



SUMMARY RECORD OF THE 58th MEETING

Chairman: Mr. GOERNER (German Democratic Republic)

CONTENTS

AGENDA ITEM 120: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE SECRETARY-GENERAL (continued)

AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

AGENDA ITEM 132: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY

*This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL
A/C.6/39/SR.58
30 November 1984

ORIGINAL: ENGLISH

The meeting was called to order at 11 a.m.

AGENDA ITEM 120: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE SECRETARY-GENERAL (continued) (A/39/504 and Add.1 and Add.2; A/39/581-S/16782 and Corr.1)

1. Mr. SOBOLEV (Byelorussian Soviet Socialist Republic) said that because of the very nature of socialism, the members of the Council for Mutual Economic Assistance were deeply concerned about improving the political and economic situation in the world. The new international economic order required the restructuring of international economic relations on a just and democratic basis so that all countries could develop their economic potential to the fullest and advance along the path of development in conditions of peace, justice and mutual co-operation. The principles of respect for national independence and sovereignty, non-interference in internal affairs and non-use of force, among others, must be strictly observed. Similarly, all forms of economic aggression must be excluded from international relations.

2. The current world economic situation was a matter of serious concern. While the socialist States were helping to restructure international economic relations on a just and democratic basis, the ruling circles of a number of countries were subordinating economic relations to their policy of aggression, reneging on existing agreements, resorting to various forms of pressure and attempting to solve their domestic problems at the expense of others. Most developing countries were in a particularly difficult position. The Byelorussian SSR supported their struggle to eliminate all forms of colonial and neo-colonial exploitation, to achieve full sovereignty over their resources, and to establish just international economic relations on the basis of equality. It also supported the efforts of those States to codify the legal basis of the new international economic order.

3. In order to improve international economic relations, to remove the obstacles to their restructuring on a democratic basis and to develop international law on the subject, it was essential first to give effect to the recommendations and agreements aimed at achieving mutually advantageous economic co-operation which had been formulated through the collective efforts of States in a number of documents, including the Charter of Economic Rights and Duties of States and the Declaration and the Programme of Action on the Establishment of a New International Economic Order.

4. His delegation continued to believe that the United Nations Commission on International Trade Law, in particular through its Working Group on the New International Economic Order, was the most suitable body for considering the progressive development of the principles and norms of international law relating to the new international economic order.

5. There was a clear link between the restructuring of international economic relations and the promotion of disarmament, peace and international security: progress in one area would lead to progress in the other.

6. Mr. SHAKER (Egypt) said that Egypt attached priority to the worthy objective of establishing a new international economic order based on universally accepted legal principles. Its contribution to that process was proof of its commitment.
7. The international community, and the developing countries in particular, were becoming increasingly aware of the need to set up a broad legal framework to develop international economic relations by defining the rights and duties of States and the rules governing their conduct in the economic field. Existing legal rules should be codified and new rules progressively developed through negotiations in various international bodies. Egypt was determined to work towards that objective and welcomed the principles relating to the new international economic order which had emerged from the study done by the United Nations Institute for Training and Research (UNITAR). That clear and comprehensive analytical study removed all doubts as to the importance of the subject. It should be examined by a group of 25 governmental experts selected on the basis of equitable geographical representation; the results of their examination should be submitted to the Sixth Committee.
8. Egypt welcomed the distinction made in the study between principles and norms of international law and endorsed the criteria used to establish that distinction. Principles did not exist in isolation but must be supplemented by detailed provisions.
9. With respect to the relationship between the progressive development and legal status of rules relating to the new international economic order on the one hand, and the progress made towards their general acceptance on the other, his delegation believed that a distinction must be made between the status of United Nations resolutions and their legal value. The failure to implement some resolutions had been due solely to the lack of political will on the part of certain States. It was therefore necessary to add to the value of each resolution the cumulative value of all preceding resolutions in order to build up a body of increasingly well-established rules, the application of which could be determined at a later stage.
10. On the issue of the extent of jurisdiction by States over foreign economic interests, new formulations had emerged in instruments such as the Charter of Economic Rights and Duties of States and the Declaration and the Programme of Action on the Establishment of a New International Economic Order. It was clear that there had been a narrowing of the differences on that question, and it might be possible to combine existing texts into a single body of provisions codifying the principle of the right of States to control foreign investment as a function of their economic development objectives.
11. The question of nationalization must be viewed from the perspective of the goals pursued, compensation and the settlement of disputes. A State's decision to expropriate, nationalize or confiscate foreign investment could not be subject to an external body, since questions of national security and national interests were among the attributes of sovereignty. The question of appropriate compensation must be determined by national legislation, with due regard for international law. Any doubts could be cleared up by comparing State practice in that area.

