the world community, which was the approach his delegation favoured. The Czechoslovak delegation's approach, as demonstrated in its draft resolution (A/C.6/L.505), was too ambitious and wide to be fruitful. Above all, the debates should be in keeping with the basic concept of the United Nations and be concentrated on the goal of establishing the rule of law in accordance with the Charter. It was also necessary to take into account the emergence of new States and their impact on the progressive development of international law. The Committee's approach must be realistic and steady.

2. The draft resolution of which his delegation was a sponsor (A/C.6/L.507 and Add.1) was based on the principle of the rule of law, and suggested as topics for discussion in the Committee the obligation to respect the territorial integrity and political independence of States, and the obligation to settle disputes by peaceful means. The Japanese view was that the latter obligation, as set forth in the Japanese Constitution, was not a negative but an active obligation incumbent upon every sovereign State and emanating from respect for the political independence and sovereignty of other States. By its very nature the peaceful settlement of disputes postulated respect for obligations arising from treaties and other sources of international law; but the concept was no mere expedient to justify the status quo, for the Charter provided that, while all disputes should be settled by peaceful means, justice should not be endangered.

3. Justice was practically synonymous with international law, the progressive development of which was thus closely related to the peaceful settlement of disputes. The fundamental difference between national and international law was the process whereby the law was formulated. The modern international community lacked any centrally-organized legislature; yet there had never been a time when the need for the clarification and progressive development of international law had been so strongly felt. His delegation believed that the procedures of peaceful settlement of the manifold disputes which reflected the complexities of human life created certain norms of conduct which were just and equitable in the prevailing circumstances. The accumulation of those would develop a body of new international law which was truly in line with the march of time. To cling obstinately to obsolete ideals, or to hammer out legal norms hastily from a fixed line of thought was equally neither consistent nor practical.

4. The machinery for implementing the obligation to settle disputes by peaceful means certainly needed review. Chapter VI of the Charter made substantial provision for that machinery, but the topic should be examined in detail in order to preserve the spirit of that Chapter. Paragraph 5 of draft resolution A/C.6/L.507 and Add.1 therefore provided for an invitation to Member States to transmit written comments on the two topics before the beginning of the eighteenth session.

5. Mr. ZOUHIR (Tunisia) said that countries like his own which had recently emerged from colonial domination were trying to consolidate their independence by attaining economic liberation, while the highly industrialized countries were anxious to retain their supplies of raw materials and to find markets for their manufactured goods. The world was seeking to maintain a difficult balance between those requirements. Colonialism had left a sad heritage of mistrust and of economic, social and—most serious of all—intellectual under-development which made it difficult to speak of co-operation on an equal footing between those countries and highly-industrialized States; but the developing countries could not live in isolation, and an attempt must be made to normalize, harmonize and humanize international relations.

6. Co-operation between the developed and the so-called backward countries in the nineteenth and early twentieth centuries had consisted in the domination of European over Asian and African countries, allegedly justified by the colonialists' claim to bring those countries the benefits of European civilization. The realities behind that myth had been revealed over the years: Africa had been turned into a vast reservoir of raw materials for the expansion of the imperialist economies, and co-operation had really been rank exploitation. The upheavals of two world wars had considerably changed that concept. Africa and Asia were liberating themselves unexpectedly rapidly; the

principle of the right of peoples to self-determination had appeared on the international scene; and international opinion had become more aware of the claims of colonial peoples. Accordingly the principle of co-operation between States appeared in a very different light.

7. Nevertheless, the need of the young States for assistance often confronted their rulers with extremely difficult choices. Thus, some countries which had achieved political independence had not yet won their economic liberation; that maintenance of former colonial economic structures constituted the dangerous and harmful phenomenon of neo-colonialism. Some countries' lack of experience and the pressure to which they had been subjected caused them to fear change and thus to play into the hands of the colonialists. Fortunately, however, such cases were becoming increasingly rare, and honest and sincere co-operation was coming into existence between countries freed from the complexes of colonialism.

