



CONTENTS

Page

Agenda item 14:

Questions relating to science and technology

- (a) Main trends of inquiry in the field of natural sciences, the dissemination of scientific knowledge and the application of such knowledge for peaceful ends (resumed from the 1159th meeting and concluded) . . . 169

Report of the *ad hoc* Working Group

- (b) Development of scientific and technical co-operation and exchange of experience (resumed from the 1152nd meeting) . . . 170

Agenda item 9:

- Report of the Commission on Permanent Sovereignty over Natural Resources . . . 172

President : Mr. Foss SHANAHAN (New Zealand).

Present :

Representatives of the following States: Afghanistan, Brazil, Bulgaria, Denmark, El Salvador, Ethiopia, France, Italy, Japan, Jordan, New Zealand, Poland, Spain, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Observer for the following Member States: Australia, Austria, Belgium, Czechoslovakia, Hungary, Portugal, Romania, Yugoslavia.

Observer for a non-member State: Switzerland.

Representatives of the following specialized agencies: International Labour Organisation, United Nations Educational Scientific and Cultural Organization, World Meteorological Organization.

The representative of the International Atomic Energy Agency.

AGENDA ITEM 14

Questions relating to science and technology

- (a) Main trends of inquiry in the field of natural sciences, the dissemination of scientific knowledge and the application of such knowledge for peaceful ends (resumed from the 1159th meeting and concluded)

Report of the *ad hoc* working group (E/3539 and Corr.1)

1. The PRESIDENT invited the Council to consider the report of the *ad hoc* working group which had been set up at the 1159th meeting to formulate recommendations under agenda item 14 (a) (E/3539 and Corr.1) and drew attention in particular to the two draft resolutions contained in annex I to the report.

2. Mr. DUPRAZ (France) said that his delegation, while supporting the draft resolution I submitted by the working

group, wished to make plain its fundamental position. The group had been able to give useful and conscientious consideration to the general recommendations of the Auger report (*Current Trends in Scientific Research*, E/3362/Rev.1), but it was regrettable that it had not found it possible to consider the special recommendations — especially in view of the Council's decision the previous year to give detailed consideration to the report (resolution 804 B (XXX)) and of the General Assembly's express confirmation of that decision (resolution 1512 (XV)). His delegation deplored the fact that the Council should have failed to perform fully the task which it had set itself in a field that was indubitably within its competence, especially at a time when its activities had been subjected to a certain amount of criticism by other United Nations bodies. It was only by showing set purpose and breadth of outlook in the performance of its functions that the Council would retain the confidence of the Member States and the prestige indispensable to its effectiveness as an essential part of the United Nations machinery.

3. There had been two obstacles which had prevented the special recommendations from being considered. First, the circumstances had been such that the working group had lacked the time necessary for a detailed consideration of the report; more time and more staff ought to be assigned to the study of those problems when they again came before the appropriate organs for consideration. Secondly, several members of the group had, with excessive modesty, pleaded lack of scientific competence in order to rule out consideration of the special recommendations. It was true that government representatives on the Council were not called upon to settle the strictly scientific problems raised in the report; but, as governments had had more than a year in which to consult their highest scientific authorities and to draw practical conclusions therefrom, their representatives should normally have been qualified to discuss those problems and indeed were in duty bound to do so. It was to be hoped that in future governments would realize the need to ensure that their representatives were properly briefed.

4. Subject to those few reservations, his delegation welcomed the intellectual activity which had sprung from the Australian proposal — the Auger report, the setting-up of the working group, and the initial discussions — restricted in scope though the latter had so far been. France hoped that the governments of all the Member States would follow up the promising line of international co-operation which had been indicated.

5. Mr. WISZNIEWSKI (Poland) said that in his delegation's view the Auger report merited the warmest of receptions by the Council. It set forth the problems currently calling for research without giving undue prominence to

the interests of any particular country or group of countries, and served the cause of humanity as a whole. It was thus in keeping with the best traditions of French science, as exemplified by the work of the encyclopaedists. It was not, however, the work of one person alone, nor even the product of one country's science, since it was based on consultations with eminent scientists from almost every country of the world. In that sense it proved that scientists of different countries could work harmoniously together in solving scientific problems.