(Mr. Shaker, Egypt)

12. His delegation believed that preferential treatment for developing countries was an effective way of achieving a balance in international relations. At the same time, it advocated the establishment of a legal régime governing economic relations, which could be more advantageous to developing countries than preferential treatment alone. As to the principle that every State was entitled to the benefits of science and technology, his delegation believed that that principle should guarantee the developing countries access to those benefits.

13. Mr. GOMEZ-GOMEZ (Colombia) said that the principles on which the development of effective norms could be based must be gradually consolidated in the effort to establish a new international economic order. Developing countries were sceptical as to the value of an exercise which was limited to the repetition of a catalogue of reasons why there was urgent need to convert platitudes into real progress towards social justice and international co-operation. There could be no peace in a world in which the gap between the rich and the poor was widening. The wretchedness and poverty that were the lot of much of mankind constituted a direct challenge to the entire international community. It was necessary to change the model of development in order to reduce those inequalities, which were a constant source of threats to peace. The achievement of that goal required action by the developed countries.

14. Mankind had to make immediate efforts aimed at the establishment of a new international economic order so as to achieve a balance between the developed and the backward areas of the earth. Despite its complexity, that task could be accomplished through the implementation of such principles as preferential treatment for developing countries, stabilization of export earnings of developing countries, permanent sovereignty over natural resources, the right of every State to benefit from science and technology, the entitlement of developing countries to development assistance, and the common heritage of mankind. The establishment of juridical régimes was essential provided that they contributed to the development of international economic co-operation.

15. It was necessary to make progress in combating various contemporary phenomena. Terrorism, for example, certainly constituted an international crime. To counter it and to ensure mutual international legal assistance, norms should be established. Because of its very nature, terrorism required the concerted action of States to neutralize its effects.

16. Drug trafficking was a profoundly anti-social activity, harmful for normal economic life and endangering the physical and mental health of addicts. But it was impossible to combat it without the co-operation of the international community, which should consider it to be an offence against mankind. The chain of different countries involved in drug trafficking necessitated the establishment of norms to facilitate the fight against it. That would be to the direct advantage of all, but especially the young, who represented the future of mankind.

17. The recruitment, financing, use and training of mercenaries constituted a serious interference in the political life and internal affairs of States. The

(Mr. Gomez-Gomez, Colombia)

consideration of a draft convention against that violation of the principles of the Charter of the United Nations should be given priority. The consolidated negotiating basis contained in the report of the Ad Hoc Committee (A/39/43) brought together elements which would serve as a basis for the development of national legislation.

18. Mr. Sreenivasa RAO (India) said that the study on the principle of participatory equality of developing countries in international economic relations (UNITAR/DS/6/Add.1), the analytical study (A/39/504/Add.1) and the earlier studies provided an excellent basis for a deeper appreciation and a systematic analysis of the basic principles governing the new international economic order. They correctly emphasized the relevance of the principle of sovereign equality and the duty to co-operate. Within that framework, they correctly identified several other equally important principles such as: the right of States to choose their economic system; the right of permanent sovereignty over natural resources; the principle of non-interference; the duty to settle disputes peacefully and the principle of free choice of means of settlement; the principle of preferential treatment for developing countries; the right to receive development assistance not only to redress inequalities and discrimination resulting from colonial rule, but also to establish a more stable base for sustained world-wide economic growth; the obligation to disseminate information on scientific and technological developments and the right to a fair, equitable and mutually beneficial transfer of technology; and the principle of the common heritage of mankind. The latter principle, having played a revolutionary role in the rejection of traditional concepts of maritime law and the development of policies to reflect contemporary international concerns, was of central importance to the promotion of the new international economic order.

19. It was clear that the new international economic order was rooted in a set of well-established principles of international law, which required constant re-evaluation. In view of the expected differences in interpretation, there was a need for a constant dialogue to achieve mutual understanding and to clarify common interests. International law could not remain indifferent to the interrelated issues of peace, population and poverty, which the new international economic order was designed to address. It must therefore reject anachronistic and unjust theories and cover all aspects of the new international economic order.

20. In view of the heavy volume of work before the International Law Commission and the rather specialized focus of the United Nations Commission on International Trade Law, it appeared more appropriate to look to other bodies to deal with the subject. The alternatives included the creation of a working group of experts nominated by Governments and serving in their individual capacities, a working group of experts representing Governments, a working group of the Sixth Committee and an ad hoc committee of the United Nations. In view of the financial implications and the need to ensure the active and concerned participation of Governments, the best arrangement would be for the Sixth Committee to keep the item on its agenda within a working group of the whole or an ad hoc committee with a mandate to pursue the codification and progressive development of the principles of international law relating to the new international economic order. His delegation would consider any other suggestion with an open mind in line with the objective of keeping the relevant principles of international law under consideration.