8. To understand the great need for co-operation, it was essential to consider the problems faced by newly-independent countries, with their heritage of illiteracy, poverty and disease, lack of trained personnel, economic and social imbalance, and consequent injustice. In countries like his own the vast majority of the population had, before independence, been employed in agriculture conducted by primitive methods, and the colonialists had owned the richest and best-cultivated land. Industrialization, too, had lagged behind because the colonialists had not desired competition with their own industries but merely a source of raw materials. There had been a great shortage of schools and hospitals, the standard of living had been extremely low and demoralizing, and there had been an alarming amount of unemployment.

9. The choice of priorities was indeed difficult, and all the projects required personnel and capital, neither of which was available to the developing countries. They therefore needed assistance, but there again they were faced with the very difficult choice between multilateral and unilateral aid. Multilateral aid was of course desirable, since it was not accompanied by political or economic conditions incompatible with the free consent of States. Unfortunately, however, it was extremely limited. Despite the practical advantages of bilateral co-operation, it undeniably restricted to some extent the freedom of action of the developing countries. They had accordingly to strike the difficult balance between maintaining their independence and meeting the needs of their economic, social and cultural development.

10. Both multilateral and unilateral aid would remain inadequate and ineffective unless the developing countries relied on themselves and could count on their leaders for wise guidance. Economic development was a fascinating task, but to attain the desired ends it was essential to prepare rational plans based on national data. All plans, however, would remain in the realm of fiction if the developing countries could not count on a regular income; and their economies were mainly based on agriculture. As exporters of primary commodities they depended, and would depend for a number of years, on foreign countries. That dependence became extremely serious when there were upheavals in the economic cycle. Thus the developing countries had been doubly penalized and their planning rendered difficult by the steady decline in commodity prices and the rise in the prices of manufactured goods. That

dangerous situation was aggravated by the formation of economic blocs with which the developing countries were compelled to associate in order to avoid high tariffs, and which thus further restricted their independence.

11. Thus, although the Charter and other international documents proclaimed freedom, equality, and friendship in international relations, the realities were often quite different and must be borne in mind. His delegation viewed co-operation between States from two basic points of view. First, there was political co-operation, which should be based on the quickening of decolonization and respect for the right to self-determination, for there could be no question of friendly relations while peoples were still deprived of their fundamental right to freedom. A corollary of decolonization and self-determination was respect for the independence and sovereignty of States, entailing mutual respect for the ideologies of other countries. The Tunisian delegation refused to regard peaceful coexistence in terms of ideological blocs, for that would inevitably destroy the personality of small States and make them satellites or pawns of the great Powers. It rather saw the principle as a relationship of mutual respect and dignity between free and independent States.

12. The second aspect of co-operation between States was economic, social and cultural, and that co-operation should be based on the principle of collective responsibility and international solidarity. Apart from ideological differences, the world was divided into those peoples which had an abundance of food and those which starved. Two-thirds of the world's population suffered from malnutrition, and the imbalance between the peoples which did not have enough and the countries which did not know what to do with their surpluses was bound to cause resentment and rancour. To achieve real co-operation between States in that respect, the international law which the Committee was to codify should be based on the modern spirit of international solidarity. If that spirit could be made to prevail, multilateral co-operation would be divorced from the idea of charity, which so often led to sloth and corruption; neo-colonialist economic domination would be eliminated; and the over-sensitive feelings of the new States would be spared. The principle of international solidarity reaffirmed the principle of the economic interdependence of all countries, which had become a reality in modern times and should be based on mutual respect among States, non-interference in the political systems of States, reciprocal interest, freedom, and equality.

