

GENERAL
ASSEMBLYThursday, 9 December 1954,
at 8.30 p.m.

New York

NINTH SESSION
Official Records

CONTENTS

Page

Agenda item 72:

Complaint of detention and imprisonment of United Nations military personnel in violation of the Korean Armistice Agreement (*continued*)..... 409

President: Mr. Eelco N. VAN KLEFFENS
(Netherlands).

AGENDA ITEM 72

Complaint of detention and imprisonment of United Nations military personnel in violation of the Korean Armistice Agreement (*continued*)

1. Mr. SKRZESZEWSKI (Poland) (*translated from Russian*): In the procedural discussion the Polish delegation objected to the question of the eleven United States airmen convicted of espionage in China being included in the agenda for this session. My delegation took the position that this question is outside the competence of the United Nations and is intended only to complicate the Organization's work. Since however it was decided by majority vote to include the item in our agenda, the Polish delegation, while maintaining all the objections and all the arguments it previously advanced, wishes to explain its position on the subject.
2. Before dealing with the substance and nature of the question of the airmen raised by the United States Government, I should like to review briefly the motives which, in our view, prompted the United States delegation to place the question on this session's agenda.
3. During the procedural discussion, my delegation, in opposing the inclusion of the item in the agenda, endeavoured to show that this was a propaganda scheme designed to increase international tension and to hamper the General Assembly's work. We pointed out that the United States request for the inclusion of the item was an attempt to arouse hostility to the People's Republic of China and to mobilize public opinion to oppose the admission of the People's Republic of China to its rightful seat in the United Nations. We pointed out that the United States proposal was a manoeuvre designed to create war hysteria and to divert public attention from the real threat of war in the Far East. We also drew attention to the war-mongering campaign being carried on in this connexion in certain important political, congressional and military quarters in the United States.
4. The manifestly propagandist nature of the question becomes particularly obvious when we consider the time chosen by the United States to drag this question before the United Nations. The General Assembly

has begun consideration of the question of aggression against the People's Republic of China, a question involving a number of hostile acts committed by the Chiang Kai-shek and United States air and naval forces, and by the Chiang Kai-shek artillery operating with the permission of the United States military command. In the next few days we shall be taking up the question of the acts of piracy which have been carried out in the area of the China seas. Obviously, the question of the airmen was proposed in order to make it more difficult for the Assembly to agree on suitable action in these two matters.

5. The world Press has recently been full of reports about the acts violating the territory, territorial waters and air space of the People's Republic of China which are being carried out by United States naval and air forces. These acts have become a serious source of international tension in the Far East. A few days ago, the United States concluded a military agreement with Chiang Kai-shek which, creating as it does a basis for further aggression against the People's Republic of China, is causing serious concern among the peoples of Asia, among the European allies of the United States and among the people of the United States itself, who fear that they may be drawn into another war in Asia.

6. Syngman Rhee has intensified his campaign against the Armistice Agreement signed at Panmunjom, a campaign which, the facts show, has been carefully synchronized with acts of United States policy.

7. It is clear that the question of the United States airmen has been raised at this session as a manoeuvre to divert the attention of all States and of the American people from the war preparations being carried on in the Far East and from the danger to world peace arising in that area from the activities of the United States air and naval forces.

8. The question before us is essentially simple and clear. On 23 November 1954, the military tribunal of the Supreme People's Court of the People's Republic of China, on the basis of the depositions of the defendants, the testimony of witnesses and extensive documentary and material evidence, and in accordance with the laws in force, convicted 22 American spies—thirteen of whom were United States nationals and nine Chinese nationals—of criminal acts prejudicial to the integrity and security of the Chinese State.

9. All the convicted persons were engaged in espionage in the Far East. Some of the convicted United States nationals were members of air reconnaissance units and had made repeated flights over Chinese territory. All the persons convicted confessed their guilt in open court. The convicted United States nationals testified that they had been employed by the Central Intelligence Agency, known as the CIA. Many of them had received special training in espionage. Their aircraft was an unarmed B-29, loaded with supplies ready to be dropped to

espionage groups on Chinese territory; it was equipped for reconnaissance, not as a fighter bomber. The debris of this aircraft and the objects found in it appeared as material evidence at the trial, together with a large number of documents. These items are now on public exhibition in Peking.

10. The story of the B-29 whose fate we are now discussing is not new to the public. On 22 January 1953, the Hsinhua news agency published a protest made on 21 January by the Minister of Foreign Affairs of the People's Republic of China against the violation of the sovereign air space of China by a United States aircraft. It was reported at the time that this aircraft was carrying special agents on a reconnaissance mission, that it was shot down in the Antung area in north-eastern China, that it was a B-29, that its crew included Colonel Arnold and the other ten airmen mentioned in the United States complaint, and that three airmen had died in the crash.

11. Thus it was surprising to hear Mr. Lodge say in his complaint that the question came up suddenly on 23 November, just a few days ago. It is perfectly clear that this question falls exclusively within the domestic jurisdiction of a State, and that no international organization and no other State is entitled to intervene.

12. Every sovereign State has the right to punish spies apprehended in its territory, regardless of their nationality or service; and any State sending out the spies must count on the fact that a spy caught while engaged in espionage will have to bear the serious consequences of his act.

13. I should like to impress this point especially on Sir Percy Spender, who urged us this afternoon to have sympathy for the convicted persons. Sir Percy should address his appeal to the States which send out spies, not to those which have caught spies at their dirty work and have justly punished them for it.

14. And the United States, too, when it sends out its spies, should be prepared for the fact that they may be arrested; it should realize that they will not be received with flowers and decorations, but will be arrested, brought to trial and put into prison. However, the United States, in order to induce our Organization to come to the defence of the spies, and to hamper international co-operation, is trying to connect the spying activities of the eleven United States airmen with the question of the Korean armistice.

15. The United States representative, repeating the story given in the explanatory memorandum [A/2830], has tried to give the impression that the convicted spies were prisoners of war captured during the hostilities in Korea, and that their detention and conviction are a violation of the Korean Armistice Agreement.

16. One significant fact leaps to the eye: the United States has referred only to eleven American spies; it still remains silent with regard to the other two persons who were convicted on the same day at the same trial, and has entirely ignored the nine United States spies of Chinese nationality.

17. The artificiality of this whole affair can be seen from the fact that although what we have here is in effect a single case of espionage, the United States has arbitrarily singled out eleven of the men involved on the ground that they were in uniform. In Mr. Lodge's opinion, the fact that some of the United States spies whose plane penetrated into the air space of the People's

Republic of China were in uniform shows that the captured persons were not spies. I shall return later to this singular argument.

18. On the basis of the testimony of the accused and the witnesses, the facts brought to light by the investigation and the physical evidence, it has been proved beyond doubt that the aircraft in which the airmen were travelling was shot down over the territory of the People's Republic of China, far from the Korean theatre of war. It is plain from the statements of witnesses, from the way the aircraft was equipped and from other physical evidence that the airmen were not on a war mission and were not attached to the United States military command in Korea, but were operating as members of the 91st Reconnaissance Squadron.

19. I should like in addition to make it clear to the Colombian representative that the charge of spying made against the arrested airmen was not based on the fact that the aircraft they were using was a reconnaissance plane or was of some other type. That did not determine the nature of their mission, which would have been the same if they had appeared over Chinese territory in a fully armed bomber or any other type of aircraft. The nature of their offence was determined by the fact that they were engaged in espionage; it consisted in liaison with groups of spies in Chinese territory, the supply to such groups of necessary espionage equipment and weapons and the ferrying of persons from China to espionage centres. Thus they were ordinary spies, and cannot be considered in any other way.

20. Under the indisputable principles of international law, confirmed in many international treaties, the rights of prisoners of war do not extend to persons engaged in espionage, whether or not the State in whose territory they are arrested is at war.

21. It might logically be supposed that those who dispute these facts and present a different version would produce proof in support of their assertions. The United States representative's statement contained no convincing arguments, much less proofs of any kind. We heard only the addresses of the families of the condemned United States citizens. We are fully aware that all this was done only for purposes of internal United States propaganda. United States diplomacy is resorting to primitive expedients. The method used is simply to assert that any statement inconvenient to the United States is a fiction and not in accordance with the facts. But such a method will satisfy only persons with preconceived ideas. Mere unfounded assertions do not satisfy unprejudiced people; unprejudiced people believe in facts, documents and material evidence, and are guided by common sense logic.

