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Fourteenth Session, 666th

MEETING

Wednesday, 30 July 1952, at 2.30 p.m.

NEW YORK

CONTENTS

***President*: Mr. S. Amjad ALI (Pakistan).**

Present: The representatives of the following countries:

Argentina, Belgium, Canada, China, Cuba, Czechoslovakia, Egypt, France, Iran, Mexico, Pakistan, Philippines, Poland, Sweden, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Observers from the following countries:

Chile, India, Lebanon, Turkey.

The representatives of the following specialized agencies:

International Labour Organisation, United Nations Educational, Scientific and Cultural Organization.

Elections (*concluded*): (*d*) Election of members of the Permanent Central Opium Board (E/L.456, E/L.463) (*concluded*)

[Agenda item 37 (*d*)]

REPORT OF THE WORKING PARTY (E/L.456) (*concluded*)

1. Mr. OVERTON (United Kingdom) introduced his delegation's draft resolution (E/L.463) and explained that its purpose was to expedite the Council's work by postponing the elections in order to obtain more information about the nominees. The draft contained no proposals on the procedure for dealing with the item and did not involve closing the list until 15 October 1952.

2. Mr. GARCIA (Philippines) could not support the United Kingdom draft resolution for a number of reasons. The Working Party had been appointed by the Council, and complete disregard of its work would amount to reversing the Council's decision. It had been apparent in the Working Party that the sixteen nominees had adequate technical qualifications for service on the Board and that was the main criterion. The passage in the Working Party's report to which the United Kingdom representative had referred related only to candidates who had not been included in the list owing to the insufficient biographical data supplied. If the elections were postponed, the Council would be flooded with further applications, whereas the number already received was quite sufficient. The United Kingdom proposal to hold the elections during the resumed fourteenth session did not take into account the fact that the resumed session would be short and very busy and some governments which had submitted detailed information about their nominees would be penalized by the submission of additional names. Lastly, although the question was important, it was not a substantive matter requiring much further consideration.

3. Mr. ABDOH (Egypt), Mr. NOSEK (Czechoslovakia), Mr. AMANRICH (France), Mr. SAKSIN (Union of Soviet Socialist Republics) and Mr. WOULBROUN (Belgium) agreed that the vote should be taken at the current meeting and said that they would vote against the United Kingdom draft resolution.

4. Mr. MUÑOZ (Argentina) considered that the United Kingdom draft resolution was in order from the procedural point of view and was prepared to support it, on the understanding that the acquired rights of the existing nominees would be maintained and that the number of additional candidates would not exceed four.

5. Mr. OVERTON (United Kingdom) thanked the Argentine representative for his support of his proposal, but thought the question of procedure which he had raised could best be settled when the elections were held.

6. Mr. JOUBLANC-RIVAS (Mexico) stated that he would abstain from voting on the United Kingdom draft resolution.

7. The PRESIDENT put the United Kingdom draft resolution (E/L.463) to the vote.

The draft resolution was rejected by 9 votes to 6, with 3 abstentions.

8. Mr. MUÑOZ (Argentina) wished it to be made clear that the nominations in the Working Party's re-

port were merely recommended and that members of the Council could vote for other nominees as well.

9. The PRESIDENT called for a vote to elect eight members of the Permanent Central Opium Board.

A vote was taken by secret ballot.

At the invitation of the President, Mr. Cha (China) and Mr. Gorse (France) acted as tellers.

Number of valid votes cast:	18
Required majority:	10
Number of votes obtained:	
Mr. Reuter (France)	15
Mr. Espinosa (Philippines)	14
Mr. Sanchez (Chile)	14
Mr. May (United States of America)	13
Mr. Zahar (Lebanon)	13
Mr. Rehman (India)	12

Having obtained the required majority, Mr. Reuter (France), Mr. Espinosa (Philippines), Mr. Sanchez (Chile), Mr. May (United States of America), Mr. Zahar (Lebanon) and Mr. Rehman (India) were elected members of the Permanent Central Opium Board.