13. Unfortunately the world was still far from that ideal. The recent GATT report on world trade in 1961^{1/} showed that the gap between the wealthy nations and the rest of the world continued to grow, and that efforts to eliminate under-development had remained ineffective. The rate of expansion of world trade had fallen to 4 per cent in 1961, after rising to 8 per cent in 1959 and to 11 per cent in 1960. There was a decline in trade between industrialized and non-industrialized countries, due not only to a fall in the value of the developing countries' exports, but also to a decrease in the exports of the industrialized countries to the rest of the world. The financial aid given by rich countries to poor would doubtless soon no longer suffice to bridge the gap between the decline in commodity

^{1/} General Agreement on Tariffs and Trade, *International Trade* 1961, Geneva, 1962.

prices and the rise in the price of manufactured goods; and co-operation between States was bound to deteriorate if that process were not arrested. Encouragingly however, the concept of economic interdependence and international solidarity had been expressed in the international agreements on cotton goods and coffee, and in those two cases at least international law had brought about co-operation in revising price scales of raw materials and expanding European industrial outlets for the benefit of the developing countries.

14. The Committee would perform a useful task if it succeeded in defining the general principles of international law governing friendly relations and co-operation between States. It should, however, be realistic in its discussions, and not use vague legal formulae or consecrate static rules which the development of international law had already left behind.

15. The eight-Power draft resolution (A/C.6/L.507 and Add.1) would gain in force if the fifth preambular paragraph were placed after the second and followed by what was now the fourth. That rearrangement would emphasize one of the most important events of the twentieth century, and the need to clarify and develop certain areas of international law so as to enable it to make a fuller contribution to friendly relations and co-operation among States. The reference to self-determination in paragraph 1 was insufficient, and decolonization should be mentioned expressly, so as to clarify the attitude of international law towards certain colonial Powers. Paragraph 4 should also be clarified, as it now enabled certain colonial countries to continue to claim that their colonial territories formed an integral part of the metropolitan State; the draft resolution should not perpetuate that fiction. The same remark might apply to principle 9 in part II of the Czechoslovak draft resolution (A/C.6/L.505). That draft perhaps suffered from undue length in the enumeration and development of principles; but it had the advantage of mentioning all aspects of co-operation, general and particular. Since the two drafts had the same purpose, his delegation proposed that their sponsors should consult together and try to agree on a form acceptable to all delegations.

16. Mr. BERNSTEIN (Chile), a sponsor of draft resolution A/C.6/L.507 and Add.1, recalled that at the previous meeting the representative of Yugoslavia had said that in his country the expression "peaceful and active coexistence" was synonymous with "friendly relations and co-operation among States". He himself was not afraid of the term "peaceful coexistence", although it was frequently used in propaganda or to define the foreign policy of certain socialist States. At the sixteenth session, however, upon the proposal of the delegation of Chile and others, the Committee had preferred to choose the term "friendly relations and co-operation among States". For him "peaceful coexistence" simply meant "living together in peace", which was certainly the wish of the whole world, including his own country, if the term was taken in its political and grammatical sense. In international law, it had important implications and raised complex issues.

17. He added that his Government was anxious that the Committee should discuss that item, which had been called the "main item", because it wanted to know the meaning of "peaceful coexistence" in international law.

18. His delegation had, in general, no objections to the declaration of principles contained in the Czechoslovak draft resolution (A/C.6/L.505). His Government had for years advocated some of them, which were already incorporated in the inter-American legal system. That in itself was clear proof that at least some of the principles of that system were not so conservative or backward that they could not be shared by a socialist country.

19. The eight-Power draft resolution (A/C.6/L.507 and Add.1) was less ambitious than the Czechoslovak draft, since its sponsors had proceeded with more caution and had not attempted to formulate any general declaration of principles. Their purpose had been rather to develop and strengthen the principles set forth in the United Nations Charter, which they considered to be the supreme declaration governing friendly relations and co-operation among States. The Charter marked an essential step in the development of relations among States. It contained a large number of explicit and implicit references to friendly relations among States and the need for co-operation between them. He recalled also the Moscow Declaration of 30 October 1943, President Roosevelt's declaration of 15 June 1944 concerning a post-war security organization programme and the Dumbarton Oaks Conference, held from 29 September to 7 October 1944. The United Nations as a whole could justly be said to be founded on principles such as those. If that were not so, it would be difficult to explain the unanimity rule in the Security Council, the so-called right of veto. In his opinion, it was not the veto which had so often paralysed the action of the United Nations, but the lack of friendly relations and co-operation among the great Powers. Yet it could not be too often reaffirmed that the Preamble of the Charter stated: "We the peoples of the United Nations determined... to practise tolerance and live together in peace with one another as good neighbours"; and that Article 1, paragraph 2, prescribed as a purpose of the United Nations "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples". Those historical and legal precedents had impelled the sponsors of draft resolution A/C.6/L.507 and Add.1 to affirm, in paragraph 2, that the Charter was the fundamental statement of principles of international law governing friendly relations and co-operation among States.