22. Despite the fact that the records of the trial and its results have been published, despite the fact that the documents and the material evidence are on public exhibition, the United States asserts without any foundation that the condemned airmen were innocent of espionage and were shot down while on combat duty over North Korea. As the only material evidence in support of his version of the case, the United States representative produced a map showing the aircraft's course, the point at which the air battle took place and the point at which the aircraft came down.

23. A map is no real evidence: sometimes certain details are photographed, but often certain details are omitted. It is not difficult to draw such a map, and it

is not difficult to add to such a map any photostatic details which meet the needs of a particular report. And the reliability and authenticity of the map in question appear dubious when we consider the different versions which have been given in the various United States statements as to where the air battle took place. I think all of us, including myself, would be highly interested to know whether the vacillations of the United States authorities in deciding where this incident took place were recorded by radar.

24. If our discussion goes on much longer we may be able to record further progress on the part of the United States delegation. I believe we already have five versions; in a few days' time, however, we might be given yet another version closer to that of the People's Republic of China.

25. Both at the 99th meeting of the General Committee and during the debate in the General Assembly, Mr. Lodge has indignantly rejected the contention that the men were spies. Mr. Lodge plainly wanted us to believe him despite the fact that United States politicians and the United States Press boast about the espionage and the diversionary activities carried on against the People's Republic of China, the Soviet Union, the peoples' democracies and other countries, and despite the fact that special budget appropriations are made for diversionary and espionage activities.

26. I doubt whether Mr. Lodge wanted to give us the impression that the United States does no spying at all. What purpose are the numerous United States intelligence agencies intended to serve? What are they engaged in—philanthropic work, or abstract scientific work on, for instance, astronomy or classical philology?

27. A series of articles recently published in the United States weekly *The Saturday Evening Post* described the activities of the Central Intelligence Agency in Guatemala, Iran, the Soviet Union, Egypt, the People's Republic of China and several other countries. With reference to these articles, which were written and released with CIA collaboration and consent, Dorothy Thompson, the well-known United States journalist, writes as follows, on the question of the condemned airmen, in the *Chicago Daily News* of 1 December 1954:

"The United States has protested that the men, missing since the Korean struggle, are prisoners of war, and their trial an infringement of international law, as it is if the Chinese charges are untrue.

"But are they untrue? After reading the *Post* articles nobody could be sure.

"The articles reveal just about everything except names, addresses and codes: how agents are recruited and trained; how many buildings CIA occupies in Washington; how many employees it has—half as many as the State Department—and how few members of Congress know what 'black' expenditures they are voting for."

28. As Senator Mansfield, a former United States representative to the United Nations, pointed out during a Senate debate, CIA employs a staff of some 30,000 and receives an appropriation of up to \$800 million. During this debate Senator Mansfield pointed out that the CIA gave no account of half its expenditure and was, in a sense, a State within a State. In this connexion he said:

"We cannot permit CIA, any more than we can permit any other government agency, to have free rein to do anything it wants anywhere in the world.

If its agents play carelessly with fire, the whole world might get burned."

29. The espionage activity of the United States Air Force in the Far East has been described by the Press in particularly full detail; Hanson Baldwin, the military editor of the *New York Times*, gave it extensive coverage in September. Unhappily we have to recognize that intelligence and diversionary activity have become an inseparable part of contemporary United States foreign policy.

30. Many of the countries represented here know this from their own experience; they include my country, Poland, which is one of the targets of United States intelligence operations. We have many proofs of this. From West Germany and from other centres United States spies penetrate into Poland. We have had our own trials and our own exhibitions of material evidence of the activity of United States spies in Poland. We have published a collection of documents on the subject. In brief, we in Poland have our own experience of the operations of United States spies; and we shall never be convinced by groundless assertions.

31. In an endeavour to dispute the authenticity of the evidence brought to light in the course of the judicial investigation, Mr. Lodge resorted to the following argument. The airmen, he said, could not have been engaged in espionage because they were in uniform and carried military papers. Other representatives have also used this naive argument. The United Kingdom representative recited it yesterday in moving tones, and Sir Percy Spender, the Australian representative, reiterated it today. The use of this argument, which relies on human credulity, is intended to divert attention from the real nature of the activities of the United States spies who were sentenced in China.

32. We are well aware that the United States, a rich country, appropriates hundreds of millions of dollars for espionage purposes, that it is able to equip its spies with both civilian and military clothing, that it is able to equip them with clothing suitable for the circumstances in which they are to work, that it can supply bald spies with wigs and that it can turn normal people into apparent cripples. We are fully aware of all this. However, the indictment presented and the sentences passed in China, as also the testimony of witnesses and of the convicted men, make it clear that the latter had been given the task of supplying suitable equipment to groups of spies and diversionists operating in Chinese territory, and of ferrying out of China, even without landing on Chinese soil, a number of persons who had been engaged in spying for the United States.

33. Mr. Lodge, with unsuccessful irony, asks since when spies have been sent on espionage missions in military uniform. This is indeed an unexpected argument. The United States spies were under orders to operate without any contact with the population, their mission being to pick up other spies without making a landing. The airmen were supplied with special equipment. Their military uniforms in no way hampered their espionage work. Moreover—we may note in passing—a uniform may be used in an attempt to escape punishment for dirty espionage work. I would also add that the clothes worn by spies are quite irrelevant, for international law makes no distinction between spies in uniform and spies out of uniform.

34. A number of countries in Europe and Asia know from their own experience how often American military

aircraft with uniformed crews have penetrated far into their territories, and what a clamour has then often been raised for the release of such persons, on the pretext that they simply "lost their course" or that they were "victims of unfavourable circumstances". This is the argument Mr. Lodge used today to justify an incursion by another United States aircraft operating over Manchuria. It must be realized that a member of a reconnaissance unit captured while carrying out his mission against the State on whose territory he is operating is defined as a spy under all criminal codes, whether or not he is a member of an air force.

35. We are all aware that the purpose of the United States campaign is not the release of the airmen who were captured while carrying out espionage work; in reality the United States is primarily interested in cold war propaganda moves in the deterioration of international relations, in the kindling of hatred against the People's Republic of China, and in justifying to other States and to its own people its own aggressive activities in the Far East.

36. The two notes mentioned in the explanatory memorandum—notes drafted in unbecoming terms and sent to the accompaniment of threats of blockade and preventive war—serve the same ends.

37. Coming after the abduction of tens of thousands of Korean and Chinese prisoners of war, the unexpected solicitude for the fulfilment of the provisions of the Armistice Agreement concerning the repatriation of prisoners of war expressed by the American representative in his statement appears farcical and hypocritical.

38. The United States is responsible for the fact that it proved impossible to carry out the repatriation of prisoners of war. It is responsible for the fate of the tens of thousands of Korean and Chinese prisoners of war who were abducted; for the thousands upon thousands of Korean patriots who were shot; for the slaughter and bloody repression which went on in the prisoner-of-war camps, repression for which Koje Island, known in Asia as a "hell for the living", will long remain a byword.

39. The United States delegation asserts that the Korean Armistice Agreement has been violated. The Polish delegation, which, as a result of Poland's membership in the two neutral nation commissions, knows what the position was in Korea in June, is in a position to say that the Armistice Agreement has been violated frequently—very frequently, in fact—but by a country for which the United States is formally and factually responsible. It was violated by constant flights of United States aircraft over the demarcation line. It was violated by frequent strafing and bombing of the territory of the Democratic People's Republic of Korea. It was violated by the abduction, on various pretexts, of tens of thousands of Korean and Chinese prisoners of war. It is a breach of the Armistice Agreement that the civilians abducted from North Korea have been prevented from returning to their homes.

40. There has been and continues to be a flagrant violation of the Armistice Agreement in the strengthening of the military potential in Korea by the so-called United Nations Command—a fact I have already touched on in the debates in the First Committee.

41. In none of these breaches of the Armistice Agreement have the United States and its supporters felt it necessary to protest or show any concern to ensure the successful fulfilment of the Armistice Agreement.

42. Nor can it be said that the sudden concern evinced at this juncture about the fate of the Armistice Agreement results from the wish to preserve peace in Korea. On the contrary, it is engendered by a desire to undermine the Agreement, which constitutes a serious obstacle to war preparations in the Far East. The United States campaign coincides with intensified activity on the part of Syngman Rhee and his gang, who are trying to abolish the Armistice Agreement and to divest themselves of the obligations they assumed at Panmunjom.

43. The question of the espionage work which was being carried on by the thirteen United States spies is not an isolated issue; it is closely linked with the entire activity of the corresponding central civilian organizations and of the United States Army, Navy, and Air Force in the Far East. It is an integral part of the United States programme of aggression, whose target is not merely the integrity and security of the People's Republic of China; it is part of an over-all strategic plan embracing a number of continents and a number of countries, and in particular the entire territory of Asia.

