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CONTENTS

	Page
United action for peace (<i>continued</i>)	123

Chairman: Mr. Roberto URDANETA ARBELÁEZ (Colombia).

United action for peace (*continued*)

[Item 68]*

CONSIDERATION OF DRAFT RESOLUTIONS AND AMENDMENTS

1. The CHAIRMAN recalled that the general discussion had been concluded on Friday (362nd meeting). The discussion would now turn to the specific proposals before the Committee. Since the draft resolution of the Chilean delegation (A/C.1/575) had been submitted first, the Chairman recognized the representative of Chile.

2. Mr. SANTA CRUZ (Chile) stated that the Chilean draft resolution was being withdrawn, in view of the fact that its main principles had been incorporated in the revised joint draft resolution (A/C.1/576/Rev.1). The delegation of Chile had felt that three elements must be considered in connexion with action by the Assembly to establish peace: first, improvement of the collective defence system contained in the Charter; second, collective efforts to extend respect for human rights and freedoms; and third, joint action towards the development of economically backward countries.

3. As regards the first of those elements, the delegation of Chile considered that any measures taken by the Assembly must ensure that the United Nations would be able to observe the danger in certain nerve centers in international affairs, in order to be in a position to act quickly and with full knowledge of the facts; that there must be prior co-ordination concerning raw materials and available forces in all countries wishing to fight against aggression; and finally, that the General Assembly must be able to take swift and effective measures if the Security Council were prevented from taking action. He had thought that the functions of observation and co-ordination could best be taken in consultation with the Interim Committee, but since most

delegations preferred the methods specified in the seven-Power draft resolution, he would support them.

4. The Chilean delegation thought that the idea of a collective pact, of the kind suggested in the Chilean draft resolution, deserved very serious consideration. While it appeared to be premature, it was nevertheless an idea to be borne in mind, particularly if measures adopted by the Assembly at the present time proved to be inadequate. Mr. Santa Cruz was gratified to know that, during the discussion, many countries had given their support to such a pact, and many others had called it an interesting idea worthy of future consideration.

5. In conclusion, Mr. Santa Cruz added that his delegation was fully satisfied with paragraphs 14 and 15 of the revised joint draft resolution (A/C.1/576/Rev.1) since they embodied the idea for which his country had struggled so long, which was that peace was not merely a matter of security but of the fulfilment of the economic and social aims of the Charter as well.

6. The CHAIRMAN observed that in view of the withdrawal of the Chilean proposal, the revised joint draft resolution (A/C.1/576/Rev.1) would be discussed section by section, beginning with section A and the amendments thereto. The Committee would then vote on section A and proceed in the same way to consider section B. When all operative sections had been voted on, the Committee would turn to the preamble and then vote on the revised draft as a whole.

7. Mr. BELAUNDE (Peru) expressed his satisfaction with the revised draft resolution. He had two suggestions to make, however. One related to the units to be made available by each country in connexion with Article 45 and the preamble to the Charter; the other involved the addition of a sentence in the preamble to the draft resolution, in order to clarify the duties and the rights of the General Assembly and Member States under Articles 36 and 53 of the Charter. Those points he would raise again when the preamble came up for discussion.

* Indicates the item number on the General Assembly agenda.

8. Mr. JOOSTE (Union of South Africa) observed that, since the joint draft resolution had been changed very materially by the incorporation of various amendments, it required reconsideration by governments. He, for one, could not vote at that stage until new instructions had been received from his Government.

9. Mr. AMMOUN (Lebanon) recalled that his delegation had submitted amendments (A/C.1/578), only some of which had been incorporated in the revised draft resolution. He suggested that those submitting amendments be given an opportunity to speak on them, since the sponsors might like to press amendments which had not been included in the revised draft resolution.

10. The CHAIRMAN said that, as each section of the draft resolution was discussed, representatives could also discuss the relevant amendments.

11. Sir Mohammad ZAFRULLA KHAN (Pakistan) stated that, while he had no objection to the procedure laid down by the Chairman, it would be worth-while if one of the sponsors would explain the modifications in the draft resolution.

12. The CHAIRMAN replied that one of the sponsors was going to outline the exact scope of the changes in the revised draft resolution. He considered that, in the absence of objections, the procedure which he had suggested for consideration of the revised joint draft resolution and amendments had been adopted. The Committee, therefore, would proceed to consider section A.

It was so decided.