20. In preparing their draft the sponsors had taken as their guide only those principles of the Charter which were related to international law; namely: first, the equal rights of nations large and small (Preamble, paragraph 2), the principle of the sovereign equality of all Members (Article 2, paragraph 1), equality of rights (Article 2, paragraph 2); second, respect for the obligations arising from treaties and other sources of international law (Preamble, paragraph 3); third, self-determination of peoples (Article 1, paragraph 2); non-intervention in matters essentially within the domestic jurisdiction of any State (Article 2, paragraph 7); fourth, prohibition of the threat or use of force against the territorial integrity or political independence of any State (Article 2, paragraph 4); fifth, the obligations to practice tolerance and live together in peace as good neighbours (Preamble, paragraph 5), and to ensure that armed force would not be used save in the common interest (Preamble, paragraph 6); and sixth, the pacific settlement of disputes, to which Chapter VI of the Charter was devoted.

21. Of those principles the sponsors had decided to concentrate on two which they considered the most important, the most capable of development, and of the most immediate and universal interest to all States. The first was the obligation to respect the territorial integrity and political independence of States; without such respect, friendly relations could not exist among States. That principle also implied the principles of non-intervention and self-determination. The second principle, the obligation to settle disputes by peaceful means, was the furthest-reaching and the one most likely to promote friendly relations by removing the causes of international friction. Other principles of the Charter also fully deserved study and development; for the time being, however, the Committee could most fruitfully devote itself to the more effective application of the two principles chosen by the sponsors. He urged it to support the eight-Power draft resolution (A/C.6/L.507 and Add.1) as the quickest and most appropriate means of achieving, through the progressive development of international law, the purposes of the Charter.

22. Mr. MOROZOV (Union of Soviet Socialist Republics) saw a direct connexion between the important and urgent item before the Committee and the fundamental objective of contemporary international law, which was to ensure lasting peace and friendly relations among nations. In General Assembly resolution 1505 (XV), adopted at the initiative of the socialist and neutral countries, it was noted that "the conditions prevailing in the world today give increased importance to the role of international law—and its strict and undeviating observance by all Governments—in strengthening international peace, developing friendly and co-operative relations among nations...".

23. In view of both recent developments and of the world situation in general, it was now even clearer that the aim of all United Nations activity in the codification and progressive development of international law should be to make international law a more effective means of strengthening peace. His delegation hoped that the Committee would make that proposition the starting point for any action it might take on the item, and would codify and further develop the principles of peaceful coexistence as established principles governing relations between States. The maintenance of peace and the development of friendly relations among States depended on observance of the principles of international law. The precise definition of the principles of peaceful coexistence would significantly increase the effectiveness of international law, because peaceful coexistence was an objective necessity, a question of life and death for hundreds of millions of people.

24. The very existence of contemporary international law depended on the peaceful coexistence of States with different political and social systems; for the globe could not be divided into sections so that each distinctive political and social system had its own domain. The coexistence of States with different social and political systems was thus an historical fact.