44. The sentences imposed on the thirteen spies were not the first against United States spies in China. Since the very establishment of the People's Republic of China, a number of United States intelligence agencies, with the help of Chinese nationals, have been conducting operations in Chinese territory.

45. The wide-scale propaganda campaign which is at present being carried on in the Press, the radio and television, and even in the forum of the United Nations, is by no means due to any concern on the part of the United States for the fate of its citizens in military uniform. This campaign is a part of the strategy of cold war. It is dictated by a desire not to tolerate a peaceful conclusion of this session, in which, despite opposition, a tendency towards the peaceful settlement of disputes has begun to gain the upper hand.

46. We must not allow the achievements of this session, which generally speaking has up to now been conducted in a peaceful atmosphere, to come to nought because of the bitter debate which has developed in these plenary meetings. A number of important international problems have been discussed in a business-like fashion, and in spite of differences of opinion, unanimous decisions have been taken on two questions so important for the peace of the world as disarmament and the peaceful use of atomic energy.

47. In the United Nations it is the spirit of conciliation and collaboration that must prevail. Only in such an atmosphere shall we be able to solve all the many difficult problems of the present and the future. The raising of such questions as that of the eleven United States spies cannot enhance the prestige of the United Nations, nor can it help to bring about concord between nations. We must therefore abandon this wrong course and turn to the path of normal co-operation, as the United Nations Charter provides.

48. Of course we are all aware that the dispatch of spies to other countries and the organization of diversion and sabotage are the inevitable concomitant of an atmosphere of tension. We know what obstacles such activities place in the way of co-operation between nations.

49. This is a realm in which the United States could do much, very much. For instance, the United States

could, we believe, refrain from enacting such laws as Act 165 which provides for the appropriation of \$100 million for espionage and subversion in other countries. In particular, it is within the power of the United States to stop sending spies to other countries. If it does, there will be no more problems like the one we are now considering. There will be no more worry and anguish for the families of servicemen and civilians for the fate of their dear ones far away who are taking part in a wrongful and unjust war or in intelligence activity. The cessation of these practices of espionage and sabotage could make an appreciable contribution to the further reduction of tension in international relations.

50. The draft resolution [A/L.182] proposed by the United States and its allies in the Korean war fully confirms that its sponsors' intention is to win propaganda victories. Although the United States has been unable to produce any evidence in support of its contention that the People's Republic of China has in some way failed to fulfil its obligation, the draft resolution demands that China should be condemned for an alleged violation of the armistice in Korea and calls upon the Secretary-General to settle this question by 31 December 1954.

51. The United States again wishes to hustle our Organization into taking a dangerous course, in order to obstruct any settlement of the urgent question of the representation of the People's Republic of China in the United Nations. Without the participation of the People's Republic of China the United Nations cannot function with full effectiveness.

52. The draft resolution which the United States delegation has proposed is contrary to the United Nations Charter, to the Korean Armistice Agreement and to the interests and purposes of the United Nations. It is a trick designed to distract attention from the situation in the Far East, to hamper international co-operation and to envenom the international atmosphere.

53. In the interests of peaceful co-operation and of justice the General Assembly must reject the United States draft resolution, and must resist attempts to turn our Organization into an instrument of propaganda designed to aggravate international relations. The General Assembly must not allow the forum of the United Nations to be used for the defence of spies or for the dissemination of hate propaganda. The duty of the United Nations is to defend the cause of peace and peaceful co-operation among nations.

54. The Polish delegation therefore firmly opposes the draft resolution proposed by the United States, and appeals to all delegations to reject this draft resolution as one harmful to the United Nations.

55. Mr. NUTTING (United Kingdom): I listened attentively this afternoon to the speech made by Mr. Yakov Malik, the representative of the Soviet Union. I had thought that we might hear some new argument or some new explanation which would at least merit serious examination. We heard no such new argument.

56. Mr. Malik said that the aircraft in question was shot down in China and not in North Korea. Yet, he made no effort, no effort whatever, to refute the clear scientific evidence of the course and flight of the aircraft which is provided in the radar map which Mr. Lodge has brought before us.

57. Furthermore, apart from throwing out the vague accusation that the aircraft was shot down somewhere

over Chinese territory, he offered no evidence as to where it had come down. If Mr. Malik is such an expert as he poses to be upon the composition and the activities and the efforts of other people's intelligence services, it is a little odd that he did not himself tell us where the aircraft crashed in Chinese territory. One would have thought that it was a fairly simple question for Mr. Malik to answer. China, Mr. Malik, is an awfully large place, and if we are to be asked to accept, as we have been asked to accept, the evidence of the Soviet Union against the scientific evidence brought by the competent United States authorities on behalf of the United Nations Command, then, at least, one would expect that the General Assembly would not be treated with the contempt with which the Soviet Union representative has treated it in launching vague and unsupported accusations as to where this aircraft happened to be shot down.

58. I noticed another thing about the speech of the Soviet Union representative. I noticed that he made no attempt whatever to answer my speech at the 505th meeting, except—and I grant him this one exception—that he invented a remark which in fact I never made. I did not expect him to like my speech, but I did not think that it would drive him to invent statements that were never made. Mr. Malik said that I had claimed that we, the United Nations Command, had repatriated all the prisoners of war whom we took in the war in Korea. And he went on to say that this was untrue and that, for these reasons, the United Nations Command was guilty of violating the armistice.

59. I never said that the United Nations Command had repatriated all the prisoners of war whom they took. I never said it because it is not true. It could not be true. We did not repatriate, for we could not repatriate, those prisoners of war who refused to go back to Communist territory, for, under the Armistice Agreement, we were specifically obliged not to repatriate such prisoners, but rather to turn them over to the Neutral Nations Repatriation Commission. Mr. Malik should read not only my speech, but he should also refresh his abundant memory with a further perusal of the terms of the Korean Armistice Agreement.

60. Mr. Malik also complained that we should have raised this matter in the Neutral Nations Repatriation Commission, and that we should not have brought it before the United Nations. He claimed that the Neutral Nations Repatriation Commission was the proper machinery under the armistice to secure the release of these prisoners. Let me refresh his memory for him about the terms of the Armistice Agreement. Article III, which is headed, for ease of reference and reading, "Arrangements relating to prisoners of war", says this, in paragraph 51 (a):

"Within sixty (60) days after this Armistice Agreement becomes effective, each side shall, without offering any hindrance, directly repatriate and hand over in groups all those prisoners of war in its custody who insist on repatriation to the side to which they belonged at the time of capture."

I go on to quote paragraph 51 (b):

"Each side shall release all those remaining prisoners of war, who are not directly repatriated . . . and hand them over to the Neutral Nations Repatriation Commission for disposition in accordance with the provisions in the annex hereto".

I am quoting from the United Nations document S/3079. I trust that we shall not have any more accusations about faults on the part of the interpreters. But Mr. Malik will agree, I trust, from these quotations from this document that the Neutral Nations Repatriation Commission was set up to do one thing and to do one thing only: to deal with prisoners of war who refused to be repatriated, not with prisoners of war who wished to be repatriated and who had been forcibly detained by the other side.

61. Is it suggested, if the Soviet delegation holds this view, that the Neutral Nations Repatriation Commission should have dealt with this problem that we have brought before the United Nations? Is it suggested in the Soviet argument that young men having set out to spy for the United States, as is contended in the accusation, are now so enamoured of their gaolers and so beloved of the Communist régime that they refuse release and repatriation? Because those are the prisoners who the Neutral Nations Repatriation Commission had to deal with—those who refused release and repatriation.

62. I would say this to the Soviet delegation in all earnestness, seriousness and sincerity: The misery of these men and their relatives is quite enough without making a mockery of human suffering.

63. I want to make one more comment on the speech of the Soviet representative. I noticed that he failed to repeat the absurd contention that the Chinese People's Government was not a signatory of the Armistice Agreement. He had, as the Assembly will remember, previously held this argument in committee. Yesterday, however, I quoted his late colleague, Mr. Vyshinsky, to show that his predecessor, at any rate, thought differently and admitted that the representative of the Chinese People's Government had signed the Armistice Agreement. It seems, therefore, that Mr. Malik has lost this argument and that the Soviet delegation no longer holds that China is not committed by the armistice terms. Well, if that is so—if they do not any longer hold the argument that China is not committed by the armistice terms—then I would say to anyone who casts or feels any particle of doubt about our draft resolution that there can be no doubt or question that the detention of these prisoners by the Chinese authorities after 25 September 1953 is a clear violation of the Armistice Agreement.