Section A (A/C.1/576/Rev.1)

13. Mr. DULLES (United States); explaining the changes in section A of the revised draft resolution, said that the first important change related to the insertion of the phrase "in the case of a breach of the peace or act of aggression" in operative paragraph 1. The significance of that change was that the General Assembly, in special extraordinary session, could not recommend the use of armed forces by its Members unless there had been an actual breach of the peace or act of aggression, as distinguished from a threat to the peace. The General Assembly could, of course, meet to discuss a threat to the peace, but would not be able, under the revised draft resolution, to recommend the use of armed force unless an actual breach of the peace or act of aggression had taken place.

14. He added that this revision of paragraph 1 was in response to the view put forward by the delegation of Yugoslavia (356th meeting) and discussed by the representative of Israel (362nd meeting) and other representatives. They had expressed some concern that paragraph 1 of the text as originally drafted might have seemed to contemplate a use of force before there had been an actual act of aggression and might thus have smacked of "preventive war".

15. The second important change in paragraph 1 related to the method of calling an emergency special session of the General Assembly. Some representatives had expressed concern that action by members of the Security Council without an actual vote in the Security Council might raise a question under Article 20 of the

Charter. As explained by him previously (362nd meeting) the sponsors of the joint draft resolution did not hold that view. However, since some honest doubt had been expressed on the point, the sponsors were glad to accept the view of those who had raised the question.

16. In accordance with the revised text, an emergency special session could be called if requested "by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations". That formulation, in the opinion of Mr. Dulles, would also cover the possibility of a filibuster in the Security Council, because, if there were an attempt to frustrate even the procedural processes of the Council by a filibuster, there would undoubtedly be created a situation where there would be little difficulty in getting a vote of the majority of the United Nations. Mr. Dulles added that he was happy to point out that the inclusion of the phrase "or by a majority of the Members of the United Nations" was responsive to one of the amendments proposed by the USSR (A/C.1/583, amendment 7).

17. In conclusion, the representative of the United States called attention to the annex to the revised joint draft resolution containing proposed amendments to the rules of procedure of the General Assembly. The proposed amendments, he said, had been changed to conform with the changes incorporated in section A. Mr. Dulles added that the proposed amendments to the rules of procedure embodied an amendment submitted by the delegation of Yugoslavia (A/C.1/582, amendment 3) limiting the special emergency session to the consideration of matters dealt with by the original resolution calling the session into being.

18. Mr. ARMAND UGON (Uruguay) recalled references in the previous discussion (359th and 362nd meetings) to the opinion of Professor Hans Kelsen, who had been quoted in support of the argument that the General Assembly could not make recommendations for enforcement action. Actually, the view held by Professor Kelsen was quite different. On page 203 of his book, Professor Kelsen stated that the General Assembly, acting under Article 11, paragraph 2, might discuss questions involving a breach of the peace but might not make recommendations. But, on the other hand, the author had written on page 205 that "the General Assembly, under Article 10, may make any recommendations whatever, and therefore may recommend enforcement action". Thus, in the opinion of Professor Kelsen, everything depended upon which Article of the Charter the Assembly was acting under. Action which the General Assembly could not take under Article 11, paragraph 2, it could take under Article 10. Professor Kelsen had added: "Article 10 confers upon the General Assembly evidently more powers than does Article 11. As the powers conferred upon the Assembly by the provisions of Article 11 are included in the competence conferred upon the Assembly in Article 10, the scope of the latter cannot be limited by the former."

19. Mr Armand Ugon considered that the draft resolution before the Committee was based upon Article 10 of the Charter, not upon Article 11, whereas the USSR amendment (A/C.1/583, amendment 5) was based on Article 11. Therefore Professor Kelsen's arguments

militated in favour of the joint draft resolution, not against it.

20. Mr. BEBLER (Yugoslavia) expressed satisfaction over the incorporation in the revised draft resolution of the amendment proposed by his delegation (A/C.1/582, amendment 3) relating to the rules of procedure. However, he believed it necessary to clarify the Yugoslav amendment to paragraph 1 of section A (A/C.1/582, amendment 2), the precise intent of which apparently had not been understood by the sponsors of the joint draft resolution. In his view, there was a difference between a "breach of the peace" and "an act of aggression" and, therefore, the phrase "breach of the peace" did not cover the case of an act of aggression. A breach of the peace did not necessarily entail an actual act of aggression, and, in such a case, enforcement action by the General Assembly could not be considered.