10. The PRESIDENT pointed out that only six of the nominees had obtained the required majority. According to the rules of procedure, the remaining two members must be elected from among the four nominees who had obtained the next highest number of votes: they were Mr. Fischer (Switzerland), Sir Harry Greenfield (United Kingdom of Great Britain and Northern Ireland), Mr. Liu (China) and Mr. Ristic (Yugoslavia).

11. He called for a vote to elect two more members.

A vote was taken by secret ballot.

Number of valid votes cast:	18
Required majority:	10
Number of votes obtained:	
Sir Harry Greenfield (United Kingdom of Great Britain and Northern Ireland)	11

Having obtained the required majority, Sir Harry Greenfield (United Kingdom of Great Britain and Northern Ireland) was elected a member of the Permanent Central Opium Board.

12. The PRESIDENT called for a vote to elect the remaining member of the Permanent Central Opium Board.

A vote was taken by secret ballot.

Number of valid votes cast:	18
Required majority:	10
Number of votes obtained:	
Mr. Fischer (Switzerland)	10

Having obtained the required majority, Mr. Fischer (Switzerland) was elected a member of the Permanent Central Opium Board.

Report of the Commission on Human Rights (eighth session) (E/2256, E/L.449, E/L.455/Rev.1, E/L.457, E/L.462) (*continued*)

[Agenda item 12]

DRAFT RESOLUTION C (E/2256, annex V) (*continued*)

13. Mr. BORATYNSKI (Poland) stated that his delegation fully shared the views embodied in the USSR draft resolution (E/L.457) and felt strongly about the principle of adopting a single covenant. The fact that it was not alone in holding that view had been shown clearly since the fifth session of the General Assembly. Representatives from different continents and with different backgrounds had supported the principle of unity, as was shown by the statements of the representatives of Chile, Mexico, Egypt, Iraq, India, Saudi Arabia and Syria at three consecutive meetings of the Third Committee during the fifth session of the Assembly.[1] It was essential that those pleas for a single covenant, based on the interconnexion and interdependence of civil and political rights and economic, social and cultural rights, should be recognized.

14. The validity of that view had been shown during the eighth session of the Commission on Human Rights. It was too late for the United States delegation to utter meaningless general slogans and oppose the guarantees of basic economic, social and cultural rights. Political phrases could not conceal the existence of poverty and illiteracy from the masses of the people. The United Kingdom representative had spoken that morning of the difficulty of implementing one covenant, but when speaking of implementation, the United States and United Kingdom delegations had in mind the creation of all-powerful artificial and illegal organs to interfere in the internal affairs of other States. If their attempts were successful, international relations would be seriously impaired and existing differences would be aggravated.

15. In view of those considerations, his delegation would support the USSR resolution, which called for a single covenant containing clear definitions and guarantees of State responsibility.

16. Mr. LUBIN (United States of America) regretted that three delegations had seen fit to lower the tone of the debate on the clear issue of whether or not the General Assembly should be asked to reconsider its decision (General Assembly resolution 543 (VI)).

17. His delegation had always considered that two covenants should be drafted, for reasons that had been well stated by the representatives of Cuba and Uruguay, as well as by other delegations. He was convinced that the General Assembly should not be asked to reconsider its decision. He emphasized that the General Assembly at its sixth session had requested the Commission on Human Rights to submit the two covenants to the Assembly simultaneously, and that they might be opened for signature at the same time.

18. His delegation would vote against the USSR draft resolution (E/L.457).

19. Mr. CHENG PAONAN (China) said that his delegation would vote for the joint draft resolution submitted by the Philippines, Sweden and the United States (E/L.449), since it was obvious that more nations would be able to accede to and ratify at least one of two covenants than could ratify a single instrument. The same argument applied to implementation clauses.

20. His delegation considered that the article on self-determination, which referred to a collective, rather than an individual right, would be out of place in both covenants and had suggested in the Commission on

[1] See *Official Records of the General Assembly, Fifth Session, Third Committee*, 297th, 298th and 299th meetings.

Human Rights that a separate covenant on the right of peoples to self-determination should be drafted.

