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CONTENTS

Chairman: Mr. Vratislav PĚCHOTA (Czechoslovakia).

AGENDA ITEM 87

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations (continued) (A/6228, A/6230, A/6373 anc Add.1, A/C.6/L.607/Rev.1 and Add.1, A/C.6/L.608, A/C.6/L.609):
(a) Report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;
(b) Report of the Secretary-General on methods of fact-finding

1. Mr. GON (Central African Republic) said that as the differences in legal, economic and political positions crystallized, a universally acceptable definition of the principles laid down in the Charter became increasingly necessary. The results achieved by the 1966 Special Committee gave promise of success in that regard. He associated himself with the congratulations to that Committee's members, particularly to Mr. Riphagen, its Rapporteur, on the work of its 1966 session. His delegation was aware that the texts drawn up on sovereign equality (A/6230, chap. V) and on the peaceful settlement of disputes (ibid., chap. III) were compromises, but compromise was not bad if it resulted in more concise and dynamic texts, free from that excessive preciseness against which the French representative had warned at the 932nd meeting. Although it accepted the Special Committee's formulation of the principle of sovereign equality, his delegation bore in mind the amendments that had not been inserted in it; they were the background against which the accepted text should be viewed. His delegation continued to think that in the text on the peaceful settlement of disputes mention should have been made of that very important means of peaceful settlement, the International Court of Justice, regardless of any current grievances against it.

2. As work on the other principles was to be continued, his delegation supported the reactivation of the Special Committee. In interpreting so basic a document as the Charter, it was wise to take current circumstances into account. Consequently, the Special Committee should not merely expound classical international law, but should proceed to the progressive development of international law and reject no proposal unless it was contrary to the purposes and spirit of the Charter. For example, in defining the principle of refraining from the use of force (ibid., chap. II), which was of vital importance in contemporary international affairs and should put an end to earlier practices that small States had every reason to fear, the Special Committee should follow in the footsteps of the sponsors of the proposal set forth in paragraph 26 of document A/6230, who had included in their definition of "force" not only regular and irregular armed forces—and consequently subversive activities—but economic and political pressures, which should be forbidden because they had marked effects on international relations. Although that interpretation took account of the developments that had occurred since the drafting of the Charter, it was none the less in conformity with the provision of Article 2, paragraph 4, of the Charter, which prohibited the use of force not only by recourse to arms but "in any other manner inconsistent with the Purposes of the United Nations".

3. Any recourse to force in either of its two aspects, to be legitimate, must be organized in accordance with the Charter, i.e., by a competent organ, in order to meet a threat to peace anywhere in the world. The Chief of State of the Central African Republic had proposed in the Organization of African Unity the establishment of an inter-African intervention force, the duty of which would be immediately to arrest any hostilities between fraternal States. If such regional forces were to be established, it would be highly desirable for the decision to use them to be taken jointly by the Security Council and another competent organ. To allow some flexibility in the formulation of the principle some such wording as that proposed by Italy and the Netherlands (ibid., para. 29), providing for "the lawful use of force" in application of a decision taken by a competent organ, would be appropriate.

4. Where the principle of non-intervention was concerned (ibid., chap. IV), his delegation continued in the conviction that the Special Committee must take account of the important decision of the General Assembly contained in resolution 2131 (XX). It therefore endorsed unreservedly the Special Committee's resolution concerning that principle (ibid., para. 341).

5. The duty of States to co-operate (ibid., chap. VI) was a principle should be given the broadest application and therefore should be enunciated on the basis of universality.

6. Mr. CHIPAMPATA (Zambia) thought that before any genuine friendly relations and co-operation could exist, as required in Article 1, paragraphs 2 and 3, of the Charter, conditions must be created making that possible. The misdeeds of colonialism continued, and there were countries whose Governments and some of whose nationals were interested in keeping peoples of other countries under inhuman conditions that deprived them of any means of self-expression. In undertaking to formulate the principles of friendly relations and co-operation, the Sixth Committee and the Special Committee must not forget the situation of those peoples, who were expected to implement the principles but who were not in a position to do so. If peace was to be established on earth, peoples the world over must be given their right to freedom and independence.