6. The Polish delegation had taken a favourable stand in the working group on all the recommendations. Needless to say, much time and substantial financial sacrifices and continuing efforts by all Member States would be called for in order to apply those recommendations. In addition to putting forward general recommendations, the report incorporated many special recommendations concerning important and often very costly research projects. That being so, the working group had perforce had to restrict itself to including only a fraction of the recommendations in its draft resolution. In supporting all recommendations in the working group — a relatively modest number — his delegation had been acting on the principle that if some of the report's proposals were abandoned their abandonment must be purely temporary. It had also been acting on the principle, repeatedly emphasized by his Government, that contacts between scientists of all countries must be intensified, not only with the aim of advancing science as such, but also because such contact promoted better understanding among scientific workers and enabled them to bring great influence to bear on the formation of opinion and thus to strengthen mutual respect and friendship in their respective countries.

7. In picking out the recommendations which could be implemented forthwith, his delegation would assign priority to those which emphasized the need for the speediest and most effective aid to the developing countries. The advance of science in those countries was one of the essential conditions for their economic progress and for the welfare of their population. His delegation had noted with satisfaction that the report's recommendations had not given rise to any difference of opinion within the working group.

8. Mrs. WICKENS (United States of America) said that her delegation would support the proposals made by the *ad hoc* working group.

9. The working group had been unable to discuss the special recommendations contained in the survey for a number of reasons, the most important of which was that, except in rare cases, members of delegations to the Council were not expert scientists. Accordingly, her delegation had proposed in the working group that the survey should be transmitted to the United Nations Scientific Advisory Committee for its consideration. It had not insisted on that proposal in the working group, and would not do so in the Council; but it hoped that the Scientific Advisory Committee, whose members were highly competent to deal with the special recommendations in question, would at some stage be officially requested to consider both the survey and the comments made on it during the current session.

10. As Professor Bernardini (Italy), the chairman of the *ad hoc* working group, was no longer in attendance, she proposed that the Council should convey to him a message of thanks for the admirable manner in which he had presided over the proceedings of the working group.

It was so agreed.

11. Mr. ZADOTTI (Italy) said that he would be glad to convey the Council's message of thanks to Professor Bernardini.

12. The PRESIDENT put to the vote the draft resolutions contained in annex I to the report of the *ad hoc* working group (E/3539).

Draft resolution I was adopted unanimously.

Draft resolution II was adopted unanimously.

(b) **Development of scientific and technical co-operation and exchange of experience (E/3510, E/3515, E/3540/Add.1; E/L.911) (resumed from the 1152nd meeting)**

13. The PRESIDENT drew the Council's attention to a report of the Secretary-General on the development of scientific and technical co-operation and exchange of experience (E/3515); to a proposal by the United Nations Scientific Advisory Committee for the calling of a United Nations conference on the application of science and technology for the benefit of the less developed areas (E/3510); to a draft resolution concerning the proposed conference submitted by the delegations of Brazil, Denmark, Italy, the United Kingdom and the United States of America (E/L.911); and to a statement by the Secretary-General on the financial implications of the proposed conference (E/3540/Add.1).

14. Mr. de SEYNES, Under-Secretary for Economic and Social Affairs, replying to questions raised in the earlier discussion of the item, said it had been asked what was the real justification for the proposed conference since the agenda suggested did not include any subject which had not already been dealt with by some organ of the United Nations system. The Scientific Advisory Committee had suggested the convening of a conference in the hope that it would serve to give an overall picture of a phenomenon which had hitherto only been partially studied but which had revolutionized the economic development of the modern world, namely, scientific progress as a fundamental factor in production and therefore in economic growth. The conference would certainly not be able to give an exhaustive analysis of the phenomenon, but it might provide instructive lessons and would supplement a series of other studies. It was on that understanding that the specialized agencies had approved the idea. They had been associated from the beginning with the project, and it seemed to them a fitting subject for concerted action. The basic document had been drawn up with their collaboration and had been adopted more or less in its entirety by the Scientific Advisory Committee. It might be taken for granted that they would continue to be closely associated with the enterprise.

15. At the same time, the Scientific Advisory Committee was setting itself more positive targets by keeping in view

the stimulus which might be given to certain forms of action, particularly in connexion with the development of scientific research to meet the needs of the under-developed countries. Research was closely conditioned by the environment and a suitable environment was to be found in the developed countries, but the fact remained that some processes or techniques might be of no interest to the developed countries but of major importance to the under-developed countries. That was why it was necessary to identify them in order to be able to launch special projects.

16. The Scientific Advisory Committee had also in mind another more urgent consideration, that of organizing science in the new States. It had thought it indispensable to organize a minimum of scientific programmes in the under-developed countries in order to ensure what WHO called "scientific independence as a corollary to economic independence". It remained to determine to what extent such programmes in the field of research and training should be organized and to what extent the scientific work should be divided.