21. He thought that draft resolutions A and B in the report of the Commission on Human Rights (E/2256, annex V) represented a step in the right direction and would vote for them.

22. Mr. SAKSIN (Union of Soviet Socialist Republics) wished to reply to the representatives who had spoken against the drafting of the single covenant and had based their arguments on procedural, rather than substantive, considerations.

23. The Cuban representative had stated (665th meeting) that the Council could not alter the General Assembly resolution. Although that was true, the proposal in the USSR draft resolution consisted in requesting the General Assembly to reconsider its resolution 543 (VI). General Assembly resolution 421 E (V) had been reconsidered at the sixth session, at the instigation of the United States, and the original decision to draft a single covenant had thus been reversed. The Cuban delegation had raised no objection to the reconsideration at the time and it therefore seemed that its protest was based on the fact that the current proposal had been moved by the USSR.

24. Certain representatives had said that the adoption of the USSR proposal would delay the Commission's work of preparing the covenant. That argument was unfounded, since much work had been done on the basis of the principle of a single covenant during the two and a half years before the reversal of the original General Assembly decision (Assembly resolution 421 E (V)). Had it not been for the lengthy and unnecessary discussions on the rival merits of the two principles, the Commission would have completed its work long since. Moreover, it was obviously easier to work on a single text than on two instruments, with regard to both the basic text and the implementation clauses.

25. In the light of those considerations, he appealed to the Council to take the legal decision embodied in the USSR draft resolution (E/L.457).

26. Mr. NUÑEZ PORTUONDO (Cuba) denied that he had spoken against the draft resolution (E/L.457) merely because it had been submitted by the USSR. His delegation was perfectly prepared to accept a Polish draft resolution (E/L.462), with one small amendment (E/L.464). Moreover, Cuba had not been a member of the Economic and Social Council in 1950, when the Council had requested the General Assembly to reverse its decision. The Cuban delegation was therefore consistent in its view that the USSR proposal should not have been submitted to the Council, but directly to the General Assembly.

27. Mr. STERNER (Sweden) questioned the advisability of including an article on the right to self-determination in the covenants. Although his delegation was in favour of the principle of self-determination, it raised the question whether the right should not be stated in a different kind of document.

28. The PRESIDENT called for a vote on the joint draft resolution submitted by the Philippines, Sweden and the United States (E/L.449) and pointed out that, if the proposal was adopted, the USSR draft resolution (E/L.457) would not automatically become redundant.

The joint draft resolution was adopted by 11 votes to 3, with 4 abstentions.

29. Mr. SCHEYVEN (Belgium) said that the Belgian vote in favour of the joint draft resolution should not be taken to mean that his country approved the work of the Commission on Human Rights. On the contrary, as he would explain later in the debate, some provisions of the covenant called for explicit reservations on the part of the Belgian Government.

30. Mr. SAKSIN (Union of Soviet Socialist Republics) explained that he had voted against the joint draft resolution because it referred to two covenants, whereas his delegation adhered to the principle of a single covenaut. He wished to make it clear, however, that the USSR hoped the Commission would complete its work at its next session, provided that a single covenant was at issue.

31. The PRESIDENT put to the vote the USSR draft resolution (E/L.457).

The draft resolution was rejected by 10 votes to 6, with 2 abstentions.

DRAFT RESOLUTIONS A AND B (E/2256, annex V)

32. Sir Gladwyn JEBB (United Kingdom) emphasized that the views he would express reflected a firm position of principle, although they would probably be shared only by a minority in the Council.