21. However, considering the use of those terms in the Charter, the distinction to which he referred was rather subtle and he felt it unnecessary to press the point. The Yugoslav delegation, therefore, would not press for its original amendment to paragraph 1, and would accept section A of the revised joint draft resolution.

22. Mr. BARANOVSKY (Ukrainian Soviet Socialist Republic) recalled that his delegation (360th meeting) had not objected in principle to the calling of emergency special sessions of the General Assembly. He could not, however, agree to the methods proposed.

23. Even in its present revised form, the draft resolution contemplated a decision to call an emergency special session without the concurring votes of all the permanent members of the Security Council, which would be an obvious violation of the Charter. His delegation believed that such an emergency session could only be called by a decision of the Security Council, which would include the concurring votes of the permanent members who, under the Charter, bore the primary responsibility for the maintenance of international peace and security.

24. Furthermore, Mr. Baranovsky added, his delegation objected to the calling of emergency special sessions within twenty-four hours, which would tend to prevent appropriate representation and full attendance. The very nature of the extraordinary sessions contemplated by the draft resolution would require a detailed study of the questions involved. Not less than a fortnight's notice would be necessary before convening such a session. For those reasons, the delegation of the Ukrainian SSR would vote against section A of the revised draft resolution, unless it were amended to meet the objections which had been raised.

25. Mr. EBAN (Israel) observed that the revised joint draft resolution embodied two points of his delegation's amendment 3 (A/C.1/584) which, therefore, would not have to be put to the vote.

26. As a special session of the General Assembly could be called, under Article 20 of the Charter, only by a valid vote of the Security Council or by the intimation of a request of a majority of the Member States, such a session could not be convened at the request of seven members of the Council acting individually and outside the Council, as had been envisaged in the original joint

draft resolution. However, the revised draft, which provided that seven members of the Council, voting in that organ, would be empowered to convoke an emergency special session of the Assembly, partially covered the question raised in his delegation's amendment 2 (A/C.1/584). Mr. Eban stated that, since the Security Council was competent to decide the circumstances under which a vote of seven members constituted a valid resolution, his delegation would not press that amendment but reserved its position on the legal point.

27. Mr. SPENDER (Australia), answering objections of other members to the draft resolution, did not believe the calling of an emergency meeting of the General Assembly by an affirmative vote of seven members of the Security Council involved a question of substance. The question, therefore, could not be resolved merely by the application of Article 20. The controlling Article was Article 27, paragraph 2 of which read: "Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members".

28. In the view of the Australian delegation, it was clearly a procedural matter to call or take steps to convene a meeting, and, apart from that, there could be no objection to the Assembly being given power to discuss a matter even if it did nothing else. Under the draft resolution, and within the scope of the Charter, a request by any seven members of the Security Council, regardless of the non-concurrence of certain of the permanent members of the Council, was a procedural matter. Therefore, a session of the Assembly could properly be convoked in that way.

29. Mr. Spender stated that there was no foundation to the argument that a time-limit of twenty-four hours for convening the General Assembly would present difficulties. It was possible to convey instructions on an emergency matter very quickly. Also, it was known that time was of the essence in any successful move to meet aggression.

30. In conclusion, the representative of Australia said that he had mentioned those two objections which had been made to the draft resolution, not because they needed to be stressed, but because some people believed the propaganda which had been put forth by certain delegations. Although the objections were designed to make it appear that these delegations would support the draft resolution if it were not for those two minor matters, they were actually using those objections to oppose the draft resolution as a whole.

31. Mr. WIERBLOWSKI (Poland) observed that if the revised joint draft resolution (A/C.1/576/Rev.1) were adopted, the General Assembly, in any special sessions called under section A of that resolution, would be called upon to adopt recommendations relating to breaches of the peace or concrete acts of aggression. Under the Charter, those questions were within the purview of the Security Council. Therefore, the premise of the draft resolution was false since, *a priori*, it meant that the Council was incapable of discharging its functions in the maintenance of international peace and security.

32. Recalling that his delegation had always valued the important role of the General Assembly, since all the Members of the United Nations were represented

therein, Mr. Wierblowski noted that the Charter empowered the Assembly to study the general principles of international co-operation in the maintenance of international peace and security. If convening a special session to study certain problems would prove effective in relieving the present tension in international relations, the Polish delegation would not oppose the draft resolution.