64. Apart from these false points and misquotations, what did the speech of the Soviet representative amount to? He repeated today the same theme as he sounded yesterday during the debate on inscription. I must say that I feel almost sorry for the Soviet representative. For one so able and skillful at manipulating a fair brief, he must, I feel, have some resentment in being obliged to stand up here on this podium in order to defend so obviously and absurdly weak a case and to read out, as he has had to, to the General Assembly such a tissue of palpable falsehood. I suppose it would be too much to expect Mr. Malik to reverse his plea and to admit the total lack of evidence against these innocent men. I suppose it would be too much to expect him to accept the incontrovertible evidence of a breach of the Armistice Agreement and of subsequent undertakings by the Communist negotiators at Panmunjom. But, nevertheless, let us at any rate hope this—that it may be that this debate and the weight of evidence and opinion that it has produced will bring the Soviet Union, albeit

at this late hour, to reflect upon this issue and to seek speedy means to right this wrong.

65. We listened yesterday [505th meeting] with great attention to the moving and solemn speech from the representative of the United States, and we have taken note of its full exposition of the facts of this case. I cannot believe that, having heard his exposition, any serious and well-intentioned person can now feel any doubt with regard to the facts in this case or the inevitable conclusion which must be drawn from them. I do not, therefore, wish to weary the Assembly with a repetition of all the arguments which have already been adduced in the debate on inscription, and to which I myself drew attention yesterday. Having heard these arguments, the Assembly gave overwhelming support to the request for inscribing this item on its agenda. I do not believe that it is now necessary to rehearse them again.

66. The civilized world is now looking to the Assembly to act without delay in the name of humanity and to bend its efforts to secure the release of these unhappy men for whom, and for whose families, every day and every hour that passes must be a terrible ordeal.

67. I should, however, like to say a few brief words about the draft resolution. The action that we now call upon the Assembly to approve is set out in very simple terms in the draft now before us, which my delegation—indeed, I say, my country—has the honour to co-sponsor. The facts in this case are known and admitted. There can be no doubt that a clear violation of the Korean Armistice Agreement has been perpetrated. I have quoted from the relevant provisions of the Armistice Agreement. The Chinese announcement is clear and unequivocal. The one must clearly be a breach and a violation of the other. We are asking the General Assembly to declare that the detention and imprisonment of these eleven men, and the detention of all other captured personnel of the United Nations Command who desire repatriation, is a violation of the Armistice Agreement. Can there be any doubt about that? Let us not forget that, quite apart from these eleven airmen detained and imprisoned on charges of espionage, there are other unfortunate men, members of the United Nations Command, who, despite their desire to be repatriated, are still detained by the Chinese authorities in violation of the Armistice Agreement.

68. We have before us, in document A/2843, a letter from the representative of the United States referring to the four American jet pilots whom the Chinese authorities admit that they are still holding in detention despite the clear terms of the Armistice Agreement. There may perhaps be other servicemen of the United Nations Command, missing after operations during the Korean hostilities and still unaccounted for who, like these four jet pilots, are still languishing in detention. If this is indeed the case, then they, too, are being held in defiance of the Armistice Agreement.

69. We have asked for information about all detained personnel. We have asked the Chinese authorities for that information through the Military Armistice Commission. But we have got no information. The draft resolution before us therefore includes specifically any other men who may still be held. The United Nations must, in our submission, also assume responsibility for their safety and for securing their release.

70. We are asking the Assembly, in the light of all this knowledge, to condemn as contrary to the Armistice

stice Agreement the trial and conviction of prisoners of war illegally detained. We are asking our Secretary-General, acting in the name of the United Nations itself, to seek the release of these men. It is not, I submit, for the Assembly—and we would not ask the Assembly—to lay down the method which the Secretary-General should adopt to accomplish this grave task which we seek to entrust to him. We have, as Sir Percy Spender said, every confidence in him, and we should leave it to his judgment to select the most appropriate means to gain our united objective. We are asking him to shoulder a heavy responsibility. We are asking that his efforts should be “continuing and unremitting”. It is right and proper, however, that he should be asked to report on the progress that he makes, and we have suggested that this should be not later than 31 December 1954. The sooner this draft resolution is adopted, the sooner will the Secretary-General be able to undertake his task. I call upon my colleagues in this Assembly to join us in this appeal for justice and fair treatment for innocent men. Let our voice go out today on behalf of our soldiers, the soldiers of the United Nations. Let us join our endeavours for their release and for the redemption of this terrible injustice.

71. Mr. TSIANG (China): Many of the speakers who have preceded me have told us their immediate reaction to the Peiping radio announcement of 23 November that eleven airmen of the United Nations Command had been condemned by a so-called military tribunal to various terms of imprisonment. The reaction of these speakers may be fairly summarized in two words: “astonishment” and “indignation”. On the morning of 24 November, when I read the news in the morning papers, I had similar sentiments. But, in addition to astonishment and indignation, I felt a deep sense of shame. I was ashamed that any Chinese, even Communist Chinese, could be so brutal and so cowardly as to mete out harsh and unjust treatment to defenceless men.

72. I was not thinking at that moment of the principles of international law or of the terms of the Korean Armistice Agreement. I was not speculating about possible United Nations action, United Nations debate or United Nations resolutions. I was thinking of a group of men of Chinese stock who could act so contrary to Chinese sentiment and Chinese tradition, and I wondered what diabolic influence communism has on the soul and spirit of people.

73. My people have been usually regarded as a peace-loving people. Under normal circumstances, we Chinese are peace-loving. Nevertheless, in the course of three thousand years of history, China has naturally had its share of wars and therefore of prisoners of war. The case of the eleven airmen is by no means the first time China has had experience with prisoners of war. How do we Chinese usually treat prisoners of war? I think it is unnecessary to go through the history of the treatment of prisoners of war in China.

74. I would call the Assembly's attention to a previous instance when prisoners of war were handled in my country. I refer to the period at the end of the Second World War. In the winter of 1945, after the surrender of Japan, my Government had on its hands 2,399,984 Japanese prisoners of war. Of that number, a little over 1,250,000 were Japanese military personnel, and about 784,000 were Japanese civilians. The physical problem of handling 2 million prisoners of war was enormous. Fortunately, the only problem we had was the physical

problem of transportation. With the substantial help of the United States Government in the form of ships, trucks and aeroplanes, my Government succeeded in repatriating these 2 million prisoners of war to Japan within approximately two years.

75. There was nothing special about that operation. My Government never claimed that the operation had any special merit. What was extraordinary was the fact that the people in my country accepted the Government's decision to repatriate all the Japanese prisoners of war. That circumstance was rather extraordinary, because, after all, the Japanese had invaded my country, had occupied the eastern half, had sent aeroplanes to bombard defenceless cities in the rear, had caused us enormous suffering and had on occasion committed atrocities. It would have been human for at least some groups in China to demand that the prisoners of war in our hands should be harshly treated. But there was no such demand whatsoever. The Japanese prisoners of war travelling from points in the interior on trains, ships and trucks, or marching on foot to their ships, were not on even one occasion molested by the crowds. The Government and people in my country regarded the decent treatment of these prisoners of war as a matter of course.

76. Now, that action, that type of treatment, was in accordance with Chinese sentiment and Chinese tradition. The present action of the Communists in Peiping in condemning these innocent people to terms of imprisonment is un-Chinese. In my mind and in the minds of the Chinese people, the statement that those Communists are un-Chinese is about as harsh a condemnation as I could pronounce.

77. The other aspects of this problem—the terms of the Korean armistice, the story of espionage, the plea of neutrality made by the Chinese Communists, and so forth—have been analysed eloquently and convincingly by many speakers who have preceded me, notably the representatives of the United States and of the United Kingdom. I feel that it is unnecessary to add to the arguments which have been adduced on those aspects.

78. In my delegation's opinion, the draft resolution before the Assembly is simple, clear, correct and moderate. I know that the sponsors of the draft resolution purposely made the terms moderate. In the free world, moderation means strength and moral self-assurance. But I am not sure that the Communist world evaluates moderation in the same way. While my delegation will vote in favour of the draft resolution, I must express my anxiety that the moderation of the free world may be interpreted by the Communists as weakness.

79. Mr. ENGEN (Norway): The purpose of this debate and of the draft resolution now before the Assembly is to seek the release from Chinese captivity of all United Nations Command personnel, men who, in accordance with the Korean Armistice Agreement, should have been repatriated by 25 September 1953. In particular, we seek to effect the release of the eleven members of the B-29 bomber crew who are referred to in document A/2830 and the four jet pilots who are referred to in document A/2843. The facts in this case, as we see them, are the following.