33. The two draft resolutions placed before the Council by its Commission on Human Rights (E/2256, annex V, draft resolutions A and B) had been commended for adoption presumably in compliance with paragraph 2 of General Assembly resolution 545 (VI). Under paragraph 1 of the same resolution, the Commission had prepared the text of an article on the right of peoples and nations to self-determination for inclusion in the two covenants. The vote on the joint draft resolution (E/L.449) appeared to indicate, however, that the article would not be submitted to the General Assembly for approval until the Commission had completed all its work on the covenants. In the circumstances, it was unnecessary for the Council to adopt draft resolutions A and B and to submit them to the General Assembly at its seventh session, for they actually reproduced the gist of the article on self-determination in a context of tendentious material which was unjustified, injurious and contrary to common sense and to the provisions of the United Nations Charter. It would indeed be a curious procedure to submit for the General Assembly's approval a compressed version of a single, isolated article intended for inclusion in the two covenants, before the Assembly had had an opportunity to examine the covenants in their entirety. It would undoubtedly entail a lengthy debate on the principle of self-determination at the seventh session of the Assembly and another such wrangle at the eighth session when the full covenants came up for consideration. Thus, on purely technical grounds, the United Kingdom could not accept draft resolutions A and B.

34. The United Kingdom Government fully supported the principle of self-determination as a general guide to political action. It had demonstrated that fact by supporting inclusion, in Articles 1 and 55 of the Charter,

of reference to that principle, and it believed that its general acceptance was in harmony with the provisions of Chapter XI of the Charter, under which Member States bearing responsibility for the administration of Non-Self-Governing Territories accepted as a sacred trust the obligation to promote the development of free political institutions with a view to eventual self-government for those territories. The principle was also reflected in Chapter XII (Article 76) in connexion with the International Trusteeship System. It was significant, however, that in both chapters dealing with Non-Self-Governing and Trust Territories, the phrase "self-determination of peoples" was not used, doubtless because some degree of precision was aimed at by the drafters of those chapters. The phrase, however, defied definition to such an extent as to make it inappropriate as an enforceable provision in legally binding documents such as the covenants. As the United Kingdom representative in the Commission on Human Rights had pointed out, an attempt to reach the necessary precise definition even of the word "peoples" would be futile. Moreover, under any definition that term could be applied to racial minorities within a sovereign State; it was very doubtful that any State would welcome such a development. Thus, the inclusion in a covenant of a provision ensuring to peoples the right of self-determination was likely to give rise to varying interpretations and might conceivably encourage separatist or subversive movements. To those who contended that a restatement of the principle, despite the difficulty in defining its terms, would strengthen the Charter, he would reply that his Government recognized machinery for that purpose in Chapter XVIII, which laid down procedure for amendment of the Charter. He deplored the tendency manifested at the last session of the Commission on Human Rights to seek amendment of the Charter by indirect methods.

35. The United Kingdom strongly protested against the preamble of draft resolution A because, taken in its context, it suggested that the inhabitants of all Non-Self-Governing Territories were being held in a state of slavery. As all Member States were resolved to abolish slavery wherever it existed, the obvious inference was that all Non-Self-Governing Territories, including the Trust Territories, must immediately become free, that the Administering Authorities should withdraw forthwith and that the people should be left to cope with the anarchy which would ensue in the majority of those territories. Presumably, therefore, the supporters of draft resolution A favoured action by the Administering Authorities which would flagrantly violate their obligations under the Charter and repudiate the sacred trust they had assumed towards the peoples whom they were leading towards self-government and ultimate independence. Such irresponsibility on the part of the Administering Powers would be unworthy of the United Nations.

36. The major premise of the partisans of draft resolution A was utterly false: the peoples in dependent territories were far more free than the independent and sovereign peoples of many Member States. Under many forms of authoritarian régimes, the mass of the population was denied the most elementary civil and political rights; persons with "heretical" views were removed to concentration camps; whole groups were condemned as unorthodox by central political authorities and transplanted to remote prisons where the majority perished. Nothing resembling those conditions had occurred in any dependent territory in recent years. On the contrary, in most, freedom of expression and freedom of political association were increasing as the territory progressed towards self-government and independence. The removal of the central administrative authority before the area had reached a level of development which would permit it to form and conduct a government along democratic lines might easily result in the introduction of slavery conditions. It would certainly bring about a struggle for power, the outcome of which might be a dictatorship or other form of autocracy which most Member States would deplore. The plebiscite called for in paragraph 2 of draft resolution A, if instituted under the conditions prevailing in most dependent territories, would have that result or, alternatively, would promote a state of total anarchy.

