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**Chairman:** Mr. Bohdan LEWANDOWSKI  
(Poland).

AGENDA ITEM 39

**Permanent sovereignty over natural resources (A/4905, A/5060, A/5225, A/AC.97/5/Rev.2, 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)

1. Mr. KLUTZNICK (United States of America) said that his delegation wished to comment on the fundamental issues raised in the draft resolution submitted by the Commission on Permanent Sovereignty over Natural Resources (A/C.2/L.654 and Corr.1), for that text combined political, legal and economic concepts that had a significant bearing on the international economic relations of States. His country would be the last to question the sovereignty of independent States and believed that a sovereign Government had full powers, subject to the consent of the people governed and to respect for obligations freely undertaken by that Government.

2. At present, when so many new independent nations were being created, the importance of national interdependence was being increasingly recognized and nowhere was interdependence so necessary as in economic relations. A vital factor in those relations was the flow of capital for investment in the developing countries. His own country had long recognized the need of the under-developed nations for capital and technical assistance from abroad to supplement their own domestic resources. During the preceding year, it had continued to devote about 1 per cent of its net national income to long-term financial assistance to developing countries and multilateral agencies, in the form of official grants and credits and private capital. Other developed countries had also been expanding the volume of their aid and he hoped that they would

continue to do so. The total bilateral flow of funds from the developed to the developing countries had risen to \$7,200 million in 1961, and substantial aid had also been provided multilaterally.

3. The International Bank for Reconstruction and Development and its affiliates, IFC and IDA had been the main source of multilateral aid, having provided a total of \$1,037 million during the preceding fiscal year. His Government supported the recent proposal of the President of the International Bank that the capital requirements of IDA should be re-examined. If an expanded programme was recommended, it was prepared, subject to legislative approval, to join other economically advanced countries in subscribing additional resources. It considered, however, that all possible channels should be used to provide assistance to the developing nations and believed that private investment had a significant role to play, as public capital-development funds, while indispensable, were not enough. Moreover, certain forms of aid, such as managerial skill and technical expertise, sorely needed in many developing countries, almost always accompanied foreign private investment and could be provided less readily from public sources.

4. Privately foreign investment had made a contribution to almost every field of endeavour in the developing countries. In addition, it had contributed to institutional changes and supplied the modern skills which were required in an increasingly competitive and technologically complex world. It fostered a spirit of enterprise within the developing countries and provided necessary training in commercial practices. The contribution of private enterprise was not limited to the funds which it made available in starting operation in another country or to the obvious long-range development factors. It had a direct and continuing impact on local economies in terms of income, production, employment and government finances. Thus, in 1957, United States enterprises in Latin America, Africa and Asia, excluding Japan, had provided employment for more than 780,000 local nationals, had paid wages and salaries amounting to \$2,000 million, had spent \$5,800 million for local materials and services and had paid a further \$2,000 million in taxes to local Governments. That had been a not insignificant contribution to the well-being of the countries concerned. The impact of private investment on the developing countries was also apparent from the level of their expenditure on plant and equipment, presaging an expansion of their productive capacity.

5. Direct United States private investment in developing countries in 1960 amounted to about \$12,000 million. On the basis of a United Nations estimate, such investment constituted only 75 per cent of United States total private investment in the developing countries; its total private investment in Latin America, Africa and Asia in 1960 was believed to have been over \$15,000 million. In recent years, the annual

net flow of its private investment to those areas had exceeded \$1,000 million. That record was good, but it could and should be better. United States private enterprise had invested proportionately less in the less developed areas than in other parts of the world. By its very nature, private capital could not be directed to any particular area, no matter how urgent the need nor how much his Government might desire it. However, such capital could be induced to move into a country by a variety of factors. Some of those factors, such as an abundance of natural resources, accessible markets, existing infra-structure and human skills, were not within the immediate control of Governments, but there was much that Governments could do—and many other things which they could avoid doing—in order to encourage private investment both domestic and foreign.

6. His Government had adopted several measures to that end: for example, the procedures governing the investment survey programme of the Agency for International Development had just been made more flexible. That agency offered guarantees against losses due to the inconvertibility of foreign currency receipts into dollars, to expropriation or confiscation and to war damage to physical assets, but only in respect of investment in the developing countries. Investment in developed countries could not be so covered.