/...

AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)
(A/C.6/39/L.9, L.11)

21. Mr. ENKHS AIKHAN (Mongolia) introduced draft resolution A/C.6/39/L.9 on behalf of the sponsors. The text was virtually unchanged from that of resolution 38/133.

22. Mr. BERMAN (United Kingdom) said that he wished to comment on document A/C.6/39/L.11 on the programme budget implications of the draft resolution. Paragraph 2 of that document was an admirable response to General Assembly resolutions which called for the provision of programme as well as financial implications of draft resolutions. With regard to paragraph 3, which referred to a session of the Special Committee to be held in February and March 1985, he would like an assurance that delegations would not at the current stage be committing themselves to the dates mentioned. Three inter-sessional committee meetings were planned. It was therefore logical not to take a decision on dates without knowing those of the other meetings. The Special Committee should not be given priority. The Chairman of the Sixth Committee should hold consultations concerning the timetable for inter-sessional meetings. Too close a scheduling of those meetings should be avoided in order to allow members of the committees time to prepare for them.

23. Mr. MUTZELBURG (Federal Republic of Germany) said that his delegation would have expected the timing of the inter-sessional meetings of the various committees to have been decided upon after consultations. The Ad Hoc Committee on mercenaries was about to enter an important phase of its work. It had been discriminated against in the past with regard to the scheduling of its meetings. He hoped that that would not happen again in 1985.

24. The CHAIRMAN said that he would hold consultations with the chairmen of the respective committees in order to co-ordinate the dates of the inter-sessional meetings.

25. Mr. MOSELEY (Barbados) said that the marked progress referred to in the report of the Ad Hoc Committee had been achieved in spite of time pressures. The Ad Hoc Committee did not, however, work better under pressure, and a more convenient timing for its meetings would be appreciated. He supported the suggestion that the Chairman should hold consultations on the timing of inter-sessional meetings.

26. The CHAIRMAN said that a recorded vote had been requested on draft resolution A/C.6/39/L.9.

27. Mr. DE PAIVA (Brazil), speaking in explanation of vote, said that in the light of events in 1984 his delegation would have expected all parties to make efforts to allow the Special Committee to work productively. Unfortunately, there had been only a limited response on the part of delegations. The debate had been consistently polarized and, in the absence of any real dialogue, the draft resolution remained virtually the same as the previous year's. Prospects for progress were dim; even those who had consistently called for radical changes in

(Mr. De Paiva, Brazil)

the Special Committee's mandate appeared to have adjusted to that lack of progress. Under those circumstances, his delegation would abstain in the vote on the draft resolution. It continued to believe in the need to enhance the effectiveness of the principle of non-use of force, but it considered that the Special Committee should work on the basis of more precise guidelines. He hoped that delegations would recognize the need for more productive efforts at the next session and that extraneous factors would have no bearing on the future work of the Special Committee.

28. Mr. TRISTANY (Argentina) said that his delegation was concerned about the differing approaches in the Special Committee with regard to its mandate and how its tasks should be pursued, and about the resulting lack of progress; it had always sought to reconcile the two opposing sides. At the 1984 session, once again, the non-aligned group had tried to find acceptance for compromise that would allow the Committee's mandate to be renewed by consensus. But again its efforts had not prospered. His delegation attached great importance to the principle of non-use of force and felt that the Special Committee had an important contribution to make. For that reason, in spite of those difficulties, Argentina would vote in favour of the draft resolution. However, he hoped that in future there would be a more positive attitude in the Special Committee and that political issues and activities that were being addressed in other forums would not hinder its work.

29. Mr. MUDHO (Kenya) said that he agreed with the comments made concerning the dates of the Special Committee's session. Considering the stage it had reached in its work, the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries should be given priority in the scheduling of its session.

30. He regretted that, despite the intense consultations, draft resolution A/C.6/39/L.9 was a virtual copy of previous resolutions on the subject. The ambiguity of the Special Committee's current mandate prevented progress. That was why the non-aligned countries had made strenuous efforts to suggest ways of reformulating the mandate. If there was a separate vote on the individual paragraphs of the draft, his delegation would vote against paragraph 2, which was ambiguous, and abstain on paragraph 3. However, since it felt that everything possible must be done to enhance the effectiveness of the principle of non-use of force in international relations and believed that the Special Committee might be able to make useful recommendations, it would agree to the renewal of the mandate of the Special Committee in the hope that its members would seriously try to make progress. However, if it continued to appear that the mandate was not conducive to such progress, it would have to be reformulated.