37. Nevertheless, should the General Assembly adopt the text recommended in draft resolution A, the grave consequences envisaged would not come about, if only because the Administering Powers would not heed its provisions. But it would have the effect of encouraging irresponsible minorities in some Non-Self-Governing Territories and of widening the gap between the Administering Powers and the non-administering Powers. There were many countries with ethnic minorities under the rule of racially alien people—a condition which his delegation might privately regard as unsatisfactory—but he would not by reference to such instances risk stirring up internal disturbance and group hatreds, a result clearly incompatible with the purposes of the United Nations.

38. Draft resolution B was unacceptable to the United Kingdom because it discriminated against Member States responsible for the administration of Non-Self-Governing Territories by demanding information on the political development of those territories and did not request similar information regarding other territories. Yet, there were non-self-governing "peoples" in areas other than the Non-Self-Governing and Trust Territories. Moreover, the draft resolution represented another attempt to amend the Charter by the devious method of distorting the meaning and intention of Article 73 e.

39. Article 73 e omitted the adjective "political" in the enumeration of the types of information to be submitted by States responsible for Non-Self-Governing Territories. The omission was deliberate and the contention that the spirit of the Charter required the transmission of data on political development was not valid. The United Kingdom was further opposed to the relevant provision in draft resolution B because it was convinced that the examination and discussion in the United Nations of information of a political nature regarding the dependent territories would confuse orderly constitutional progress and adversely affect the admittedly delicate relationship between the colonial administration and the people. For it would in reality recognize the rights of others to interfere in directing that progress and to share in the discharge of duties undertaken exclusively by the United Kingdom Government. On the other hand, such information was fully published and freely discussed in Parliament. While it was available,

therefore, to those interested, the United Kingdom was not obliged to submit it officially to the scrutiny of other Member States and discussion in the United Nations. Nothing would induce his Government to submit such information.

40. The United Kingdom had an outstanding liberal record in colonial matters; particularly in recent years, a number of States both within and without the British Commonwealth had achieved full independence with the full consent and co-operation of the United Kingdom Government. The process would continue, but it was of paramount importance that it should be based on real freedom rooted in education, trained administrators and the general ability of the body politic to absorb and make effective use of modern techniques. It was not enough to strive towards total independence regardless of its nature. The only worth-while goal was good independence. To assert the contrary was tantamount to saying that the Latvians were better off spiritually, morally and even economically than the people, for example, of the Gold Coast or Nigeria. That was manifestly absurd, and asserted only by those who had a vested interest in propagating slavery by the simple method of calling it freedom.

41. The United Kingdom welcomed the emergence of independent peoples, the spread of democratic conceptions, and the opening of new opportunities to less fortunate peoples for the enjoyment of a better life, but those prospects must not be wrecked by clinging to a principle which was valid only if followed in conjunction with other equally fundamental principles. The Administering and non-administering Powers should work together to elaborate sound liberal policies for the benefit of the poverty-stricken and oppressed throughout the world, rather than embark on a course which threatened to plunge them into greater poverty and real oppression.

42. For all those reasons, the United Kingdom would vote against draft resolutions A and B (E/2256, annex V).

43. The PRESIDENT announced that the representatives of India and Lebanon, who were present as observers, had asked to participate in the discussion. He invited the representative of India to make a statement.

44. Mr. BANERJEE (India) affirmed the support of his delegation for the two draft resolutions recommended by the Commission on Human Rights for the Council's approval, in implementation of paragraph 2 of General Assembly resolution 545 (VI). He recalled that India had taken the initiative in sponsoring the proposal to insert an article on self-determination in the covenants and draft resolution A was based on that proposal. The recommendations embodied in draft resolutions A and B were realistic and simple; the adoption of that clear statement of principles would benefit all peoples seeking the right of self-determination and serve as guidance for both the Administering Powers and the Non-Self-Governing and Trust Territories.