7. However, none of those measures would suffice to increase substantially the flow of private investment without corresponding action by the Governments concerned to establish a favourable environment. Private investment could not operate in an atmosphere of hostility which unnecessarily restricted its activities and discriminated between nationals and non-nationals in normal commercial practices. Restrictions on ownership and management not only discouraged foreign investors, but also limited the contribution foreign capital could make through the introduction of modern technology and expertise. Unreasonable limitations on the transfer of profits and the repatriation of capital discouraged potential investors, and excessive regulations not only encouraged them to look elsewhere, but also limited the effectiveness of companies already operating in a given country. Some limitations and restrictions might well be necessary in order to safeguard the balance-of-payments position of a developing country, to direct investment into the most desirable channels or to ensure that it operated in conformity with national practice, but further unreasonable restrictions implied hostility towards private investment which the investor would reckon with in making his decision.

8. While the United States had developed and prospered through an economy based primarily on private and free enterprise, it had always recognized the need for appropriate measures of Government legislation, planning and assistance. In the United States, the relative importance of the sectors had changed from time to time as the problems changed. In developing countries, the public sector might for a time be more important than it currently was in many other countries. Each country must find for itself the most effective combination of private and public activity in terms of its own conditions, resources, objectives and people.

9. In view of the respect shown by all nations for the concept of national sovereignty, his delegation tended to doubt whether the adoption of a draft

resolution such as that which the Committee had before it would be helpful to the developing countries, especially since the clarifications given by the USSR representative at the preceding meeting would substantially modify the idea underlying it. If there had to be a resolution, it should reflect the true nature of national sovereignty—the power of a State not only to utilize its national resources as it deemed most appropriate, but also to call on such foreign aid, capital and skills as it alone deemed essential for the realization of its national aspirations. Each nation should show the same measure of justice and respect for others as it expected others to accord it in the exercise of their sovereignty. His delegation would deplore any attempt to create doubts at a time when the Committee was endeavouring to combine the action of private and public capital for the purpose of accelerating the economic and social development of the under-developed countries.

10. His delegation had submitted some simple amendments (A/C.2/L.668) to the draft resolution; they were designed not to restrict, but rather to enlarge the freedom of choice which was the main attribute of national sovereignty. The first amendment emphasized the importance of encouraging international co-operation in the economic development of under-developed countries. It also provided that peoples and nations should faithfully observe agreements freely entered into. International economic co-operation could scarcely be expected to flourish without such an assurance. The last sentence of that amendment was a rewording of the last two sentences of paragraph 4, designed to express more clearly the meaning implied in those sentences. His delegation's third amendment was also designed to make explicit what was already implicit; in the context of paragraph 4 of the draft, "appropriate compensation" could only mean prompt, adequate and effective compensation.

11. Mr. LUQMAN (Mauritania) said that his delegation had noted the fears voiced by the Netherlands and Chilean delegations at the preceding meeting regarding the possibility of extensive discussion or amendments to the draft resolution. He too would deplore a protracted debate, but the draft was not a simple text which could be disposed of rapidly. Amendments had already been submitted by three capital-exporting countries and by one country which was not yet in that group, and there appeared to be a considerable divergency of opinion. It was clear that the developing countries possessing natural resources would first have to study very carefully any international provisions which might eventually be binding upon them.

12. The Commission on Permanent Sovereignty over Natural Resources had included no more than four or five capital-importing countries and could therefore scarcely be expected to have fully reflected the views held by the large number of such countries represented in the General Assembly. A comprehensive discussion of the subject, including the draft resolution and the amendments thereto, was therefore justified, and hasty action should be avoided.

13. Mr. FARHADI (Afghanistan) said that the Mauritanian representative's statement gave the impression that the Commission on Permanent Sovereignty over Natural Resources had performed its work perfunctorily. That was far from being the case. The Commission, which had consisted of persons of recognized competence, had carried out its functions very con-

scientifically and the under-developed countries had been well represented in it. Moreover, in the four years of its existence, it had studied every matter of importance to the under-developed countries, and the views of those countries had played a major part in guiding its work. It was in the interest of the under-developed countries that the draft resolution should be adopted as soon as possible, because their circumstances were growing continually worse. The draft could very well be adopted as it stood, as the Netherlands representative had proposed at the preceding meeting, and his delegation would therefore withdraw its amendments (A/C.2/L.655) if the sponsors of the other amendments did so first.

14. Mr. LUQMAN (Mauritania) regretted that the Afghan representative had misunderstood him. He warmly appreciated the work of the Commission on Permanent Sovereignty over Natural Resources but thought that if its nine members differed so widely in their ideas, there would be far more differences among 110 representatives. To question the conclusions of the Commission was not to say that its work was unsatisfactory. The question of sovereignty and compensation was of interest to every Government; the Committee should be given ample time to study the matter, as well as the draft resolution and the relevant amendments.