33. Under the Charter, however, a special session of the Assembly must be called by a majority of the Member States. A longer period than that provided in the draft resolution would be required in order that the most competent representatives of the States could attend and that a thorough study of the problems on the agenda might be possible. Also, under the Charter, special sessions could be called at the request of the Council. Such a decision must be regarded as non-procedural, under Article 27, paragraph 3, since such a special session would presumably be called for the purpose of putting on its agenda matters which were originally considered by the Council. The matter of competence would therefore be involved, as stated in the last sentence of paragraph 2 of Article 11. The Assembly would be concerning itself with matters relating to international peace and security, which, under Article 27, paragraph 3, would necessitate a decision of the Council on a non-procedural question being taken by seven affirmative votes, including the concurring votes of the five permanent members.

34. Mr. Wierblowski stated that the essential flaw in the draft resolution was that it provided that the Assembly would be called upon to adopt recommendations to Member States for the taking of collective measures, including the use of armed forces, in cases of breaches of the peace and acts of aggression. The representative of the United States had misinterpreted Article 10 when he had enlarged upon the rights of the Assembly as recognized by the Charter. Article 10 must be studied in relation to Articles 11, 12 and 14. In those Articles, the Charter provided that the Assembly might discuss questions relating to the maintenance of international peace and security brought before it by any Member, but that whenever any such question required action, it should be referred to the Council by the Assembly either before or after discussion.

35. The Assembly had, since its establishment, recognized its lack of competence in initiating action. The representative of Poland cited as an example the Assembly's recommendations on Palestine (resolution 181 (II)) which had called upon the Security Council to take action. He remarked that the representative of the United States had come forward with a new interpretation of Article 10 five years after it was written.

36. In tracing the historical evolution of the text (362nd meeting), in answer to an earlier statement by the representative of the United States, Mr. Wierblowski said that Article 10 was not to be construed as authorizing the Assembly to deal with questions in the field of international peace and security, either in the form of discussion or recommendation. Problems in that field were to be dealt with only under Article 11, which divided the matter into two categories: first, in paragraph 1, the general principles of co-operation in the maintenance of international peace and security; and

secondly, in paragraph 2, specific matters concerned in the maintenance of international peace and security, with the limitation specified in the last sentence of that paragraph. Moreover, the text of Article 14 repudiated the idea that the Assembly had the right to recommend measures for collective action by the United Nations under Article 10.

37. In the light of his arguments, Mr. Wierblowski believed it was clear that the contents of the Charter were not open to doubt. What was at issue in the Committee was the interpretation of the Charter.

38. Reviewing the discussions at San Francisco, the representative of Poland observed that Article 24 repudiated the premise of section A of the draft resolution—the premise that the Assembly was empowered to assume the task of maintaining international peace and security whenever the Council, because of the lack of unanimity of its permanent members, failed to exercise its primary responsibility. There was no question of the Council imposing its will on the Assembly or *vice versa*. The competence of each of those organs, within the responsibilities delimited by the Charter, must be recognized.

39. The responsibility for seeking unanimity among the permanent members derived from the text of the Charter; it was the duty of those Council members to seek unanimous opinions and agreements. Mr. Wierblowski categorically repudiated the charge that the USSR was responsible for the lack of unanimity in the Council; the USSR had consistently defended just causes. On the other hand, the United States, as well as other nations, wished to supersede the unanimity requirement by attempt at *diktat*. When that attempt had failed in the Council, attempts were made to settle questions outside the Council and even outside the United Nations, i.e., through the Marshall Plan, the Truman Doctrine and the North Atlantic Treaty. The principle of unanimity was the foundation of the Charter and also of peaceful international co-operation. The well-being and security of the small States was based on agreement among the permanent members.

40. The representative of Poland observed that the United States did not wish to give up the veto because it felt that the United States might need the veto in the future. Now the United States only desired to circumvent the veto.

41. In conclusion, Mr. Wierblowski stated that the Charter offered ample ground for international co-operation. Some sections of the joint draft resolution were contrary to the Charter and were likely to lead to its violation. The Polish delegation supported the USSR amendments to the preamble and to paragraph 1 of section A of the joint draft resolution.

42. Sir Mohammad ZAFRULLA KHAN (Pakistan) observed that the delegation of Pakistan had further studied the considerations which he had raised when he had previously addressed the Committee (359th meeting) on the seven-Power draft resolution. His study had not resulted in definite, clear-cut conclusions. The purposes of the United Nations and of the Charter and an appraisal of the Organization's present position in dealing with threats to the maintenance of peace, breaches of the peace and acts of aggression had in-

fluenced his delegation's conclusions more than had the wording of the text of the Charter.