25. The second decade of the twentieth century had seen the advent of a new social system—socialism. Now the powerful socialist camp included over a thousand million people, representing more than one-third of all mankind. That inevitable historical process could not be reversed. In such circumstances the only reasonable principle of relations among States was peaceful coexistence. The USSR had from the outset proclaimed peaceful coexistence as the fundamental

principle of its foreign policy. Indeed, its first act had been to issue a decree ending a bloody war. The principle of peaceful coexistence, put forward by the founder of the Soviet State, V. I. Lenin, had been developed in the programme adopted at the twenty-second congress of the Communist Party of the USSR. As the Chairman of the Council of Ministers of the USSR, Mr. Khrushchev, had said, while peaceful coexistence in the simplest sense meant the renunciation of war as a means of settling international disputes, it also implied something more—the solution of international disputes by negotiations; equality, mutual understanding and trust between countries; consideration of mutual interests; non-interference in internal affairs; recognition of the right of every people to solve all the problems of their country by themselves; strict respect for the sovereignty and territorial integrity of all countries; promotion of economic and cultural co-operation on the basis of complete equality and mutual benefit. All those propositions were important for any statement of the basic principles of contemporary international law.

26. If general international law was to exist, there must be the possibility of agreement between States with different political, economic and social systems in the solution of international problems; for the principles and rules of international law were established by agreement among States. Peaceful coexistence was thus the foundation of contemporary international law. The Soviet Union, which consistently upheld the policy of peaceful coexistence and settlement of all international disputes by negotiation based on understanding and agreement, by the same token had supported, and would continue to support, the principles and rules of international law.

27. The attitude of the USSR towards the basic principles of international law was based on peaceful coexistence, which was the fundamental tenet of its foreign policy. The Soviet Union considered that general international law, governing the relations among all States, was essential to ensure peaceful coexistence; and it had always stood for strict observance of the rules of international law. Thus Mr. Khrushchev had declared that the Soviet Union would always comply with its international obligations because it was convinced that there could be no peaceful coexistence without observance of the rules of international law; those rules were essential if a fatal error in relations among States was to be avoided.

28. The USSR had pursued that policy consistently in large and small, long-standing and more recent issues. There was no truth whatsoever in the allegations frequently made in the West that peaceful coexistence was only a tactical device of the USSR. Truth should be judged by practice: in all its international actions the USSR had demonstrated its steadfast support for "the norms of international law and, consequently, of legal order on which normal relations are based between States, between nations, between people".^{2/} In the West it was erroneously believed that the concept of peaceful coexistence meant merely the absence of war. For example, the twelfth report of the Commission to study the organization of peace, a research affiliate of the American Association for the United Nations, described peaceful coexistence as a half-way house between cold war and peaceful co-operation. But Mr. Khrushchev, replying to a query concerning the

^{2/} Letter dated 24 October 1962 from Mr. Khrushchev to Earl Russell.

difference between the concepts of "peace" and "peaceful coexistence", had pointed out that, whereas the word "peace" meant the absence of war, the concept of peaceful coexistence had a wider meaning. Noting that the rejection of military interference in each other's affairs meant recognition of the existence of States with different economic and social systems, he had declared that, at the same time, peaceful coexistence presumed normal trade relations, development of cultural contacts, scientific exchanges, development of tourism and other links that existed between people regardless of the social or political systems of their States.^{3/} The principle of peaceful coexistence thus included the duty of States to maintain international peace and security, to strengthen mutual understanding and trust, to co-operate with other States in questions concerning international peace, to develop co-operation among States on the basis of equality and mutual benefit, and to expand economic trade relations. Indeed, without the development of trade, there could not be a good foundation for the improvement of relations between countries.

29. The principle of peaceful coexistence was a basic tenet of the United Nations, which had been established as a universal organization and not as a political club. That principle permeated its Charter, particularly the Preamble and Articles 1 and 2. Moreover, the General Assembly had unanimously adopted many resolutions supporting the concept of peaceful coexistence, including resolutions 1236 (XII) on peaceful and neighbourly relations among States, 1301 (XIII) on measures aimed at the implementation and promotion of peaceful and neighbourly relations among States, and 1495 (XV) on co-operation of Member States. The principle had also received unquestioned recognition in international law. In recent years alone it had found expression in the USSR-Burmese declaration of 1955, the USSR-Indian declaration of 1955, the USSR-Afghan communiqué of 1960, the USSR-Finnish communiqué of 1960, the USSR-Cambodian communiqué of 1960, the USSR-Indonesian communiqué of 1961, and the USSR-Ghanaian communiqué of 1961. It had also been embodied in multilateral instruments, including the section on the juridical and moral principles of coexistence, contained in the resolution on the conditions of true and peaceful coexistence adopted by the Forty-fourth Conference of the Inter-parliamentary Union in 1955,^{4/} and the declaration contained in the final communiqué of the Bandung Conference of African and Asian States.^{5/} Thus the most important international legal instruments of the past decades and the progressive changes in international law indicated that the development of friendly and peaceful co-operation between States should govern the further development of contemporary international law. The national liberation movements of the African and Asian countries and of some countries of Latin America supported that approach.