45. India could not agree with those delegations which opposed the inclusion in the covenant of the principle of self-determination on the grounds that the word "self-determination" had intentionally been omitted from Chapter XI of the United Nations Charter because it meant "self-government" in relation to the Non-Self-Governing Territories and hence was not applicable to them. That interpretation was refuted by the first paragraph of Article 76, which unequivocally stated that all the objectives laid down in the subsequent paragraphs should be "in accordance with the purposes of the United Nations laid down in Article 1 of the present Charter". Since Article 1 explicitly proclaimed the principle of respect for the self-determination of peoples, Article 76, read in context, clearly set the self-determination of peoples as a basic objective of the Trusteeship System. Moreover, the express reference to the purposes of the United Nations, one of which was self-determination, extended the application of Article 76 to both Trust and Non-Self-Governing Territories. The further mention of independence in that Article, despite its omission from Article 73, showed that the objective of self-government included the concept of self-determination.

46. As it stood, draft resolution A related exclusively to Member States of the United Nations. India would extend its application to non-member States having trusteeship agreements with the United Nations in the interest of a universal and uniform application of the principles of self-determination. The question of self-determination was of such major importance that it should be dealt with only by the highest United Nations body, the General Assembly. Any attempt to refer it for study to other organs—the specialized agencies had been suggested—would have the effect of burying it and would be harmful to world peace. The General Assembly could invite assistance from the specialized agencies if it wished. Furthermore, the question of self-determination should not be confused with the problem of minorities. The interests of the latter were protected in the draft covenant and India supported the adoption and application of the relevant article.

47. The principal objective of the recommendations concerning self-determination was neither to expose nor to embarrass the colonial Powers. However benevolent their rule, it was no substitute for self-government. The recommendations were intended to create conditions which would inspire faith and offer opportunity to non-self-governing peoples and afford clear guidance to the Administering Powers. The latter were obligated to promote the advance of all dependent territories towards self-government; in their own self-interest, they must realize that peace could come only when peoples were free and enjoyed security and equal opportunities with other peoples. The vast masses of Asia and Africa, stirred by new and powerful urges, were demanding that right to a better life and clamouring for recognition of their rightful place in the world. They should not be feared; on the contrary, they should be welcomed into the family of free nations, for only with their help could the purposes and principles of the Charter be fulfilled.

48. In view of the General Assembly's clear instruction to the Commission on Human Rights (resolution 545 (VI) paragraph 2) to submit its recommendations on self-determination to the Assembly at its seventh session, the Council was not authorized to amend or in any way replace draft resolutions A and B. The amendments submitted (E/L.455/Rev.1) should therefore not be considered. Draft resolutions A and B should be

transmitted to the General Assembly for its consideration as proposed in the Polish draft resolution (E/L.462).

49. Mr. BORATYNSKI (Poland) considered it unnecessary to explain at length the Polish draft resolution (E/L.462), which merely sought to implement resolution 545 (VI) of the General Assembly, requesting the Commission on Human Rights to prepare recommendations concerning international respect for the self-determination of peoples and submit them to the General Assembly at its seventh session. In compliance with that directive, the Commission on Human Rights had devoted a substantial part of its eighth session to the preparation of recommendations on self-determination of peoples. It would be impossible for the Economic and Social Council in the closing days of its session to reopen the question and formulate new recommendations. Moreover, it was significant that the General Assembly had called upon the Commission on Human Rights, the body of specialists which it thought best equipped in the matter, to prepare the recommendations in question. In the light of the General Assembly's resolution, the Economic and Social Council was not competent to deliberate upon or amend the recommendations of the Commission on Human Rights and should confine its action to the transmission of those recommendations to the General Assembly, as proposed in the Polish draft resolution.

50. The Cuban amendment (E/L.464) to the Polish draft resolution was unacceptable because the addition of the words "without comment" might give the impression that comments on the recommendations had been withheld. In effect that amendment would detract from the force of the recommendations of the Commission on Human Rights.

51. It was obvious that the United Kingdom had had weighty reasons for sending to a Council meeting dealing with a relatively minor question its permanent representative on the Security Council, more generally associated with important political and diplomatic discussions. It was fortunate that the United Kingdom was in the minority in considering that the recommendations of the Commission on Human Rights on self-determination of peoples were dangerous to the future of the United Nations. Despite the fullest expression of those views by the United Kingdom representative in the Commission on Human Rights, it was noteworthy that a substantial majority had supported the recommendations which were before the Council.