15. Mr. ANJARIA (India) said that the question at issue was whether the draft resolution expressed the essential purpose of the Commission on Permanent Sovereignty over Natural Resources, namely, to emphasize the permanent sovereignty of a country over its natural resources and the new context within which foreign capital would enter a country and its role in that country's development. In his delegation's view, the eight principles contained in the draft resolution constituted a satisfactory statement of those purposes. The draft dealt with sovereignty not in the abstract, but in the context of the new situation facing the under-developed countries.

16. Despite its initial misgivings, India felt that private investment had an important part to play in economic development. With complete political independence and with a changed situation in the capital-exporting countries, the prospects for defining conditions for the entry of foreign capital into a developing country had improved.

17. In the light of the explanation which the Chilean representative had given at the preceding meeting on the subject of the eight principles set forth in the draft resolution, it would be difficult to make many amendments. While there was hardly anything objectionable in the amendments submitted by the United States (A/C.2/L.668) and the United Kingdom (A/C.2/L.669), they went into too much detail and upset the balance of the carefully worked-out formulas in the draft resolution. The latter clearly recognized that such questions as whether foreign capital should be welcomed, which natural resources should be open to investment and under what conditions, were matters for national Governments to decide as a function of their sovereignty. The draft also recognized that nationalization, expropriation or requisitioning should be based on grounds of public utility, security or the national interest; that did not imply any limitation of the sovereign right of the country to decide on nationalization if appropriate, but it was obvious that the right of adequate compensation went hand in hand with it. The matter was not only one of prin-

ciple, but also one of expediency, because a country which nationalized foreign investments could hardly expect to attract them. Since the development of the under-developed countries would take many years, they had much to gain by importing foreign capital on mutually acceptable and honourable terms. The United States and United Kingdom amendments served rather to clarify the text than to raise any issue of principle.

18. On the other hand, the Soviet Union amendments (A/C.2/L.670) raised issues of principle. The first amendment was merely a question of phraseology, but there were other aspects of those amendments which would not encourage the kind of capital flow to the developing countries that his delegation felt was essential. He therefore felt that the Committee should accept the draft proposed by the Commission with the minimum changes which it considered absolutely essential.

19. Mr. SCHWEITZER (Chile) recalled that most of the nine members of the Commission on Permanent Sovereignty over Natural Resources were from under-developed countries and that the Commission had considered other aspects of the question in addition to that which the Committee had before it. For example, the Sixth Committee was currently studying a proposal to request the International Law Commission to speed up its work on codification in the field of State responsibility, so that the General Assembly could consider that question. He hoped that that clarification would help to dispel the Mauritanian representative's apprehensions. He agreed with the Afghan representative that the subject had been thoroughly studied and should be disposed of as soon as possible.

#### AGENDA ITEM 36

Question of holding an international conference on trade problems (A/5221, A/C.2/214, A/C.2/L.645, A/C.2/L.648/Rev.1 and Corr.1, E/3631 and Add.1-4) (continued)

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.2/L.645, A/C.2/L.648/REV.1 AND CORR.1) (continued)

20. Mr. STANOVNIK (Yugoslavia)<sup>1/</sup> said that the discussion of the twenty-eight-Power draft resolution (A/C.2/L.648 and Add.1-4) had been useful and had brought forth a number of suggestions which had either supplemented or explained more fully the basic intentions of the sponsors. The discussion had also disclosed a significant similarity in the approach of the twenty-eight sponsors, the sponsor of the other draft (A/C.2/L.645) and those who had submitted formal and verbal amendments.

21. The sponsors of the joint draft resolution had therefore considered it useful to attempt, by means of informal talks with all the interested parties, to introduce such changes in their original draft resolution as would remove certain misunderstandings that had arisen in the course of the discussion, without, however, altering the basic idea of the United Nations Conference on Trade and Development, namely, a conference designed to deal with the urgent trade problems of developing countries, among which they had included, so far as trade problems were con-

<sup>1/</sup> The complete text of the statement made by the representative of Yugoslavia was circulated as document A/C.2/L.671.

cerned, the countries highly dependent upon a narrow range of primary commodities. It was therefore a source of gratification for him to submit, on behalf of the sponsors, the revised text of their draft (A/C.2/L.648/Rev.1 and Corr.1) for consideration. That text only specified or developed the ideas already contained in the original draft resolution, which had met with wide support in the Committee.