80. First, the United Nations Command has declared that these fifteen officers and men belonged to the forces under that Command and were reported missing during

the Korean conflict. We accept that declaration, and we stress the fact that those men were uniformed military personnel performing an assignment of a clearly military nature.

81. Secondly, on 10 June 1954, in Geneva, United States Ambassador Mr. U. Alexis Johnson submitted to the representative of the People's Republic of China a list of missing military and civilian personnel who, it was believed, were still in Chinese custody. This list included the names of the fifteen Air Force officers and men to whom I referred a moment ago.

82. Thirdly, on 21 June 1954—that is, eleven days later—the representative of the People's Republic of China acknowledged to the United States representative that the eleven crew members of the B-29, plus the four jet pilots, were being detained in Chinese custody, and that three other members of the B-29 crew had died from injuries suffered in bailing out of the damaged aircraft.

83. Fourthly, on 23 November 1954, the Peking radio announced that the Chinese military tribunal had imposed prison sentences on the eleven crew members of the B-29 bomber. They had been accused and convicted of espionage.

84. Fifthly, the Korean Armistice Agreement, to which the People's Republic of China is a party, stipulates in article III, paragraphs 51 and 54, that all prisoners of war shall, within 60 days after the Agreement becomes effective—that is, by 25 September 1953—either be repatriated directly or delivered over to the Neutral Nations Repatriation Commission. According to information received from spokesmen for the Government of the People's Republic of China—information to which I have already referred in this statement—the fifteen officers and men were not repatriated or delivered over to the Neutral Nations Repatriation Commission, in accordance with the Armistice Agreement.

85. Sixthly, as to whether the Armistice Agreement permitted the Chinese Government to detain prisoners of war because they had committed any kind of crime before or after their capture, there is the clear and comprehensive statement from the official spokesman of the Chinese Government on this point. At the 16th meeting of the Military Armistice Commission held at Panmunjom on 31 August 1953, the Chinese representative said this:

“Our side has repeatedly stated that our side will repatriate before the conclusion of the repatriation operation all captured personnel of your side who insist upon repatriation, including those prisoners of war who have committed crimes before or after their capture.”

86. These facts have led my delegation to the conclusion that the Chinese Government, by failing to repatriate these fifteen officers and men within the stipulated date, has acted in violation of the Korean Armistice Agreement. The wording of this Agreement and the interpretation of it given by the representative of the Chinese Government preclude the signatories from detaining in their custody after the stipulated date any captured military personnel from the other side for any reason whatsoever.

87. Here, the Armistice Agreement is the supreme instrument for guiding the behaviour of the parties. Thus there can be no doubt about the obligations of the parties, including the Chinese Government, in this respect.

For this reason alone, my delegation, even if we had no knowledge of the additional facts, would have been prepared to support efforts to seek the release of these prisoners of war who are illegally detained.

88. As for the additional facts and the circumstances confronting us here, my delegation would like to make the following observations. The conviction of the eleven airmen for spying cannot, even if the verdicts of the Chinese military tribunal were justified, relieve the Chinese Government of its obligations under the Armistice Agreement to release and repatriate these prisoners. This, we hold, must be absolutely clear for the reasons I have already given, reasons, I would like to stress, which are based on the Agreement itself and on the Chinese interpretation of it. Both parties to this Agreement are obliged to release all prisoners of war even those “who have committed crimes before or after their capture”, to use the Chinese representative's own words. Even if intrusion into the Chinese air space during the war was considered as a crime by the Chinese authorities, this still does not relieve them of their obligation under the Armistice Agreement to repatriate those prisoners of war.

89. Furthermore, I should like to say that with respect to the trial and conviction of these officers and men, the whole burden of truth rests with the Chinese authorities. They have informed us that the convicted men confessed their alleged crimes, but we have had abundant experience to show that confessions by defendants in cases of this nature merely serve to strengthen our scepticism as to the validity of any verdict based on this kind of evidence. Since we hold that the question of whether these men are guilty or not guilty is irrelevant as regards the clear obligations of the Chinese Government under the Armistice Agreement to release them, I shall not endeavour to go into a detailed examination of the information emanating from the Chinese side in this case. I will merely state that my delegation is completely unconvinced by this information with respect to the guilt of these men.

90. In conclusion, I should like to express my Government's deep sympathy with the families of these prisoners and of all prisoners of war still detained by the other side in the Korean conflict. It is our ardent hope that the Government of the People's Republic of China will acknowledge the compelling humanitarian reasons behind the action which the General Assembly will take in this matter and that it also will appreciate correctly what kind of attitude will serve its own best interests when the Secretary-General begins to carry out the difficult and delicate assignment which we are about to give him.

91. So far as the Norwegian delegation is concerned, we pledge our full support to this draft resolution and to the Secretary-General in his effort to implement it.

92. Mr. PALAMARCHUK (Ukrainian Soviet Socialist Republic) (*translated from Russian*): The delegation of the Ukrainian SSR has carefully studied the documents and materials relating to the United States complaint concerning the detention and conviction by a military tribunal of the People's Republic of China of persons alleged to be serving under the United Nations Command. The first conclusion we have reached as a result of our consideration of all the circumstances connected with this matter is that the complaint the United States has submitted for consideration by the General Assembly is completely unfounded and has nothing to

do with the United Nations. It is based on a number of entirely unconfirmed allegations which are contrary to the facts.

93. Let us turn first to the factual side of the United States complaint. It has been analysed convincingly and in detail in a statement by Mr. Malik, representative of the Soviet Union, and the sole reason for making a brief reference to the most important facts is that they are essential to a correct understanding of the item under consideration by the General Assembly. It is particularly necessary to do this because repeated attempts are being made during the discussion to deny and distort the facts on the strength of unsubstantiated statements, merely because they are unpalatable in some quarters.

94. As established by the tribunal, dealing with the case, the United States spies, of whom thirteen are citizens of the United States and nine are Chinese citizens, had committed crimes which seriously threatened the security of the People's Republic of China. These spies belonged to two groups. One of them, the 581st Air Resupply and Communications Wing, was headed by the United States officer, Colonel Arnold. Under him was Major Baumer, Commander of the United States 91st Strategic Reconnaissance Squadron in the Far East. To the other group belonged John Thomas Downey and Richard George Fecteau, both of whom were special agents of the Central Intelligence Agency of the United States espionage organization.

95. Downey and Fecteau were seized on the night of 29 November 1952 after being flown in United States aircraft to north-east China, establishing contact with other agents who had been dropped from aircraft and delivering supplies to them. Their aircraft was brought down.

96. The 581st Air Resupply and Communications Wing, commanded by Arnold, also had the task of engaging in espionage under the direction of the United States Central Intelligence Agency. The functions of the Wing were to drop special agents in China from the air, to keep them supplied and to maintain contact with them. The personnel of this Wing under the command of Vaadi and Chapelle was attached to the 91st Strategic Reconnaissance Squadron of the United States Bomber Command in the Far East, the principal reconnaissance objectives of which were China and the Soviet Union. On 12 January 1953, Arnold and Baumer entered the air space of China over the province of Liaoning. Their aircraft was brought down. Eleven spies, all United States citizens were captured.

97. Thus, the persons whom an attempt is now being made to place under United Nations protection were seized on Chinese territory. Their tasks included the organization of espionage, subversive activity and armed revolt against the lawful Government of the People's Republic of China, that is to say, crimes constituting a serious threat to the security of China; and in accordance with the generally accepted principles of international law, they were justly sentenced according to the laws of the country on whose territory their crimes were committed.

98. All that the United States representative and some of the representatives supporting him could find to say in reply to these obvious facts was that the aircraft in which the Americans brought to trial were flying was shot down fifteen miles south of the Yalu river. There is no evidence, however, to support that statement.

99. The so-called radar map which has been submitted to us today does not make any more convincing the United States delegation's argument that the B-29 aircraft was brought down over Korean territory, because the preparation of such a map does not in fact present any difficulties. It is no accident that many representatives preferred to say nothing about the map, although Mr. Nutting lost all sense of proportion and acclaimed it as a piece of scientific evidence. At the time in question, however, the flight plan of any one of the thousands of aircraft flying over the territory of North Korea could have been traced on the radar map. The map does not add a grain of evidence to support the United States delegation's assertion that the United States B-29 aircraft was not flying over the territory of the People's Republic of China.