7. The problems that stood in the way of peace and, consequently, of the establishment of friendly relations were part of Zambia's painful experience. Landlocked and bordered by territories under colonial rule, Zambia had often suffered violence at the hand of its neighbours; and recently one of its towns had been bombed. Those incidents had occurred because its neighbours were afraid that their own peoples would assert their independence. Zambia therefore whole-heartedly supported the proposal concerning the duty to refrain from the threat or use of force that had been submitted to the 1966 Special Committee (ibid., para. 26).

8. No one challenged the principle of co-operation; but it would be very difficult to apply so long as there were countries in the world with Governments that did not recognize the fundamental principles of human rights. Having been closely associated in the past, especially economically, with the rebel colony of Rhodesia, Zambia was now suffering from that fact. It had been placed in a position where it could not have friendly relations or co-operation with its traditional partner, and its difficulties were the result of the false promises and duplicity of the Government of the United Kingdom. Zambia had sacrificed its economy by suspending trade with Rhodesia in order to apply the so-called economic sanctions of the United Kingdom; but Rhodesia, which had another racist State to supply its needs, had been hardly affected.

9. His delegation appealed to all those who sincerely believed in the purposes and principles of the United Nations to support the suffering masses in the colonial countries in their struggle against their oppressors.

10. Mr. MWENDWA (Kenya) remarked that the conditions that had caused so much importance to be attached to the elementary rules of peaceful coexistence during the first twenty years of the United Nations had altered sufficiently to justify the hope that those optional rules could now be replaced by more positive rules of "good neighbour" relations that would represent a real advance. To take but one example, Kenya in the past had not always been pleased with the conditions on which it had been offered technical assistance and had sometimes rejected the assistance of certain States because of the strings attached. It felt that in the future such conditions should not exist.

11. He hoped that the Special Committee would continue, at a third session, its work of enunciating the principles under consideration. In his view, the door should be left open to a reconsideration of the two principles already agreed upon. The first of those principles—that of the sovereign equality of States—should be reworded to embrace the sovereignty of States over their natural resources; for such sovereignty was inextricably interwoven with territorial and political independence and should be inviolable. No State could have genuine political stability without it.

12. With regard to the principles not yet formulated, his delegation favoured a modification of the rule that the Special Committee had followed thus far of requiring unanimous agreement on proposals. The modification should make it easier for the Committee to take a vote. In the case of the principle of refraining from the threat or use of force, the word "force" should be interpreted as applying to the use of political, economic or any other pressure directed against the political independence and territorial integrity of any State, as well as to irregular armed forces operating against a State from bases within the territory of another State that tolerated their presence.

13. Mr. KOITA (Mali) paid a tribute to the efforts made within the Special Committee. Where those efforts had not led to the adoption of agreed formulations, they had at least made it possible to distinguish the various elements of the principles examined. The adaptation of the principles of the Charter to the requirements of the modern world was a difficult task; but it would undoubtedly strengthen the individual and collective security of States and promote co-operation, particularly by providing the new States with the protection they needed, thus responding to the appeals made, for example, at the summit Conferences of the Non-Aligned Countries held at Belgrade and Cairo, in 1961 and 1964, respectively.

14. With the resumption of the work of the Special Committee in mind, his delegation wished to stress the points that it felt were most important in the consideration of the principles not yet formulated. With regard to the renunciation of the threat or use of force, the concept of "force" should embrace not only the use of mercenary units, armed incursions and subversive activities and, generally speaking, all acts aimed at disturbing the peace in a State; it should also include economic, social, cultural and psychological pressure exercised with the aim of diverting a third State from the path it had chosen. Any privilege obtained by duress must therefore be eliminated by the means laid down in the Charter. Furthermore, the prohibition of the threat or use of force should be accompanied by general and complete disarmament.