52. Paragraph 1 of recommendation A (E/2256, paragraph 91), calling for respect for the principle of self-determination, was essentially a summary of a number of provisions of the Charter of the United Nations and could hardly be seriously qualified as dangerous. The second paragraph, as well as recommendation B, could hardly be considered inconsistent with the Charter, which recognized that the interests of the inhabitants of Non-Self-Governing Territories were paramount and called for the advancement of the inhabitants of Trust Territories. The opposition of the United Kingdom delegation in the case under consideration was merely an additional example of its consistent policy of obstructing all measures for the advancement of the inhabitants of Non-Self-Governing and Trust Territories.

53. The General Assembly had given the Commission on Human Rights two distinct assignments in connexion with self-determination: to include an article on the subject in the covenant and to prepare and submit recommendations concerning respect for self-determination to the General Assembly at its next session. A clear distinction must be made between those two tasks. Therefore the opinion of the United Kingdom representative that draft resolutions A and B should not be submitted to the General Assembly until work on the covenants had been completed was logically and legally unsound.

54. Mr. NUÑEZ PORTUONDO (Cuba) explained, with regard to the Cuban amendment (E/L.464) to the Polish draft resolution, that the transmission of the recommendations of the Commission on Human Rights to the General Assembly "without comment" was in the opinion of the Cuban delegation a faithful implementation of the General Assembly directive that the Commission should prepare and transmit its recommendations direct to the Assembly. It would therefore be inappropriate for the Council to express any opinions or make any comments on the recommendations.

55. The Cuban amendment strengthened rather than weakened the Polish draft resolution and the words "without comment" could not be construed as detrimental to the value of the Commission's recommendation.

56. In its discussion of self-determination, the General Assembly might wish to consider the strange phenomena that many peoples were striving for self-determination and self-government for the first time while traditionally sovereign and independent States were being ruled by small groups seeking to transform them into colonies.

57. Mr. JUVIGNY (France) noted that the Commission on Human Rights had been instructed by the General Assembly to prepare two draft covenants on human rights and to include the right of self-determination in both covenants. The French delegation had opposed the inclusion of that right in the covenants as a matter of principle, but it felt that even advocates of the inclusion of such an article would agree that in the final analysis the recommendations on self-determination constituted measures of implementation of the right of self-determination. In view of the fact that the drafting of the two covenants had not been completed, and that fundamental provisions were still lacking, it would be impossible at that stage to adopt any decision regarding implementation of a single right.

58. The procedure contemplated was an implicit admission that the right of self-determination was out of place in the covenants because it was to be given special treatment and because special measures of implementation were to be hastily adopted. In view of the fact that the General Assembly had in a single resolution linked the covenant on human rights, the article on the right of self-determination and action on recommendations, it was manifest that no appropriate decision could be reached until the Commission on Human Rights had completed its work. The wisest procedure would be meanwhile to send the texts back to the Commission, thereby excluding the transmission of the draft recommendations to the General Assembly at that stage.

59. As a majority in the Council might not share that view, the French delegation wished to summarize the position of the French Government on the problem as a whole. In its opinion the Charter contained no provisions giving the Economic and Social Council competence to deal with the highly political subject of the right of self-determination of peoples. Any such interpretation would tend to destroy the careful and delicate balance of powers set forth in the Charter.

60. The concept of human rights, as generally accepted, encompassed individual rights and collective rights such as the right of association and the right to join trade unions, which were an extension and a development of individual rights. In that sense the Economic and Social Council was competent to deal with human rights. The concept of human rights could not, however, be amplified to include the rights and duties of political entities and the regulation of their relations under public international law. Rights which did not involve relationships between the individual and public authority could not be regarded as human rights unless all rights were accepted as human rights. So controversial a thesis could not be accepted without seriously undermining the structure and foundations of the United Nations and the basic principles of the Charter. The Economic and Social Council could not on that basis adopt even a simple decision transmitting recommendations to the General Assembly.