17. Admittedly the date of the conference was fairly close at hand, but the Scientific Advisory Committee's recommendation was firm. It had noted that more restricted meetings had already dealt with the subject and that in view of the widespread interest aroused, the time was ripe for a general study at the world level. Moreover, the problems raised by the development and maintenance of scientific institutions which had been set up by the former colonial powers, but which were too costly for the newly independent countries to maintain, made it a matter of urgency to convene a conference to stimulate international action with a view to solving that question. From the point of view of the calendar of conferences, it would be better to choose 1962 rather than 1963, when an atomic conference was due to take place.

18. Mr. CHISTYAKOV (Union of Soviet Socialist Republics) suggested that, in operative paragraph 3 of the draft resolution (E/L.911), the words "all States Members of the United Nations or of the specialized agencies" be replaced by the words "all interested States". He would not propose a formal amendment to that effect, but would be glad if a majority of the Council's members would agree with the suggestion.

19. With regard to the date of the proposed conference, he would like to hear the views of the less developed countries represented on the Council. If the less developed countries expressed a preference for convening the conference in 1963, he would support them. If they were prepared to participate in the conference in 1962, he would vote for the text of operative paragraph 4 as it stood.

20. Subject to those reservations, his delegation would vote for the draft resolution.

21. Mr. DUPRAZ (France) said that his delegation would accept the date of 1962 in view of the Under-Secretary's explanations. In suggesting 1963 it had only been concerned to ensure that the conference was given the best preparation possible, but in that regard it had full confidence in the Secretariat.

22. In connexion with the draft resolution, he took the view that the approval accorded to the agenda in the first operative paragraph was somewhat too categorical, for that agenda was not sufficiently precise. It would be desirable to give the governments of countries which were not members of the Economic and Social Council or the Scientific Advisory Committee an opportunity of making suggestions in that connexion. He would therefore propose that at the end of the paragraph the following words should be added: "subject to the observations which governments of States Members of the United Nations and the specialized agencies are invited to submit before 1 October 1961."

23. Mr. METALL (International Labour Organisation) wished to assure the Council that his organization would co-operate fully with the United Nations and the other specialized agencies concerned in the work of the proposed conference. He had noted with great satisfaction the emphasis which was to be placed on human and social factors involved in the application of scientific and technical discoveries to the needs of the less developed areas, and his organization was looking forward to the opportunity of contributing to the discussion of those and other matters within its competence, to the fullest extent compatible with its possibilities and resources.

24. Mr. WISZNIEWSKI (Poland) said that the Polish delegation approved the convening of the conference and considered that the theme, the agenda and the suggestions about the number and qualifications of the participants put forward by the Scientific Advisory Committee took due account of the objectives envisaged. It considered, however, that the success of the conference would depend on the number of participants from the developing countries that attended and that idea did not seem to be adequately stressed in the draft resolution. It would therefore suggest that at the end of operative paragraph 3 the following words should be added: "taking into account the principle that a large number of representatives of the developing countries should participate in the conference."

25. In the first operative paragraph the word "plans" was misleading as it gave the impression that the Council only approved them in principle. He therefore proposed that it should be deleted.

26. Mr. ANIEL QUIROGA (Spain) said that his delegation was in favour of the proposed conference, and would vote for the draft resolution. In view of the complexity of the preparations for the conference, it had originally had some doubts on the advisability of convening the conference in 1962, but those doubts had been dispelled by the statement of the Under-Secretary for Economic and Social Affairs.

27. Mr. de SILVA (United Nations Educational, Scientific and Cultural Organization) wished to express UNESCO's full support for the proposed conference. The proposal was in fact similar to one which the UNESCO General Conference had intended to examine in 1963.

28. The UNESCO would continue its contribution to the preparatory work for the conference, and the Director-General intended when appropriate to place a member of its staff at the disposal of the United Nations for that purpose.

29. Miss SALT (United Kingdom) said that at first sight her delegation found the amendments to the draft resolution submitted by the delegations of France and Poland acceptable, but would prefer to consult with the other sponsors before expressing a final opinion on them.

30. In view of the present financial position of the United Nations, her delegation was alarmed at the probable cost of the conference, as shown by the estimates given in the Secretary-General's statement (E/3540/Add.1). Accordingly, having recalled the provisions of rule 34, paragraph 2, of the Council's rules of procedure and having drawn attention to the fact that the Secretary-General's statement had been circulated only a short time previously, and in English only, she proposed that further consideration of the draft resolution be deferred until all delegations had had time to take full cognizance of the financial implications of the proposed conference.

It was so agreed.