15. With regard to non-intervention, the sovereignty of young States in particular must be protected against any interference designed to impose an ideology on

them and to modify or influence the political or economic systems freely chosen by them. There was obviously a link there with the principle of the self-determination of peoples. The fact that such interference currently existed must be viewed in relation to the inability of the Special Committee to agree on the scope to be given to the Declaration in General Assembly resolution 2131 (XX). In any event, any assistance designed to restore the dignity of man or to liberate peoples still under foreign yoke must be regarded as helping to eliminate centres of tension.

16. The freedom of States to dispose of their national resources and the right to remove foreign military bases from their territory were essential attributes of national sovereignty and should be recognized as such. Co-operation, which, of course, must be considered as a duty, was of particular importance to the young countries, inasmuch as they must receive assistance from the richer countries in order to emerge from under-development; it was regrettable that agreement had not yet been possible on a formulation of that principle. Concerning equal rights and self-determination of peoples (ibid., chap. VII), his delegation, whose attitude did not need to be restated, supported the thirteen-Power proposal submitted to the Special Committee (ibid., para. 458).

17. His delegation reserved the right to speak later on methods of fact-finding.

18. Mr. ROSSIDES (Cyprus) pointed out that despite all the efforts made by the Special Committee progress had been slow. Disagreement had remained almost complete on the principle of non-intervention, the principle of self-determination and the prohibition of the threat or use of force. On the principle of co-operation and on that of good faith there had been a certain narrowing of differences, but lack of time had prevented an agreement. A generally acceptable formulation had thus finally been agreed upon for only two of the principles: that of the peaceful settlement of disputes and that of sovereign equality of States.

19. However, in the last few years, the need for the codification and progressive development of the principles of the Charter had increasingly been felt. The problem of intervention in the domestic affairs of small States, for example, had come into sharp focus. Yet the attempt to formulate the principle of non-intervention had been deadlocked, the difficulties having been political rather than legal. For that reason, the question had been referred to the First Committee during the twentieth session of the General Assembly. A general agreement had been reached, and the text of resolution 2131 (XX), the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, had been adopted without a dissenting vote and almost unanimously. Although it marked a constructive step forward in the task of codifying the principles of the Charter, the Declaration had given rise to a sharp controversy in the Special Committee between those who regarded it as a valid legal document and those who considered that any text originating in the First Committee was of a purely political nature. In his delegation's view, the resolution was in reality a political decision to agree on the formulation of a legal principle and to embody it in a declaration. The fact that the Declaration had been adopted by 109 votes to none should make it an authoritative instrument in the codification of the relevant principle. Accordingly, the Special Committee, bearing in mind the scope and profundity of the contents of the Declaration, had felt that it reflected a universal legal conviction that qualified it to be regarded as an authentic and definite principle of international law and had decided, with regard to the principle of non-intervention, to abide by General Assembly resolution 2131 (XX).

20. The Declaration was timely. Experience showed that intervention almost always led to war. Both the First and the Second World Wars had grown out of intervention in the affairs of small States. The Declaration had the merit of categorically condemning all forms of intervention, carried out directly or indirectly, for any reasons whatsoever. It therefore prohibited, ipso facto, one of the most dangerous forms of intervention: that committed on the pretext of alleged treaty rights. Even before the signing of the United Nations Charter, it had been recognized in legal doctrine that a treaty purporting to confer a right of intervention in the internal affairs of a State was neither legitimate nor valid and could not be made to justify the intervention in question, for there could be no restriction by treaty of the substance of the internal independence of a State. The effect of such a treaty would be to reduce the status of the country concerned to that of a protectorate, a status incompatible with the sovereignty of an independent State. Since the establishment of the United Nations, such treaties were contrary not only to international law but to the fundamental principles of the Charter.

21. With regard to the principle of the prohibition of the threat or use of force, the partial agreement that had been achieved in 1964 appeared unfortunately to have been eroded. The principle was one of historic importance and marked the transition from the legality to the illegality not only of war itself but of any use of force. It would be violated by any act of aggression on whatever ground, even for allegedly protective purposes, against the territory of a State. Armed reprisals and any armed intervention by a State otherwise than for self-defence were illegal under the Charter. And even the right of self-defence was limited to a case of actual armed aggression and then again could only be exercised until the Security Council had taken measures to maintain peace. The principle was recognized as a peremptory norm of international law from which there could be no derogation by any treaty arrangement.