100. The fact is that the aircraft in question, which was brought down on 12 January 1953 over the province of Liaoning in the territory of the People's Republic of China, and the United States spies travelling in it, had entered the territory of the People's Republic of China with criminal intent. This is confirmed by the evidence produced at the trial, particularly the statements of the accused themselves. Thus, Colonel Arnold of the United States 581st Air Resupply and Communications Wing stated at the trial that his Wing had not been posted to the Korean theatre of war, but was attached to the United States Central Intelligence Agency, and that its function was to drop agents from aircraft, keep them supplied and evacuate them.

101. In view of the fact that a United States aircraft carrying United States spies who had entered the territory of China for the purpose of carrying out criminal assignments directed against the Chinese people was brought down over the territory of the People's Republic of China, it was quite natural that these should have been justly sentenced on the basis of and in accordance with the laws of the People's Republic of China.

102. On the basis of a contradictory version, according to which the convicted Americans were in aircraft which were attacked over Korean territory 15 miles south of the Yalu river, the delegation of the United States of America is attempting to maintain that the detention and imprisonment of these men is a violation of the Korean Armistice Agreement. On this basis, if it can be called a basis, Mr. Lodge wishes to place the United States spies in the category of "prisoners of war" so as to help them to evade their legal punishment. But these arguments, too, fall to the ground the moment they are set beside the evidence which the representative of the Soviet Union has already adduced in his speech and the confessions of the United States agents themselves.

103. As a number of representatives, including the representative of Syria have rightly pointed out, the crime of espionage is a serious crime against the security of a State. The conviction of persons for espionage is a matter which falls exclusively within the domestic jurisdiction of the State on whose territory the crime was committed. No one can deny that every State has the right to impose penalties both on its own nationals and aliens in respect of the crime of espionage committed on its territory. In the opinion of the Ukrainian delegation, therefore, the attempt to persuade the General Assembly to interfere in the matter of the conviction of United States spies by a tribunal of the People's Republic of China is tantamount to intervention in the domestic affairs of China and a violation of its sovereignty. It is

contrary to Article 2, paragraph 7, of the United Nations Charter, which provides that the United Nations cannot intervene "in matters which are essentially within the domestic jurisdiction of any State". The so-called complaint of the United States has nothing in common with the aims and tasks of the United Nations.

104. It should also be pointed out that the crimes exposed at the trial of the United States spies in the People's Republic of China are only a few of the manifestations of the hostile, subversive activity being conducted by United States intelligence agencies on a large scale against China, the Union of Soviet Socialist Republics and the European peoples' democracies. It is a matter of common knowledge that, for three successive years, the United States has been making legislative provision under the so-called Mutual Security Act for the appropriation of \$100 million for the organization of sabotage and diversionist activities against the Soviet Union and the peoples' democracies.

105. The destination of these millions of dollars appropriated by the United States Congress may be judged from a number of facts which have recently become known. This year alone, the competent Soviet agencies have reported that Khramtsov and Galai, Yakuta and Kudriavtsev, agents dropped by the United States intelligence service with instructions to collect information about industrial and military installations and carry out diversionist activities, were captured in the territory of the Union of Soviet Socialist Republics.

106. Subversion and espionage are also being conducted in the Ukrainian SSR by United States agencies which make use of an insignificant group of Ukrainian nationalists, enemies and betrayers of the Ukrainian people, who served Hitler during the Second World War and have now gone over to the service of the United States intelligence agencies.

107. In May 1954, the Ukrainian security services captured a parachutist-spy of the United States intelligence service, Okhrimovich, who stated that he had been trained in one of the specially organized schools for spies and diversionists in the village of Kauferbein, near Munich. On leaving the school, he was supplied by United States intelligence officers with portable radio receiving and transmitting apparatus, secret codes, poison, weapons, forms and seals for forged documents, and Soviet and foreign money; he was then taken to the airfield at Wiesbaden, near Frankfurt-am-Main, from which he was conveyed at night in a twin-engined aircraft without distinguishing marks, and dropped by parachute in Ukrainian territory.

108. The United States intelligence service gave Okhrimovich the following assignment: on arrival in the Ukraine, he was to organize a group of criminals for the purpose of collecting information by espionage, and preparing and carrying out diversionist and terrorist acts against the Soviet people. Okhrimovich tried to fulfill this assignment, but was arrested and unmasked; he made a full confession of guilt and was punished accordingly. All these acts of espionage and diversion evoked general indignation among the peace-loving Ukrainian people.

109. The United States made use of the Korean war to organize hostile activities against the People's Republic of China of a scope and character hitherto unparalleled. Hundreds and hundreds of cases are known of the violation of China's air space by United States air-

craft, such violations being accompanied not only by reconnaissance but also by the bombing of Chinese towns and villages. For the purposes of carrying out their espionage and diversionist activities against the People's Republic of China, the United States intelligence service are using not only citizens of the United States but also a group of traitors to the Chinese people who have taken refuge in Taiwan.

110. The Chinese island of Taiwan, which has been seized by the United States armed forces, is being used as a military stronghold for the training of bands of spies and diversionists as well as individual agents and their dispatch to the territory of the People's Republic of China. One of the reports on the criminal activities of these diversionists states, for example, that at the beginning of this year a band of seventeen diversionists penetrated into the territory of the province of Kwangtung by crossing Honghai bay. The frontier garrison and security services of the People's Republic of China surrounded the diversionists and some of them were captured. Thirteen automatic rifles, fifteen pistols, explosives, codes and radio transmitters were captured at the same time. The interrogation of the arrested men revealed that they were agents of an espionage organization directed and financed by the Central Intelligence Agency of the United States and having its headquarters in Japan.

111. It is clear from the evidence given at the recent trial of United States spies now under discussion that Kuomintang and United States agents operate jointly in China under the direction of the United States Central Intelligence Agency.

112. The United States delegation is raising this question of the United States spies convicted in China, first, in order to intensify the propaganda campaign of hostility and enmity against the People's Republic of China, whose international influence and importance as one of the greatest world Powers is increasing daily, irrespective of whether or not this suits the ruling circles of the United States, and secondly, in order to distract the attention of world public opinion from the acts of aggression it has been carrying out for a considerable period against the People's Republic of China.

113. The seizure by the United States armed forces of the Chinese island of Taiwan, the flights by American aircraft over the territory of the People's Republic of China, the invasion of Chinese territorial waters by naval forces, the acts of piracy committed by the Kuomintang in the area of the China seas, thus interfering with the freedom of navigation of a number of States—all these are links in the chain of aggressive acts which are creating a threat to the peace in the Far East. It is precisely these matters with which the United Nations should seriously concern itself, and not the defence and protection of spies and diversionists dispatched to other countries by certain circles in the United States.

114. The consideration of the United States complaint relating to the conviction of United States spies in China and of the draft resolution aimed at the People's Republic of China proposed by a group of States have nothing to do with strengthening peace and international collaboration and are contrary to the purposes and principles of the United Nations.

115. For all the reasons I have stated, the delegation of the Ukrainian SSR objects to and will vote against the draft resolution on this item proposed by the United

States delegation and the delegations of a number of other States [A/L.182] as being incompatible with the Charter of the United Nations and seriously detrimental to the Organization's prestige and authority.

116. Mr. VON BALLUSECK (Netherlands): I shall be brief. Some other delegations, amongst them the Soviet Union delegation and its closest political friends, have tried to drown this comparatively simple, though very serious, matter in a flood of irrelevant considerations. Let us go back to the fundamental facts.

117. After the very able and convincing presentation by the representatives of the United States and of the United Kingdom of the case now before us concerning the detention and imprisonment of United Nations military personnel in violation of the Armistice Agreement, there is little I can usefully add in support of the draft resolution which has been submitted to the Assembly by the sixteen nations which contributed armed forces in order to repel aggression against the Republic of Korea, some of whose soldiers are still not set free.

118. The soldiers who, in the performance of their duties under the United Nations Unified Command, responded to the call of the Security Council for collective action to protect collective security—and that is also our own security—and who are still detained and imprisoned, are and should be fully covered by the terms of the Korean Armistice Agreement concluded on 27 July 1953, and more particularly by the terms of article III of that Agreement which deals with the arrangements relating to prisoners of war. According to paragraph 51 of that Agreement, all prisoners of war who insist on repatriation to the side to which they belonged at the time of capture shall be repatriated.