Mr. Penteado (Brazil), first Vice-President of the Council, took the Chair.

AGENDA ITEM 9

Report of the Commission on Permanent Sovereignty over Natural Resources (E/3511 and Add.1; E/L.914, E/L.915)

31. The PRESIDENT drew attention to the report submitted by the Commission on Permanent Sovereignty over Natural Resources and the accompanying statement of financial implications (E/3511 and Add.1). The annex to the report contained four resolutions (resolutions I.A, I.B, II and III) which had been adopted by the Commission. Resolution I.A contained a draft resolution, which the Commission requested the Council to recommend to the General Assembly for adoption. The Soviet Union had submitted amendments (E/L.914) to that draft resolution.

32. He invited the representatives to make general statements on the report, if they so wished.

33. Mr. KAKITSUBO (Japan) commended the Commission for its valuable work. The principle of equal rights and self-determination of peoples was enshrined in Article 1, paragraph 2, of the United Nations Charter, and his delegation gave unqualified support to that principle. It was noteworthy, however, that the Charter recognized the "principle", and not the "right", of self-determination. His delegation therefore felt that the legal concept of "self-determination" was not yet internationally established and accepted. So long as that concept remained undefined, doubts would persist whether the legal concept of "permanent sovereignty over natural wealth and resources" did in fact exist in international law, because it was based on the definition of "self-determination".

34. Nevertheless, it would seem natural that a sovereign State should be able, in part exercise of its sovereignty, to dispose of the wealth and natural resources of its own territory, with due observance of the rights and duties of States under international law.

35. Accordingly, it would be more acceptable for his delegation if operative paragraph 1 of the draft resolution

contained in resolution I A were to be amended so as to bring it into line with the wording of operative paragraph 5 of General Assembly resolution 1515 (XV):

"The sovereign right of every State to dispose of its wealth and its natural resources should be respected in conformity with the rights and duties of States under international law."

36. Mr. TABIBI (Afghanistan) said that the right of self-determination in the economic and political fields was indivisible. National sovereignty should be exercised over a territory and over its wealth and natural resources.

37. The emergence of the Calvo doctrine, numerous decisions by courts and arbitral tribunals and the Porter Convention (the convention respecting the limitation of the employment of force for the recovery of contract debts) adopted at the Second Hague Conference in 1907 had pointed the way towards the recognition of economic self-determination, as acknowledged by the terms of Article 1, paragraph 2, and Article 55 of the Charter.

38. The General Assembly had given expression to that principle in its resolution 626 (VII) of 21 December 1952, a resolution which had been invoked in a well-known case of nationalization, both by the Civil Court of Rome in its decision and by one of the judges of the International Court of Justice in his opinion.

39. He wished to express his appreciation to the Secretary-General and to the Office of Legal Affairs for the excellent study prepared on the subject of permanent sovereignty over natural resources (A/AC.97/5/Rev.1. and Corr.1 and 2 and Add.1). His delegation did not, of course, approve the report in its entirety, and had already drawn attention in the Commission to the points needing further study.

40. In particular, the report could have given more information on measures affecting the capital and profits of foreign companies exploiting natural resources. In chapter III, dealing with international adjudication and studies relating to the responsibility of States in regard to the property and contracts of aliens, it would have been useful to include an analysis of the codification efforts undertaken by private bodies. Also, chapter V should have been expanded; more information should have been requested both from the less developed countries and from the developed countries which had acquired rights of exploitation over natural resources in less developed countries.

41. In connexion with general transit rights, the study correctly pointed out that those rights constituted in certain cases an essential factor of sovereignty over natural resources if that sovereignty were interpreted to include the right freely to dispose of those resources or their derivative products (*ibid.*, chapter II, para. 72). That right of transit was an accepted rule of international law and could not be affected by changes in, or extensions of, ownership of the territory to which the right applied. It was therefore unfortunate that the Secretariat had not given detailed information on the rights of land-locked countries, which had been recognized by several international instruments, and in particular by the 1958 Convention on the High Seas adopted by the First Conference on the Law of the Sea.

42. The study also referred to water resources which were common to two or more States. In that connexion, he pointed out that the position was different according to whether the international rivers or waters were used for irrigation or for navigation. No uniform rules existed for the use of international rivers for irrigation as opposed to their use for navigation. The subject was a complex one, and the attempts at codification by the Institute of International Law in 1911 and by the International Law Association in 1958 had been unsuccessful. He felt that the Secretariat should have supplied fuller information on that subject.