30. Today, when violations of international law could entail catastrophic consequences, strict observance by States of the principles and rules of international law was an absolute necessity. The USSR and the other socialist States, recognizing the role of international law in the maintenance of peace, consistently observed

its principles. Their position was reflected in many bilateral and multilateral agreements and in proposals introduced in conferences and international organizations, such as the declaration in draft resolution A/C.6/L.505, sponsored by Czechoslovakia.

31. His delegation welcomed the sympathetic comments of the Chilean representative on the Czechoslovak draft declaration. It, too, believed that the Committee could agree upon a single text. Neither the preamble of draft resolution A/C.6/L.507 and Add.1 nor its operative paragraphs 1 and 2 were incompatible with the Czechoslovak proposal. Moreover, its basic ideas could be found in the Czechoslovak draft declaration, and both proposals included the essential proposition that observance of international obligations was necessary for the achievement of peaceful and friendly relations. Of the two, his delegation preferred the clearer and more detailed Czechoslovak proposal. It also held that all the principles of international law concerning friendly relations and co-operation among States should be listed. To reduce the whole topic to one or two propositions, however important, was absolutely wrong. From the two proposals before it, however, the Committee should be able to prepare a satisfactory text for adoption by the General Assembly.

32. The Czechoslovak draft declaration restated the principles confirmed in the Charter, those which had been proclaimed in virtue of the Charter, and those now being worked out in the United Nations with the participation of the new States. Those States participated actively in establishing new democratic rules of international law, and were making a valuable contribution to its progressive development. With their participation the elimination of colonialism in all its forms, the right of self-determination, the prohibition of incitement to national and racial hatred, the prohibition of weapons of mass destruction, and other democratic principles of contemporary international law had been proclaimed in the United Nations. The codification, precise formulation and confirmation of those principles in a single instrument such as the Czech draft declaration would be a valuable contribution to the maintenance of peace.

33. In conclusion, he suggested that the Committee might best approach its task in the following manner: first, it should consider all the fundamental principles of international law concerning friendly relations and co-operation among States, in order to prepare a single text including those principles. Second, that text should be established with the participation of all the Members of the United Nations and proclaimed by the United Nations, thus stressing the universal significance of the principles of international law and the necessity of their strict observance by all States. Third, it should include the principles proclaimed at the founding of the United Nations and those subsequently adopted by it. The precise codification and progressive development of those principles was essential because they were still being ignored and even infringed. It was time to continue the General Assembly's work on human rights, the right of self-determination, the sovereign equality of States, and other matters. Fourth, the text should include the new principles of international law established in recent decades. Among the many new principles affirmed by the United Nations were the principles recognized by the Charter of the Nürnberg Tribunal, prohibition of war propaganda, prohibition of the means of mass destruction, general and complete disarmament, and the elimination of colonialism. Fifth,

^{3/} These statements were made to Mr. Sulzberger of The New York Times, in an interview with Mr. Khrushchev in September 1961.

^{4/} Union interparlementaire: Compte rendu de la XLIV^e Conférence, the Inter-Parliamentary Bureau, Geneva, 1956, p. 1129.

^{5/} Held 18-24 April 1955.

the establishment of the text with the participation of those States which had formerly been unable to take part in United Nations work on the progressive development of international law would be an important step towards securing universal acceptance and observance of international law. Sixth, the proclamation

of the text by the United Nations would stress the vitality of the purposes and principles of the United Nations and would encourage respect for the United Nations Charter.

The meeting rose at 1.25 p.m.