22. The representatives of Italy and France would note that the sponsors had replaced their original text of the ninth preambular paragraph by the corresponding paragraph of Economic and Social Council resolution 917 (XXXIV) in an effort to meet their desires. The representative of the USSR would note that the sponsors had incorporated *in toto* the first preambular paragraph of his draft (A/C.2/L.645) in the fifth preambular paragraph of their revised text. That representative might also note that some of the suggestions he had made in the course of the informal talks were reflected in various places in the revised draft. The United Kingdom representative would find that the sponsors had accepted the majority of the oral suggestions he had made (825th meeting), and in particular with regard to the new wording of subparagraph (a) (iv) of paragraph 4, which had become paragraph 5.

23. With regard to the three major issues—the size of the Preparatory Committee, the timing of its work, and the date of the Conference—and the discussions on the organizational machinery of international trade co-operation, the sponsors considered that some explanations should be given in order to avoid possible misunderstandings in the further preparatory work for the Conference.

24. The sponsors had considered with great attention the suggestions made in the course of the discussions in the Committee and in the informal talks regarding the proposed enlargement of the Preparatory Committee. After a thorough and impartial examination of the problem, however, it had become evident that the desired geographical distribution, which would be proportional to the present membership of the United Nations and have due regard for the adequate representation of developing and major trading countries, could not be attained if the membership of the Preparatory Committee was less than thirty. The revised draft therefore maintained the original proposal for enlargement, and the sponsors appealed to all countries which had expressed reservations in that respect to reconsider their positions with the same goodwill that the sponsors had shown in considering all other questions.

25. As regards the date of the Conference, the sponsors had given greatest attention to the desires of some representatives that preparation for it should be as thorough as possible and that the Conference should not be scheduled before the preparations were complete. The sponsors had therefore visualized that the Preparatory Committee should hold at least two sessions—in January and in mid-April, so that it could continue its work for two months if need be—and, if the Economic and Social Council so required, an additional session in August, prior to the Conference. The desire that preparation, including the submission of specific proposals, should be complete had of course influenced the proposed date of the Conference. The sponsors were aware of the fact that, under Article 62, paragraph 4, of the United Nations Charter, it was within the functions and powers

of the Economic and Social Council to convene international conferences on economic and social matters. The revised draft resolution should therefore be understood to mean that the Council, while considering the report of the Preparatory Committee, should at the same time adopt a final decision on the exact date of the Conference, being guided, first, by the strong desire of the overwhelming majority of the members of the General Assembly that the Conference should be held at a time when other world events would not have an unfavourable effect upon its results and, secondly, by the degree to which preparation for it was advanced. It was for those reasons, and only for those reasons, that the sponsors, in their great effort of conciliation, had altered their original proposal that the Conference should be held in June 1963. They were now recommending that the Council should fix the date of the Conference in September 1963 at the latest, after thorough consideration had been given to preparatory measures.

26. The sponsors had also made changes in that part of the draft resolution dealing with the agenda of the Conference. In that regard, they had fully accepted the three-Power amendment (A/C.2/L.651). In that connexion, the major issue appeared to be the question of mentioning the consideration of organizational machinery for international trade co-operation. Although the sponsors considered that the wording of paragraph 4 (d) of their original proposal fully corresponded to the wishes that many delegations had expressed during the discussions, they had felt that further precision was necessary; they had therefore accepted the full text of the three-Power amendments, but they had replaced the word "changes" which occurred in the amendment with the word "initiatives" in order to take into account the Burmese sub-amendment (A/C.2/L.656). They hoped that that would meet the wishes both of the sponsors of the amendment and of the USSR delegation and the delegations which had supported the Soviet draft resolution. Accordingly, the Preparatory Committee would study the advisability of "organizational improvements and initiatives as may be needed" for the purpose of promoting economic development through international trade.

27. In view of the fact that that item had been the subject of prolonged and controversial discussion in the Committee, he wished to explain that the sponsors of the original draft resolution and the sponsors of the six-Power amendments (A/C.2/L.651/Rev.1) had reached agreement in substance on that matter. Accordingly, the absence of any explicit reference to a new international trade agency should be interpreted exclusively as a recognition of the fact that no provision should be made of a nature which might prejudice the issue before an extensive study of the whole matter had been undertaken. The sponsors of the revised draft had, however, noted with pleasure that the statement, made by the United States representative at the 828th meeting, to the effect that the United States delegation was not trying to prevent anyone from speaking out and was merely endeavouring to display a proper sense of proportion and that even if, as the Lebanese representative had said the possible creation of new bodies should be studied in depth, paragraph 4 (d) still enabled that to be done. The sponsors of the revised draft hoped that their interpretation of the last paragraph of their draft would satisfy the sponsor of the draft resolution in document A/C.2/L.645 as well.