119. It has been recalled by the representatives of the United States and of the United Kingdom that the duty of the detaining side to repatriate all prisoners of war also applies to those who committed crimes before or after their capture. This was explicitly recognized by the representatives of the Korean People's Army and of the Chinese People's Volunteers in their statement at the 16th meeting of the Military Armistice Commission in Panmunjom on 31 August 1953. The text of this statement has been quoted in the speeches of the representatives of the United States and the United Kingdom and I shall therefore not repeat it. But in the light of that statement, the question whether these prisoners of war are or are not guilty of the particular charges of espionage which have been levelled against them is irrelevant, since, I repeat, it was recognized by the detaining side that repatriation would have to include those prisoners of war who committed crimes before or after their capture.

120. At the same time, I would point out—as has been done by previous speakers—that the charges against the so-called spies can hardly be taken seriously if one takes into account the fact that these fliers undertook their legitimate military assignment in the regular military uniform of their country, which is hardly the kind of apparel which any sane person would choose when setting off on an espionage mission in the territory of another country.

121. We are confronted here with one of those cases, it seems to me, where Communist notions give a well-known word a completely different meaning from that generally accepted everywhere else; for instance, words such as "liberty", "democracy", "justice" and others

are only too well known. In this case, the word in question is "spy", which, in the generally accepted sense, means a person who always surreptitiously and often under some disguise operates in enemy territory for the benefit of the other side. A person in the uniform of his own country is, according to a long established rule of the laws of war, never a spy. It is this generally accepted meaning of the word "spy" that is thrown overboard by the Soviet Union delegation and those who spoke in the same sense, and is replaced by another notion, a wholly different one. A spy, according to those delegations, is anyone who, in the uniform of his own country, carries out a mission in another country; and this even if, as the Soviet Union representative contended, there is no state of war between the two countries concerned.

122. Surely this is giving a meaning to the word "spy" which it has never had before and, moreover, a meaning which is at variance with all common sense, because it must needs lead to rather absurd conclusions. Finally, the argument brought forward by the Soviet Union and its political friends, according to which the Government of the People's Republic of China is not bound by the terms of the Armistice Agreement, has, I think, been sufficiently refuted by the representative of the United Kingdom, Mr. Nutting, when he invoked no less an authority than the late Mr. Vyshinsky who, in his speech before the General Assembly on 28 August 1953, [430th meeting], acknowledged that the Armistice Agreement had been signed by "the representative of the People's Republic of China."

123. But even apart from that, it is obvious that the Government of the detaining Power, if it holds that it is not itself directly responsible for the violation of the Armistice Agreement, has full power and full control over those of its nationals who were responsible for this violation, and the controlling authority could in any event easily undo the wrong that has been done. This wrong, by whomsoever committed cannot, however, be passed over in silence.

124. In the light of what I have just said, it is therefore clear that those responsible for the detention, imprisonment and non-repatriation of the military personnel mentioned in the joint draft resolution have violated the Armistice Agreement and in particular article III thereof. It is the clear duty of the United Nations, under whose banner these now imprisoned men went out to repel aggression, and in particular the duty of this General Assembly to assert its authority and its influence to obtain the speedy release of those prisoners of war who should have already been released as early as 25 September 1953.

125. It is for that reason that my delegation has co-sponsored the draft resolution [A/L.182] which is now before the General Assembly and which we earnestly hope will be adopted by an overwhelming majority.

126. Mr. HOPPENOT (France) (*translated from French*): During the debate in the General Committee on the question of putting this item on the agenda, my delegation stated that in its opinion the responsibility of the United Nations was involved in the fate of the eleven American airmen who were arrested by the Chinese authorities while carrying out an operational flight under the orders of the Unified Command.

127. These men were fighting under the United Nations flag; they were in the uniform worn by all the

troops serving under that flag; their status and their rights are protected, not only by the international conventions defining the status, rights and duties of all belligerents and all prisoners of war, but also by the special agreements concluded between the Unified Command, on the one hand, and the Command of the North Korean and Chinese forces, on the other.

128. Our responsibility towards them is even greater than that of their own Government. Our Organization cannot evade that responsibility without betraying its principles and its mission; it owes it to itself to do everything in its power to secure the release of these men from the unjustified detention to which they have been subjected. That should be the sole purpose of the debate which started two days ago in this Assembly. As our President so aptly pointed out at the beginning of the discussion, we should avoid introducing into our speeches anything that would militate against the achievement of these aims. We are not here to engage in a propaganda campaign; and we should refrain from doing anything which might exacerbate passions and thus inevitably stiffen opposition, bring up questions of national prestige, and finally make these eleven men the hostages of our political and ideological conflicts. Their case should not become, as it were, fresh fuel for the flames of our discord. The Assembly owes it to itself and to them to take up their cause with the moderation and dignity with which just causes are defended. Our aim is to rescue them, by the quickest and most effective means, from their present unmerited misfortune; in everything we do and say we should be guided by the single purpose of restoring them to their homes and families. The language we use, which will later be reflected in the appeal to their captors which the Secretary-General will make on our behalf, must be the language of reason, of law and of humanity.

129. With regard to the circumstances of their capture and detention, I will confine myself to the following remarks. It seems to have been established that the aircraft carrying these men on a perfectly legitimate operational flight was attacked by enemy aircraft over North Korean territory about fifteen miles from the Chinese frontier. At normal cruising speed, and aircraft of that type cover such a distance in a few minutes. It is possible, and even probable, that the aircraft, crippled and no longer manoeuvrable, crashed in Chinese territory. It is possible, and even probable, that the crew on bailing out also landed in Chinese territory. One hypothesis, however, seems to me to be entirely ruled out, and that is that these eleven men could have been deliberately parachuted into China in order to carry out espionage activities there in uniform. That is the contention on which the entire position of the Soviet bloc representatives here is based; its arbitrariness is so patent that I feel almost embarrassed to point it out.

130. Throughout the First World War and during the first ten months of the Second World War, my country experienced intensive enemy espionage in its territory. The enemy spies made use of every possible disguise: they were arrested dressed as peasants, as post-office or railway officials, as priests and even as nuns. I can assure you that none was disguised as an officer of the *Reichswehr* or *Wehrmacht*. I may add that no intelligence service would dream of using Europeans or Americans for espionage in China itself. The prime attribute of a good spy is invisibility. It was hard for a European to pass unnoticed in China even in peace time:

his appearance in any Chinese village—and I know something about this from personal experience—used to be the signal for the entire neighbourhood to gather round, in a spirit of friendly curiosity. It would be harder still in time of war. If the special services of the Unified Command used intelligence agents in Chinese territory—and I do not imagine that the Command of the Chinese Volunteers abstained from doing so in the rear of the Unified Command—I presume that they relied preferably on local personnel. The idea that these services might drop American or European agents—what is more, in their uniforms—by parachute for purposes of espionage is, if I may say so, too absurd to be entertained for a single moment.

131. I know that one absurd idea more or less does not make much difference to us this evening. The Polish representative's speech just now gave us an unfortunate example of what I can only call imaginative delirium. We heard him declare that one of the main tasks of these spies disguised as military personnel was to pick up agents previously dropped in China, an operation which the aircraft accomplished without landing! I am not an airman; but, like many of you, I have some elementary idea of flying and of navigation in the air. How can anyone imagine an aircraft of the dimensions and power of a B-29 hedge-hopping at flying speed and somehow or other picking up agents and carrying them off non-stop into space without killing them or itself crashing? Did they catch hold of a ladder as it flew by? Or were they sucked towards the aircraft by some sort of vacuum-cleaner, or drawn to it by a magnet? I can see no other way in which the operation could have been carried out. Really, after listening to such fanciful ideas, how can we believe in the good faith of those who produce them in support of their accusations?

132. To return to my argument: if the men in question were indeed arrested in Chinese territory, they had certainly not gone there of their own free will or under orders. Their presence there can only be explained as due to *force majeure*, like that of sailors ship-wrecked on the shores of an enemy country. It was the consequence, undesired by them, of war action, of an act of combat. During the two world wars there were many cases of airmen from belligerent countries coming down in neutral territory in similar circumstances; in accordance with international law, the Government of the territory in question merely interned them until the end of hostilities. That is the procedure that should have been followed by the Peking Government, which claimed to be neutral in the Korean conflict. Under the peculiar conditions of this war and the ambiguity of the Peking Government's own position, one might have understood it, in a pinch, if that Government had handed the men over to the command of its volunteers or to the North Korean Command. But to regard them and to treat them as spies in the circumstances I have mentioned is a defiance of human good sense. The claim that their subsequent sentencing is justified in view of their alleged confessions is in our opinion an inadmissible claim.