43. With regard to the work of the Commission the draft resolution contained in resolution I A constituted its basic recommendation. The draft resolution rightly emphasized that the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of the well being of the people, and also safeguarded the rights of capital importing countries in recognizing the principle of compensation and the principle of recourse to arbitration or international adjudication. However, representing as it did a delicate compromise between various points of view, the draft resolution had not fully satisfied many members of the Commission, including his own delegation, which had put forward in the Commission an amendment to its operative paragraph 4, designed to replace the word "appropriate" by "adequate" and to insert, after the word "compensation", the words "when and where appropriate", in the first sentence. His delegation had not pressed that amendment to the vote at that time, but had reserved the right to introduce it during the discussion of the question in the Council. Accordingly, it was submitting that amendment in the hope that it would meet with general support (E/L.915).

44. Lastly, his delegation supported resolutions I B and III; their objectives were admirable.

45. Mr. CHISTYAKOV (Union of Soviet Socialist Republics) said that the imperialist Powers and their monopolies were intent on continuing their exploitation of the less developed countries, and were making vast profits at the expense of the populations of those countries. The colonial powers had been unwilling to grant independence to the peoples of colonial countries, and were now trying to prevent the implementation of relevant General Assembly resolutions. The Soviet Union, on the other hand, had consistently advocated using the natural resources of the less developed countries in the interests of the peoples of the countries themselves, and had insisted on strict observance of the sovereignty of the less developed countries over their natural wealth and resources.

46. At its second session, the Commission on Permanent Sovereignty over Natural Resources had considered a preliminary study prepared by the Secretariat on the status of permanent sovereignty over natural wealth and resources. As certain members of the Commission had expressed their dissatisfaction with the preliminary study, it had been revised and enlarged. But even as revised, the study failed to give a true picture of the way in which foreign monopolies were exploiting the natural wealth

and resources of Non-Self-Governing and Trust Territories and of the less developed countries. In spite of specific requests made by members of the Commission, the study provided no information on the profits derived from foreign capital or on the distribution and transfer of such profits, and gave no indication of the actual extent to which land was appropriated and mineral resources seized. His country's representative on the Commission had emphasized the need for including in the study fuller information on problems connected with nationalization, and particularly information on the way in which certain powerful States and foreign monopolies were preventing the less developed countries from making important sovereign enactments: but no such information was contained in the revised study.

47. The authors of the study had indeed stated that practical and effective steps should be taken to protect and strengthen national sovereignty over natural resources: but it was impossible to regard the recommendations made by the Commission as practical and effective measures to that end. Some members of the Commission had, in fact, shown a dangerous tendency to attach paramount importance to the preservation and protection of the interests of foreign monopolies.

48. The draft resolution contained in resolution I A exaggerated the role and significance of foreign capital in the exploration and exploitation of foreign natural resources, and contained a number of provisions which would tend to restrict rather than consolidate the sovereign right of peoples to dispose of their own natural resources. According to operative paragraph 4, for example, sovereign acts such as nationalization and expropriation would be subject to a number of conditions and special requirements. The same paragraph required States which decided to nationalize private property to pay appropriate compensation to the former owners. Some members of the Commission had said that the obligation to pay compensation virtually constituted a rule of international law; but his delegation believed that the payment of compensation was a purely domestic matter to be decided by each sovereign State in accordance with its national laws. Some States did, of course, pay compensation, but no State should be denied the right to take a different view, if it believed that there were no grounds for paying compensation. Compulsory payment of compensation was not mentioned in General Assembly resolution 626 (VII) on the right to exploit freely natural wealth and resources, and the insistence on compensation was at variance with the General Assembly's decision on the right of nations to self-determination. His delegation would not support any reversal of decisions previously taken by the General Assembly.

49. Some reference to General Assembly resolutions 523 (VI) and 626 (VII) should be included in the preamble to the draft resolution and its operative part should contain a paragraph indicating the Council's support of the efforts made by the peoples of the less developed countries to re-establish and strengthen their sovereignty over their natural resources. His delegation had submitted a number of amendments in that sense to the draft resolution (E/L.914), and hoped that the Council would approve them.

50. Mr. DUPRAZ (France) said the proposed draft resolution was an important one which had many legal implications; it deserved careful thought, more especially in view of the amendments submitted to it. He therefore proposed that the consideration of item 9 should be adjourned.

51. Mr. KLUTZNICK (United States of America) supported the French representative's proposal; his delega-

tion intended to submit further amendments to the draft resolution.

52. The PRESIDENT agreed that it would be advisable to defer the discussion of the item, so as to give delegations time to consider the various amendments.

It was so agreed.

The meeting rose at 5.20 p.m.