22. The principle of self-determination was one of the corner-stones of the Charter. Without it there could be no peace in the world. It was that principle which must govern the future of a territory constituting a distinct geographical entity. It denoted the inalienable right of the people of such a territory as a whole to determine its status and future. Self-determination, both internal and external, was also an indispensable attribute of sovereignty and independence. The formulation of the principle should be based on General Assembly resolution 1514 (XV), the Declaration on the Granting of Independence to Colo-

nial Countries and Peoples, with special consideration given to operative paragraph 4, which was intended to ensure the peaceful and free exercise of the right to complete independence, and to operative paragraph 6, which declared that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country was incompatible with the purposes and principles of the United Nations Charter. Obviously, most of the problems currently facing humanity were the results of outside intervention aimed at breaking up the national unity and territorial integrity of countries.

23. It was also strange that at a time when the countries of the world were becoming increasingly interdependent and the need for political, economic, social, cultural, scientific and technical co-operation was becoming ever more imperative the members of the Special Committee had not been able to reach agreement on the principle of co-operation among States. The underlying cause of the differences had again been essentially political, and it was doubtful whether results could be achieved so long as political attitudes remained opposed and unyielding.

24. In the work of codifying the principle of good faith (see A/6230, chap. V), which the Special Committee had not succeeded in formulating for lack of time, its three component parts would have to be fully developed. The first was that obligations under treaties must be faithfully performed: that was the rule pacta sunt servanda. The second was that there should be good faith in the making no less than in the performance of treaties. The third was that obligations under treaties should not conflict with obligations under the Charter.

25. The rule pacta sunt servanda was thus qualified by the second and third requirements. In the first place, good faith required that treaties should be freely entered into, and, for that, sovereign equality between the parties must be a necessary element. Hence, treaty obligations undertaken by a people while still under colonial domination and, consequently, not in a position to exercise its will freely would be vitiated ab initio because, even if the treaty had ostensibly been agreed upon, the treaty in reality, would have been imposed by one party on the other. Furthermore, Article 103 of the Charter unequivocally established the supremacy of obligations under that instrument. Any treaty in conflict with the Charter would be null and void if concluded after the Charter had come into force and would be abrogated by the Charter if it had been concluded before. Consequently, a treaty that had been entered into after the Charter had come into force and that provided for intervention by one State in the domestic affairs of another would be void ab initio because it would conflict with the following obligations under the Charter: the principle of non-intervention; the prohibition of the threat or use of force; the principle of sovereign equality; and the principle of equal rights and self-determination. That interpretation of the rule pacta sunt servanda was clear from article 23 of the draft articles on the law of treaties (see A/6309), inasmuch as the parties could be bound only by treaties that were in force and, therefore, not contrary to the principles of the Charter. That concept should be taken into account in the codification of the principle of good faith.

26. The principles on which there had been an agreed formulation, namely, the principle of the peaceful settlement of disputes and the principle of the sovereign equality of States, should not be shelved until all the other principles had been formulated—to avoid the danger that the consensus reached on them might eventually be lost—but should immediately be embodied in a declaration by the General Assembly, which might, if necessary, be incorporated in a single declaration covering the seven principles. If the principle of the peaceful settlement of disputes were reconsidered by the Special Committee, it should be stressed that for a settlement to be valid not only must there be consent of the parties but the consent itself must be in conformity with the principles of the Charter and of international law. There were cases where one party was in a position to compel the other to agree to a settlement contrary to the principles of the Charter. That was the case with some colonial territories on which onerous terms had been imposed as a precondition for the granting of independence; whereas the right to freedom and independence was an inalienable and unconditional right. A settlement of that kind could only perpetuate a dangerous imbalance.