133. I do not wish to dwell on this point for I do not wish to introduce an emotional element into the debate. Suffice it to remind you that a confession in itself never constitutes proof; in no court can it ever be divorced from the circumstances in which it was elicited or from the facts tending to confirm its spontaneity and sincerity. We all know under what conditions the confessions of accused persons are extracted on the other side of the

Iron Curtain. In one case, too recent for us to have forgotten it, we learned this from the Government of the Soviet Union itself.

134. After being captured under these conditions, the material circumstances of which do not seem to be seriously disputed, these men should have been either interned or regarded as prisoners of war; and as such their treatment should have been governed by the instruments which cover their status, namely the Geneva Convention of 1949 relative to the treatment of prisoners of war¹ and the relevant provisions of the Armistice Agreement, once it was signed.

135. The General Assembly resolution 610 (VII) of 3 December 1952 had declared that the release and repatriation of prisoners of war should be effected in accordance with the Geneva Convention. The provisions of the Geneva Convention were binding upon the Unified Command under the terms of the commitment it had made. They were also binding upon the Government of the People's Republic of China, which declared that it would abide by all the treaties previously signed and ratified by the National Government of China.

136. The Czechoslovak representative took his stand on article 119 of the Geneva Convention, which, he claimed, upheld the right of the Chinese Government to prosecute and sentence these eleven men and to detain them until they had served their sentence. Incidentally, the Czechoslovak delegation, by invoking the Geneva Convention in connexion with these men, and specifically an article of section II, part IV entitled "Release and repatriation of prisoners of war at the close of hostilities", expressly acknowledges their status as prisoners of war and not as unspecified individuals perhaps disguised as military personnel and arrested and sentenced for espionage; I should like you to bear that in mind. But the Czechoslovak delegation, in citing article 119 of the Geneva Convention, omits to mention articles 104-107, which state the conditions and the guarantees without which prisoners cannot be indicted by the Detaining Power. These conditions and guarantees are as follows: the Protecting Power must be notified at least three weeks before the opening of the trial; the prisoner of war is entitled to assistance by counsel of his own choice or furnished by the Protecting Power; particulars of the charge must be communicated to him in a language which he understands; the representatives of the Protecting Power are entitled to attend the trial; the sentence must be immediately reported to the Protecting Power, together with information as to the possibilities of appeal that are open to the prisoner.

137. It may be objected that in the Korean conflict no nation had assumed the role of Protecting Power. This eventuality is covered by article 10 of the Geneva Convention, which specifically provides that, if such protection cannot be arranged, the Detaining Power shall request or accept the offer of the services of an international organization such as the International Committee of the Red Cross to assume the humanitarian functions performed by a Protecting Power. None of these provisions was observed by the Government of the People's Republic of China. The services of the International Committee were not requested; so far as I know they were even rejected. The trial of the eleven airmen thus took place under conditions of secrecy forbidden by the Geneva Convention, and without any of the guar-

antees which it prescribes. Even if we admit—which we do not, but it is what the Czechoslovak delegation claims—that the airmen's trial was authorized by article 119 of the Geneva Convention, the failure to comply with the precise conditions for its application which are laid down in articles 104-107 vitiates that application and renders null and void the procedure followed and the sentences imposed.

138. But the Geneva Convention contains another article, the provisions of which should occupy a dominant place throughout this debate. I refer to article 6, which expressly states:

"Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where . . . more favourable measures have been taken with regard to them by one or other of the Parties to the conflict."

Now, in the Armistice Agreement the two parties to the conflict had by mutual agreement adopted a measure for the benefit of their respective prisoners which was even more favourable than that set forth in the Geneva Convention; while the latter admits that, under certain conditions and subject to certain safeguards, prisoners may be retained after the close of hostilities to serve sentences imposed on them, the Armistice Agreement, in paragraphs 51 and 54, obliged each side to repatriate all those prisoners of war who insisted on repatriation. There was no provision for exceptions to this obligation, not even in the opinion of the other party, who at the 16th meeting of the Armistice Commission on 31 August 1953 made a formal statement, which has been quoted several times, to the effect that this obligation even covered "prisoners of war who have committed crimes before or after their capture".

139. If the eleven captured Americans are therefore prisoners of war, as no one can doubt they are and as the Czechoslovak delegation explicitly acknowledged by invoking—albeit incorrectly—the Geneva Convention in connection with them, then, whatever the conditions under which they were captured whatever the "crimes", even, of which the Chinese courts believed they could convict them, we are perfectly entitled to claim for them the benefit of both article 6 of the Geneva Convention and paragraph 51 of the Armistice Agreement and to denounce the violation of these contractual international obligations which their continued detention represents.

140. I will say no more about our legal position. The outline I have traced—to which many details could be added, and have been, by other speakers—should, in my opinion, suffice to carry conviction with any person of good faith.

141. Nor will I dwell on the question whether other procedures of appeal against the treatment of these men could have been more thoroughly explored, though I was struck, as many listeners must have been, by the Swedish representative's remarks in this connexion. There is no point in conducting a post-mortem on the past and wondering whether more discreet methods which have proved effective in recent cases should have been employed. The case with which we are concerned is such a flagrant violation of international law, and the publicity it has received in the opposing camp has been so defiant, that one cannot but deeply sympathize with the feelings of the American people about the fate meted out to eleven of its bravest sons, and with its legitimate desire to appeal to world public opinion. In any case

¹ Treaty Series, volume 75, No. 972.

our chief concern is not with the method but with the aim, and at the present moment the aim is to seek the release of these prisoners by all possible peaceful means.

142. France and the fifteen other Powers sponsoring the draft resolution [A/L.182] before the Assembly propose that this difficult mission should be entrusted to the Secretary-General of the United Nations. We could not make a choice that would give us better grounds for our hopes. We all know the high intellectual attainments with which Mr. Hammarskjold matches the qualities of his heart. We all know how splendidly he discharges his duties as a high international civil servant. We all know that he will aim, not to secure the victory or public defeat of a legal position for purposes of propaganda, but to secure the release of these men penalized for their allegiance to the United Nations, imprisoned for having served the cause that he himself serves so well. He will be the sole judge of the ways and means to be used to that end: our draft resolution expressly grants him this freedom of choice. The entire moral authority of the United Nations will be behind him in an action in which he remains completely free. Our draft resolution asks him to report on or before 31 December what progress has been made in his negotiations. It should be expressly stated that this concession to the concern and legitimate impatience of public opinion can in no way set a time limit to his representations. We are naming no date for the announcement of his success or failure; nor are we calling upon the Government of the People's Republic of China to comply by a specified date. Either course would curtail our agent's freedom of action, and his chances of success would perhaps be seriously impaired in advance. We should constantly bear in mind President Eisenhower's timely advice to the free world to be patient. Neither haste nor an unwillingness to compromise should be allowed to jeopardize a mission which will determine the fate of eleven human beings for whom we are responsible.

143. If on 31 December Mr. Hammarskjold cannot conveniently lift the secrecy with which he may deem it advisable to act, he will notify us, and our patience will still be no less than our confidence in him. May that

confidence help him in the difficult job he is about to tackle. We know that whatever can be done, he will do; and, should he return to us empty-handed, his ill success would not be the set-back of an individual but that of the principles he will be defending, and it will be for the conscience of humanity to pass judgment.

144. Mr. LEME (Brazil) (*translated from French*): The United States delegation has submitted an additional item for consideration by the General Assembly—the detention and imprisonment of United Nations military personnel by the Government of the People's Republic of China. The Australian and other delegations have prepared a joint draft resolution condemning the procedure in question as contrary to the Korean Armistice Agreement, which settled the questions relating to the repatriation of the prisoners of war.

145. It is obvious that the attitude of the Government of the People's Republic of China constitutes a flagrant violation of the Armistice Agreement, and that the United Nations is in duty bound to take appropriate steps to ensure that justice shall prevail over arbitrary action. It is not American soldiers who are concerned here, but members of the United Nations Armed Forces, victims of a violation of the rules of international law.

146. The Soviet Union representative repeated yesterday that the United Nations intervention in Korea was illegal. That is his opinion, but not ours. The United Nations sent forces to Korea in pursuance of a resolution adopted by the competent organ in conformity with the Charter, which provides for collective measures against aggression. It should be remembered that that question was debated in the Security Council in the absence of the representative of the Soviet Union, one of the permanent members, whose duty it was to be present.

147. The Brazilian delegation will therefore vote for the draft resolution sponsored by the sixteen Powers [A/L.182]. Treaties cannot be considered—to use the phrase of a statesman from the First World War—as so many scraps of paper.

The meeting rose at 11.10 p.m.