43. Article 24 emphasized that primary responsibility for the maintenance of international peace and security was invested in the Security Council in order to ensure prompt and effective action by the United Nations. Therefore, if the Council were unable or unwilling to take prompt and effective action, the purpose of having made it primarily responsible would have been defeated. If that purpose were thus defeated, there was no provision in Article 24 or any other Article which would allow one to conclude that the responsibility of the Organization as a whole was ended. Therefore, in the absence of a specific provision, there must be general powers making possible certain action towards the maintenance of international peace and security.

44. On the other hand, preventive or enforcement action, the issuance of directives or orders, could only be taken by the Security Council, no matter how grave the emergency. Articles 5 and 50 clearly stated that enforcement action could only be taken by the Council.

45. Was there, then, any scope of action between the position that the purposes of the Organization imposed upon it a general responsibility for the maintenance of international peace, and the position that only the Security Council was empowered to take enforcement action in the discharge of that responsibility? Was there any scope left for the General Assembly to act should the Security Council fail to take prompt and effective action or to take any action at all?

46. Sir Mohammad recalled the discussion concerning Articles 10 and 11, particularly on paragraph 2 of the latter. Article 10 was general in its application. Its only limitation was based on Article 12, which should not raise much difficulty with reference to the scope of the draft resolution, since the resolution would come into operation only when the Council, because of the lack of unanimity of its permanent members, had failed to exercise its primary responsibility. Therefore, the matter would have been before the Council, and the provisions of Article 12 would have been complied with by a procedural vote. The way would then be clear for the operation of the provisions of Article 10, which were general. The Assembly could then make recommendations to the Members of the United Nations or to the Security Council.

47. The representative of Pakistan recalled that at one time he was inclined to think that the last sentence of paragraph 2 of Article 11 provided a further limitation in requiring that "any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion". But if paragraph 2 of Article 11 were to be reconciled, as it had to be, with Article 10, it could not be presumed that the immediate succeeding Article contradicted Article 10 in any way. With reference to paragraph 2 of Article 11, Sir Mohammad believed that action, in the sense of enforcement action, was in the domain of the Council alone. Recommendations could, nevertheless, be made by the Assembly. The two

Articles could only be reconciled if action, in relation to the last sentence of paragraph 2 of Article 11, were defined so as not to include recommendations that the Council had the power to make under Article 10.

48. Sir Mohammad was of the opinion that it might be difficult in practice to determine whether action had not been disguised as a recommendation. However, if the draft resolution were adopted, it could be presumed that the Assembly, when dealing with an emergency as contemplated therein, would confine its actions to those authorized by the Charter. If the United Nations were not to fail in its responsibilities to mankind, it must, if it legitimately could, find means of discharging the responsibilities that were laid upon the whole Organization and which the Organization had laid primarily upon the Security Council in order to ensure prompt and effective action. If the Council, because of the lack of unanimity among the permanent members, should be in such a position as to be unable to act on a question which the people of the world regarded as a breach of the peace or an act of aggression, there were other courses of action, i.e., self-defence, regional collective self-defence, and certain other measures under Articles 51 and 52. There was valid reason for making the distinction that, although the Assembly was not empowered itself to take direct enforcement action or to order it, the Assembly could recommend action of a certain character, including the use of armed forces.

49. Sir Mohammad said that, whatever the validity of the doubts, which had not been resolved to such a degree that his delegation could go forward without compunctions, it would be justifiable to adopt the attitude that, where the Council was unable to take action, the General Assembly had a responsibility to act under Article 10. Therefore, his delegation would support section A of the joint draft resolution.

50. He concluded with two observations concerning criticisms which had been made with respect to section A. First, the speed of the aggression, its extent and the armed forces which would be brought into action to support it would require prompt action by the Organization to check the aggression and, where necessary, to reverse it. The very circumstances under which the provision of the draft resolution would come into operation indicated that the Assembly should meet immediately. As nearly every Member State was represented at the Headquarters, there would not be much difficulty in conveying preliminary instructions to permanent representatives. Secondly, if the Council were unable to take prompt and effective action owing to a lack of unanimity among its permanent members, and if it were proposed that action should be taken by the Assembly, that same lack of unanimity would operate against a substantive resolution by the Council to call a session of the Assembly. In attempting to find a way to deal with situations in which the Council had failed to act owing to that lack of unanimity, it would be illogical to insist upon unanimity before the Assembly could be summoned to act.

The meeting rose at 1 p.m.