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Chairman: Mr. Bohdan LEWANDOWSKI
(Poland).

1. The CHAIRMAN suggested that in spite of the decision that had been taken, the Committee should resume consideration of the draft resolution on permanent sovereignty over natural resources (A/C.2/L.654 and Corr.1), pending the results of the negotiations on the draft resolutions relating to items 33 and 94 of the agenda.

It was so agreed.

AGENDA ITEM 39

Permanent sovereignty over natural resources (A/4905, A/5060, A/5225, A/AC.97/5/Rev.2 and Corr.1, A/C.2/L.654 and Corr.1, E/3511, E/L.914, E/L.915, E/L.918, E/L.919, E/SR.1177-1179, E/SR.1181) (continued)

CONSIDERATION OF THE DRAFT RESOLUTION OF THE COMMISSION ON PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES (A/C.2/L.654 AND CORR.1) (continued)

2. Mr. VIAUD (France) said that he could agree to recourse to national jurisdiction if there was no contractual agreement between the parties to resort to international arbitration. However, he could not accept the principle on which the sub-amendments of Lebanon and Syria (A/C.2/L.697) was based, i.e. the prevention of any recourse to international arbitration in the absence of a prior agreement between sovereign States providing for such recourse. That principle jeopardized the harmonious development of private law relations between individuals or corporate bodies of different States because it was contrary to the basic principle of international private law that the

contract between the parties was the essential source of their rights and obligations. The French delegation could not support such a sweeping proposal, which, in effect, by the simple device of a hastily adopted amendment, would modify the law derived from the practice of most countries. The sub-amendment of the three Powers (A/C.2/L.699) was equally unacceptable because it amounted to preventing international arbitration once a settlement was offered, even if limited to minor points.

3. With regard to the Syrian sub-amendment (A/C.2/L.698), which had been accepted by the sponsors of the amendments contained in document A/C.2/L.696, the French delegation had the same objections to it as it had to that document: it was idle, at the stage which had been reached in the discussion, to refer the question back to the Commission on Permanent Sovereignty over Natural Resources which had already completed its task and which could add nothing to the draft resolution it had presented (A/C.2/L.654 and Corr.1). Although the idea had received only scattered support in the Committee, he still believed that the best solution would have been to consult the International Law Commission, since that would be the only way of avoiding the legal complications confronting the Committee.

4. Mr. LUQMAN (Mauritania) noted that the sub-amendments contained in documents A/C.2/L.697 and A/C.2/L.699 aimed at making the amendments of the United States and the United Kingdom (A/C.2/L.686/Rev.2) more acceptable. However, it would be better if the sponsors of those amendments would agree to withdraw them, or at least the second and third since their purpose was already served by paragraph 4 of the draft resolution. If those two amendments were put to the vote, his delegation would abstain.

5. Mr. BOLT (New Zealand) had hoped that the Committee would endorse the draft resolution because it was a compromise which struck a balance between different points of view. The same spirit of compromise had marked the discussion in the Committee, as was shown by the attitude of the Algerian delegation and of the United Kingdom and United States delegations, which had just presented a new version of their amendments (A/C.2/L.686/Rev.3). As the new text did not upset the balance of the draft resolution, New Zealand would vote for it as well as for the amendments of Mauritania (A/C.2/L.690) and of Argentina and Peru (A/C.2/L.700). On the other hand, his delegation could not subscribe to the amendments of Burma and the Sudan (A/C.2/L.696), as modified by the Syrian sub-amendment (A/C.2/L.698), because they would delay the work of the Committee without any ultimate prospect of a better text than the draft resolution under discussion. Moreover, the General Assembly had asked the Second Committee to give the question priority and therefore to reach a decision at the seventeenth session.

6. Similarly, he failed to see why the freedom of action of sovereign States should be limited in the way suggested by the three-Power sub-amendment (A/C.2/L.699) or why a State should not be able to conclude agreements with private investors instead of being required to negotiate with sovereign States, as proposed in the sub-amendments of Lebanon and Syria (A/C.2/L.697). With regard to the amendments of the Soviet Union (A/C.2/L.670), some were acceptable, but they put undue emphasis on "independent national development", as if that were the only kind of development consistent with the interests of the countries concerned. The latter might prefer interdependent economic development as many of them did, including those which were members of the Council for Mutual Economic Assistance (COMECON).