28. In the course of their informal talks, the sponsors had done their utmost to meet, so far as possible, every point at which their original draft resolution differed from the draft resolution submitted by the Soviet Union on trade co-operation between countries with different social and economic systems. The Soviet Union representative would undoubtedly notice that paragraph 5 (a) had been amended to make explicit mention of the differences in the foreign trade systems of industrialized countries, a provision which should be interpreted to mean the differences between the capitalist system, on the one hand, and the socialist system embracing, for example, the member countries members of the Council for Mutual Economic Assistance (COMECON), on the other. That representative would also note that paragraph 5 (c) had been changed to include mention of the unfavourable effects of trade restrictions on "international trade in general". The sponsors also wished to convince the Soviet Union representative that paragraph 5 (a) (iii) should be understood as expressing the need for a diversification of the foreign trade of the developing countries not only in respect of the commodity structure of trade but also in respect of its geographical pattern, and more especially in the sense of equal treatment of trade with the capitalist and socialist countries.

29. On behalf of the sponsors of the revised draft resolution, he thanked all those who had taken part in the informal negotiations for their co-operation and hoped that the spirit which had prevailed in those negotiations would persist in the Preparatory Committee and in the Conference itself. The sponsors trusted that their revised draft resolution would receive the unanimous support of the Second Committee.

30. Mr. HAKIM (Lebanon) explained that he was speaking on behalf of the sponsors of the amendments in document A/C.2/L.651/Rev.1. Most of those amendments had already been incorporated in the revised draft resolution. The new text, introduced by the representative of Yugoslavia, fulfilled the purposes which the sponsors of the amendments had had in mind. They would have liked explicit mention in operative paragraph 5 of the advisability of establishing new United Nations machinery for dealing with international trade problems, but the phrase "effecting such other organizational improvements and initiatives as may be needed" could be widely interpreted so as to include that particular topic. Accordingly, the sponsors of the amendments withdrew their proposals and would become sponsors of the revised draft resolution. Finally, they requested that the Yugoslav representative's statement in explanation of the revised text should be incorporated in the Committee's report to the General Assembly.

31. U MAUNG MAUNG (Burma) associated himself whole-heartedly with the statement just made by the Lebanese representative. The new text of the draft resolution and the explanations given by the Yugoslav representative, as well as the statement made by the United States representative at the

Committee's 828th meeting, would enable both the Preparatory Committee and the Conference to discuss the question of establishing new United Nations machinery for dealing with international trade. Thus, the purpose of the original Burmese sub-amendments (A/C.2/L.656) had been achieved. The onus of making the Conference a success would rest with the Preparatory Committee. It should therefore be as representative as possible and on that point, his delegation supported the new text and the explanations made by the Yugoslav representative. Having been assured by the inclusion of the two points of which he had just spoken, his delegation felt that if could be flexible about the date for convening the Conference; consequently, it supported the revised text of the draft resolution.

32. Mr. ALMEIDA (Brazil) said that the revised draft resolution was not completely satisfactory but the sponsors had shown a willingness to compromise and to take into account all points of view. His delegation supported it and also the Lebanese proposal that the Yugoslav representative's statement should be incorporated in the Committee's report.

33. Mr. ARKADYEV (Union of Soviet Socialist Republics) pointed out that, although the sponsors had considerably improved the text of the draft resolution, they had included only some of the proposals originally put forward in the USSR draft resolution (A/C.2/L.645). His delegation was glad to note that the new text set a time-limit for the Conference, a move which would impose strict discipline on its organizers. But the omission of any explicit reference to the need for an international trade organization was a serious drawback. The terms of the final operative paragraph were vague and did not really cover the aims sought in the Burmese sub-amendments and the Soviet Union draft resolution. The Yugoslav representative had explained that both the Preparatory Committee and the Conference could discuss the establishment of new machinery. In that case, why not say so in the text? Furthermore, the ninth preambular paragraph, as drafted, suggested that obstacles, restrictions and discriminative practices affected only the exports of the developing countries, whereas in fact they affected trade in general. He would therefore suggest that the words "in particular" should be inserted after the word "which". He would also like the Yugoslav representative to explain whether, according to the revised text of operative paragraph 5, the Conference would consider the expansion of trade between the socialist countries and all the other countries of the world.

34. Mr. KLUTZNICK (United States of America) suggested that, in the final preambular paragraph, the words "continuing and purposeful" should be inserted before the word "adaptation".

35. Mr. UNWIN (United Kingdom) suggested that, in operative paragraph 5 (b), the word "equitable" should be inserted after and word "stable".

The meeting rose at 6 p.m.