61. The recommendations themselves reflected a similar confusion on basic concepts of competence and gave evidence of ineffective results. In addition, the text of the recommendations was inconsistent with the provisions of the Charter.

62. In the first place, the recommendations had been drafted by an organ which was not legally and technically equipped to deal with the problem, or at any rate was not fitted to deal with it alone. The French delegation's proposal that serious studies should be undertaken by appropriate bodies such as the International Law Commission, the United Nations Educational, Scientific and Cultural Organization and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, had been rejected in the Commission and recommendations had been hastily prepared involving vague and poorly defined concepts in relation to a right which had never been deemed to constitute an element of positive law. At that stage the French delegation was unable to consider recommendations prepared in such circumstances, divorced from the consideration of the principle which they were intended to implement.

63. In its existing form the statement of the right of self-determination of peoples contravened the principle and the rules of the United Nations Charter. Article 1, paragraph 2, of the Charter mentioned the right of self-determination of peoples in connexion with a statement that one of the purposes of the United Nations was to develop friendly relations among nations. In that text the word "peoples" was synonymous with "nations" and signified a group forming a political unit within a State under the authority of a government. Respect for human rights and fundamental freedoms was set forth in paragraph 3 as a separate objective on a different plane. Article 2 provided that in pursuit of the purposes stated in Article 1, Members of the United Nations should respect the territorial integrity and political independence of States—two concepts which were not affected by the equal rights and self-determination of peoples referred to in the preceding article. It was clear that in the international field, if peoples were to be opposed to their nations, their States and their governments, the fundamental provisions of the Charter relating to the sovereignty, integrity and independence of Member States would be contravened and the right of secession of any segment of a federal or unitary State setting itself up as a people and requesting the right of self-determination would be proclaimed. The United Nations would then be initiating machinery for political disintegration instead of ensuring respect for the integrity of States.

64. Moreover, the right of self-determination of peoples, when it was not fused with freedom of nations and States, as in the Charter, had never entered into positive international law. The right of self-determina- meant that the aspirations of peoples would be taken into consideration, to the extent that they could be ascertained clearly in the preparation of new rules of positive international law such as peace treaties changing the map of States. In the realm of political decisions, the concept of people was an element which played a role jointly with other principles and often in competition with higher interests, such as the cause of peace. In some cases positive international law prescribed limits on the right of self-determination which were justified by the interests of the international community. In the past many requests for territorial union had not been implemented because they constituted a threat to the peace or would impair friendly relations among States. Thus the right of self-determination was not a principle of positive law but a political principle implemented by general political organs within the field of their competence.

65. If the concept of peoples was separated from the concept of nations, it became impossible to arrive at a juridical definition of people. Such lack of precision was admissible in the case of a political ideal endorsed by France but it would be inadmissible in the case of implementation of recommendations involving the rights of people to self-determination.

66. In the text the right of self-determination was in no instance made subordinate to higher principles. Omission of so essential an element revealed that no thought had been given to the transcendental requirements of the peaceful existence of the international community. Nor had consideration been given to the primacy of the development of individual rights and of respect for those rights. From the point of view of human rights, the only purpose of a legal instrument must be to ensure full development and respect for the rights of the individual. Yet the drafts under consideration contained no guarantee against active minorities which often seized power under the guise of ensuring self-determination and destroyed or limited individual freedoms which the population had previously enjoyed. The era of Hitler's domination furnished a vivid example of that point.

67. Finally, the proposed text must not show any discrimination towards States responsible for the administration of Non-Self-Governing Territories. The Charter

had made no exceptions to the sovereign equality, territorial integrity and political independence of States and had required the responsible authorities only to fulfil the legal obligation of submitting information under Article 73 e. The French Government would never agree to provisions which violated the universal character of the obligations imposed on States, and would not agree to recommendations which went beyond the Charter, were inconsistent with its guiding principles and were contrary to the fundamental principle of equal treatment of States. The French delegation would follow a consistent policy of opposing the transmission of the recommendations of the Commission on Human Rights to the General Assembly.

The meeting rose at 5.55 p.m.

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