7. Mr. BRILLANTES (Philippines) said that he would support the first of the amendments of Burma and the Sudan (A/C.2/L.696) but could not support the others, even with the improvement resulting from the acceptance of the Syrian sub-amendment. He therefore asked that the words "and in particular the subject matter of paragraphs 3 and 4 above" should be put to the vote separately.

8. He would also be unable to support the sub-amendments of Lebanon and Syria which would limit the application of the resolution to sovereign States and thus conflict with paragraph 6 of the draft resolution. He hoped that the Committee would reject those sub-amendments. The Philippine delegation would support the amendment of Argentina and Peru. In determining its position on the Soviet Union amendments, his delegation would base itself on the principle that all countries should be on an equal footing and it would accordingly vote against any proposal which tended to upset that necessary balance.

9. Mr. TODOROV (Bulgaria) expressed the view that the most logical proposal had been the first proposal of Burma and that it would have been better if the Committee had agreed not to adopt a draft resolution and to postpone any decision to the following year. As it appeared to be the wish of members to adopt a draft resolution, consideration should be given to the amendments of Burma and the Sudan (A/C.2/L.696). They were entirely acceptable, since they did not conflict with the substance of the draft resolution. The draft resolution consisted of three parts: a declaration of general principles (paragraphs 1, 2, 5, 6, 7 and 8), a statement of the principles governing capital investments (paragraphs 3 and 4), and organizational provisions (final operative paragraph). The amendments in question could well fit into the third part.

10. Mr. AKYAMAC (Cyprus) said that the draft resolution under study struck a balance between the sovereign rights of States and the need to observe the rules of law in international relations; at the same time, it laid the basis for international co-operation in the exploitation of natural resources in the interests and for the well-being of developing countries. The operative part affirmed above all the right of nations to permanent sovereignty over their natural resources, including the exploration, development and disposition of such resources. Recognizing the interdependence of nations in the field of economic development, it tried to lay down guide-lines for such economic co-operation. Finally, the last two paragraphs constituted a kind of safety-clause to pro-

tect the sovereignty of States over their natural resources.

11. The Cypriot delegation was all the better able to support the draft resolution as its main points were almost identical with article 23 of the Constitution of Cyprus. Under paragraph 1 of that article, the right of the Republic to underground water and minerals was reserved, and paragraph 4 provided that the compulsory acquisition of property could be effected only for a purpose which was to the public benefit and upon the payment in advance of a just and equitable compensation, to be determined, in case of disagreement, by a civil court of the Republic. The latter provision was not incompatible either with the last part of paragraph 4 of the draft resolution or with the second amendment of the United Kingdom and the United States, both of which contained references to arbitration and international adjudication in case of controversy. Recourse to such procedures was made subject to agreement by the parties concerned. Some representatives had rightly pointed out that the parties to a negotiated agreement would themselves be in a position to judge whether, in their own interests and in accordance with their constitutional procedures, they could and should conclude agreements providing for recourse to international jurisdictions. He felt, however, that the wording of paragraph 4 of the draft could be improved so as to give more emphasis to the process of agreement than to provisions for arbitration or international adjudication. For example, the end of the paragraph might state that if, however, there was an agreement between the parties concerned for the settlement of the dispute through arbitration or international adjudication, that agreement would apply.

12. His delegation had no difficulty in supporting the third amendment of the United Kingdom and the United States. Reiteration of that basic principle of international law, viz, the sanctity of agreements, could only improve the balance of the draft resolution and clarify its text. However, the insertion of the amendment in paragraph 8 of the draft might tend to limit the exercise of the right of nations to sovereignty over their natural resources, as described in that paragraph, and it might be better to insert it in paragraph 3 or 6. Another point of importance with regard to that amendment was whether it would be advisable to lump together technical assistance agreements and investment agreements; as the representative of Ethiopia had observed at the preceding meeting, technical assistance agreements had more of a political character.