31. A recorded vote was taken on draft resolution A/C.6/39/L.9.

In favour: Afghanistan, Algeria, Angola, Argentina, Bahrain, Barbados, Bhutan, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Chile, China, Colombia, Comoros, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, Gabon, German Democratic Republic, Ghana, Greece, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Kenya, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Niger, Nigeria, Oman, Papua New Guinea, Philippines, Poland, Qatar, Romania, Rwanda, Senegal, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia.

Against: Belgium, Canada, Denmark, France, Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Pakistan, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia, Austria, Brazil, Germany, Federal Republic of, Guatemala, Ireland, Ivory Coast, New Zealand, Paraguay, Sweden, Turkey.

32. The draft resolution was adopted by 80 votes to 16, with 11 abstentions.

33. Mr. BENAVIDES (Spain), speaking in explanation of vote, said that his country had no doubts as to the importance of the principle of non-use of force in international relations and believed that that principle should be enhanced. Nevertheless, it did not feel the best way of achieving that was by elaborating a treaty. The prohibition of the use or threat of force in international relations was clearly established in the Charter of the United Nations. To repeat that prohibition redundantly would be counter-productive. The best way of enhancing the effectiveness of that principle was to improve the system of collective security. The Special Committee might consider the item jointly with such questions as the peaceful settlement of disputes and the strengthening of the system of collective security. The only realistic way of achieving progress in the Committee was to pay careful attention to the points of view expressed by all delegations, in the context and under the terms of paragraph 6 of resolution 36/31. Spain would continue to work for the strengthening of the principle of non-use of force at the regional level through the adoption of new, concrete and effective commitments, which were the best expression of the duty of all States to refrain from using force in their international relations.

34. Mr. van LANSCHOT (Netherlands) said that he welcomed the shift in the attention of the Special Committee away from the drafting of a treaty on the non-use of force towards ways of enhancing the effectiveness of the principle of non-use of force. Such a treaty was unnecessary, since there were no cases in

(Mr. van Lanschot, Netherlands)

which force had been used as a result of an inadequate formulation of the legal principles prohibiting its use, and might even be harmful, as it would create a legal régime parallel to that of the Charter. Since, according to paragraph 2 of the draft resolution, the drafting of such a world treaty was the *raison d'être* of the Special Committee, his delegation had voted against the draft resolution, just as it had voted against resolution 38/133.

35. Mr. BERNAL (Mexico) said that his delegation had voted in favour of the draft resolution because it considered it very important to continue to seek measures that would reinforce the principles and norms of international law, especially in relation to the prohibition of the threat or use of force in international relations. But he wished to emphasize that the Special Committee, at its next session, should seek ways to escape from the state of deadlock in which it found itself. Serious and constructive negotiations in the Committee would accelerate the process of elaborating a legal instrument on the principle of non-use of force. His delegation could not accept that negotiations in the Committee should depend on the results of negotiations in other forums.

36. Mr. NOLAN (Australia) said the fact that his delegation had abstained in the vote in no way detracted from its firm commitment to the Charter and its rejection of the use of force in international relations. It had, however, serious reservations about drafting a world treaty, as opposed to searching for ways to improve existing mechanisms. It would follow with interest the future work of the Special Committee and would have to raise serious questions about its very existence if no progress was achieved.

AGENDA ITEM 132: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY
(A/39/26 and Corr.1)

37. Mr. MOUSHOUTAS (Cyprus), Chairman of the Committee on Relations with the Host Country, introduced the Committee's report (A/39/26 and Corr.1). Chapter III, which contained the substance of the report, dealt, in particular, with: the security of missions and the safety of their personnel; issues arising in connection with the implementation of the Headquarters Agreement; privileges and immunities; the use of motor vehicles, parking and related matters; insurance, education and health; and public relations of the United Nations community in the host city. It was expected that the Sixth Committee would, as usual, propose that the General Assembly should endorse the recommendations contained in chapter IV of the report. A complete list of documents circulated during the reporting period was contained in the annex to the report.

38. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics) asked whether the draft resolution on the report of the Committee on Relations with the Host Country would have to be submitted before 1 December because of financial implications.

39. Mr. KALINKIN (Secretary of the Committee) said that if the draft resolution was formulated along the same lines as the resolution on the item adopted at the thirty-eighth session, there would be no financial implications.

The meeting rose at 12.45 p.m.