13. He was happy to note that the rights and obligations of successor States in respect of property acquired before the accession to sovereignty of countries formerly under colonial rule would be dealt with in the manner indicated in the first United Kingdom-United States amendment, in other words, without prejudging the results of the study being made by the International Law Commission. His delegation would therefore also support that amendment. It would also vote for the amendment of Mauritania (A/C.2/L.690) and for those of Argentina and Peru (A/C.2/L.700). It followed from the explanation he had already given that his delegation would not be able to support the Soviet amendments. Lastly, the amendments of Burma and the Sudan had been made more acceptable by the incorporation of the Syrian sub-amendment. Although his delegation would not be

able to support it, it would not oppose a further study of the question.

14. Mr. SCHWEITZER (Chile) said that the desire for perfection was slowing down the Committee's discussion. There had been a proliferation of amendments on points of detail.

15. His delegation considered the Mauritanian amendment quite acceptable, but it was unnecessary because it added nothing to the text. It was obvious that it was the State taking the measures referred to in paragraph 4 of the draft which would resort to its national jurisdiction and its own law courts. It would therefore be better not to include that amendment.

16. He was pleased that the delegations of Burma and the Sudan had withdrawn the third of their amendments (A/C.2/L.696), because that made the Commission's position clearer. But he emphasized that paragraphs 2 and 4 constituted a new proposal rather than amendments in the proper sense of the term. As the Philippine representative had pointed out, those paragraphs could be the subject of another resolution after the Committee had adopted the draft resolution before it in one form or another.

17. With reference to the sub-amendments of Lebanon and Syria (A/C.2/L.697), he could see no advantage in adopting them. It was obvious that the agreements concerning arbitration or international adjudication could be concluded only by States. So far as the suggestion to replace the word "by" by the word "between" was concerned, it was his opinion that the two phrases said exactly the same thing and that the change was therefore superfluous. With regard to the sub-amendment contained in document A/C.2/L.699, the suggestion of the representative of Cyprus concerning paragraph 4 of the draft resolution was excellent because it improved the text without changing the substance.

18. The amendment of Argentina and Peru (A/C.2/L.700) might go further than it seemed to do at first sight. It might allow the interpretation that only the principles set forth in the resolution should be respected and not the whole text of the resolution, which was certainly not the idea of the sponsors of that amendment.

AGENDA ITEM 35

Economic development of under-developed countries (A/5220) (continued):

(c) Industrial development and activities of the organs of the United Nations in the field of industrialization (A/C.2/L.658/Rev.1, E/3600/Rev.1, E/3656, E/3656/Add.1)

CONSIDERATION OF THE JOINT DRAFT RESOLUTION CONCERNING THE ROLE OF THE UNITED NATIONS IN TRAINING NATIONAL TECHNICAL PERSONNEL FOR THE ACCELERATED INDUSTRIALIZATION OF THE LESS DEVELOPED COUNTRIES (A/C.2/L.658/REV.1) (continued)

19. Mr. SMID (Czechoslovakia), introducing the revised draft resolution (A/C.2/L.658/Rev.1), said that the sponsors had taken into account virtually all the suggestions made to them. He hoped that the modifications made in operative paragraph 2 would dispel the Greek representative's misgivings concerning the clarity of the text and those of the Indian representative concerning the feasibility of submitting to the General Assembly, at its nineteenth session, a report

which must in any event be provisional. He also proposed to include in paragraph 1 of the revised text the following textual modifications suggested by the United States: the replacement of the word "assisting" by the words "assistance to" and the addition of the word "system" after the words "United Nations".

Mr. Allana (Pakistan), Vice-Chairman, took the Chair.

20. Mr. OCHIRBAL (Mongolia) welcomed the positive action which the United Nations and the specialized agencies had already taken to assist the developing countries in training the technical personnel needed to ensure their industrial development. He supported the revised draft resolution which would enable them to concentrate their efforts on a matter of such importance for the economic independence of those countries. Mongolia, itself a young nation, already had thousands of experts in its various industrial sectors, such as construction, transport and communications. That had been achieved thanks to a policy based on three principles: the founding of educational establishments during the first five-year plan, the inauguration of evening courses and correspondence courses for young people already employed, and the training of personnel in the Soviet Union and in other socialist countries. Mongolia also trained its technical personnel on the job. He stressed the fact that the level of training of technical personnel in his country was rising. He noted that some technicians were receiving advanced training in the industrial centres of the socialist countries and that the experience thus acquired by the socialist countries could be of great use to the developing countries. Mongolia fully supported the revised draft resolution and wished to be a co-sponsor.

21. Miss HARELI (Israel) recognized the capital importance of industrial development and the training of skilled personnel. Industrialization was indispensable to Israel, a small country, poor in natural resources. The training of vocational instructors, technicians and foremen for industry had been carried out in Israel with the assistance of the ILO and the Special Fund, and certain branches of industry were already able in their turn to provide instruction for trainees from other developing countries. In both cases, there was concentration on activities which had a multiplier effect such as, for example, the training of foremen and instructors who would in turn train skilled workers and more generations of instructors. Such co-operation could even be carried out among several developing countries themselves.

22. The revised draft resolution was a great improvement on the original text because it took account of the valuable work already done by the United Nations and the specialized agencies in that connexion. Even so, it imposed a formidable task on the Secretary-General since the estimates mentioned in paragraph 2 (a), in order to be meaningful, would have to be based on comprehensive development plans couched in terms of individual industry targets and requirements and not on over-all development plans only. According to the fourth preambular paragraph, the General Assembly would recognize that the training of national technical personnel should be carried out mainly in the developing countries themselves. Perhaps that wording did not do justice to all possible situations, and she felt that the criterion should be that the training was carried out in the most effective manner. In very many cases the train-

ing would be in the developing countries concerned, but in others it could be more advantageous to conduct in-plant training in other countries or training courses in institutes such as the International Centre for Advanced Technical Training to be established at Turin. Her delegation therefore proposed the deletion of the word "mainly" from the fourth preambular paragraph.

Mr. Lewandowski (Poland) resumed the Chair.

23. Mr. FINGER (United States of America) thanked the sponsors of the revised draft resolution for taking into account his delegation's suggestions concerning operative paragraphs 1 and 2. Mention might also have been made, in the second preambular paragraph, of General Assembly resolution 1710 (XVI) and Economic and Social Council resolution 916 (XXXIV), which had emphasized the importance of the matter, but he would not press the point. On the other hand, the words "State ... plans", in the third preambular paragraph, should be replaced by the words "national ... plans", which would accord with the usual terminology.

24. Mr. SMID (Czechoslovakia) considered that the sponsors should have no objection to the new United States suggestion, but, according to the consultations which he had already held, the sponsors preferred to retain the word "mainly" in the fourth preambular paragraph.

25. Mr. EL BANNA (United Arab Republic) said that his country, which was one of the sponsors of the draft resolution, wished to stress the importance it ascribed to the training of technical personnel at all levels, because the lack of adequate personnel could disrupt the whole industrialization programme of the developing countries. That was why the development plan of the United Arab Republic included vocational training for industry and the establishment of industrial training centres; adequate allocations had been

set aside for that purpose. In addition, the educational system had been adapted, not only at the primary but also at the secondary and higher levels, in keeping with the requirements of industrial development. His country had also sought international co-operation and assistance and had actively participated in the regional and international training programmes by extending its own technical training facilities to many trainees from other developing countries.

26. The CHAIRMAN announced that Senegal and Syria had expressed the wish to be included among the sponsors of the draft resolution.

27. Mr. BUTTI (Iraq), supported by Mr. NYLANDER (Ghana), pointed out that the word "mainly" in the fourth preambular paragraph was modified by the words "whenever possible". Moreover, there were cases in which the development plans of formerly colonized countries might be impeded by the lack of skilled personnel. For those reasons, it was preferable to retain the fourth preambular paragraph as it stood.

28. Miss HARELI (Israel) said that she would not press her amendment and would vote for the draft resolution in its present form.

29. After an exchange of views, in which Mr. WOULBROUN (Belgium), Mr. CHOLLET (France), Mr. DELGADO (Senegal), Mr. YAKER (Algeria), Mr. ANOMA (Ivory Coast), Mr. Mamadou TRAORE (Mali), Mr. MALHOTRA (Nepal), Mr. AYARI (Tunisia) and Mr. FARHADI (Afghanistan) took part, the CHAIRMAN suggested that it would be left to the sponsors to make the French text of paragraph 2 (a) accord with the English and expressed the hope that it would be possible to vote at the beginning of the following meeting.

It was so agreed.

The meeting rose at 1.15 p.m.