27. With regard to the Special Committee's procedure, his delegation thought, of course, that unanimity should be consistently sought. When it was unattainable, however, the Special Committee should find a method of preventing a few delegations, or even only one, from obstructing the overwhelming majority of the others in their efforts to proceed with the work of codification.

28. In conclusion, he expressed the hope that at its resumed session the Special Committee would meet with fewer difficulties, would have more time and would enjoy more active co-operation so that it could complete its work of codification. He reserved his delegation's right to speak on the draft resolution in document A/C.6/L.607/Rev.1.

29. Mr. YASSEEN (Iraq) considered it necessary, before speaking on the substance of the item, to define once again the nature of the task undertaken. It was not a matter of reproducing the provisions of the Charter in a new document or of simply interpreting the principles of the Charter. The Committee's task was, in response to an increasingly pressing need, to adapt the most essential principles of the international legal order to contemporary international realities. The change in the face of the world since the beginning of the century had been marked by a radical transformation in the composition of the international community and in the very status of the human person. With the advent of the League of Nations, and later of the United Nations, the era of traditional international law—sometimes called European public law—had been superseded by a new era, one characterized by universality. Although the principle of sovereign equality had been recognized by traditional law, it had applied only to the sovereign equality of certain European States, a restriction that went hand in hand with the enslavement of the rest of the world. Classical international law had been developed by certain Powers and imposed by them wherever possible, sometimes for humanitarian purposes, but more often to serve their own interests to

the detriment of the subjugated peoples. It was only very gradually and reluctantly that those Powers had allowed such States as the Ottoman Empire, and later Japan and China, to enjoy the advantages of public law. The jurist James Lorimer still believed it possible to describe the realm of public international law by defining three distinct spheres: civilized humanity, barbarians and savages. Mankind, accordingly, had the right to three different degrees of recognition by the civilized nations: full political recognition, partial political recognition and natural or purely humanitarian recognition, which, respectively, would have the effect of bringing the States under the full sway of positive international law, the full application of rational law or a limited and variable application of positive law.

30. The United Nations Charter had changed that situation from top to bottom. It had proclaimed another kind of sovereign equality that could be enjoyed not only by a limited circle of States but by all the peoples of the world. The effect of that change had been to increase the number of subjects of international law and to remove from international relations the status of dependence, which was incompatible with the dignity of peoples and their right to freedom. It was to that new world reality that the international legal order must be adapted. It was precisely for that purpose that the General Assembly had undertaken, with respect to the basic principles of the international community, a task that involved not only the clarification of certain disputed points of law but the creation of such new rules as were considered necessary. That was implicit in the references in the General Assembly resolutions to both codification and progressive development. There was no reason, indeed, why new rules should not be created to extend the course of development outlined in the Charter. Such a process could not even be considered as an amendment of the Charter subject to the conditions laid down in Article 108 because, far from contradicting the Charter, it would merely develop ideas the germs of which had been in the Charter from the very beginning. Those were the limits that the General Assembly had set for the consideration of the principles of international law concerning friendly relations and co-operation among States.

31. The Sixth Committee and the Special Committee, of course, could not go beyond those limits; but they should not impose imaginary ones upon themselves or hesitate to play a creative role by sparking the process of development. It was on the basis of that understanding of the task to be accomplished that the Sixth Committee should consider how the Special Committee had tackled its work and should determine how that work should be continued. If, with a task so difficult, the Special Committee might seem to have produced results incommensurate with the efforts it had made, it had nevertheless accomplished much work that would be extremely useful at a later stage of compromise by clearly distinguishing the controversial points. It was only natural that in the Special Committee, States should hold different views on a great many problems, for their circumstances and interests were different. Only by developing the spirit of peaceful coexistence would it be possible to progress from attitudes inspired by nationalism to attitudes of co-operation and mutual assistance. The task was not an easy one, but the sacrifice of direct interests was justified by the benefit that all States would derive from a better organized world.

32. In that sphere the Special Committee should resist the temptation of taking the line of least resistance and reproducing what already existed and recording ready-made agreement on uncontroversial points. On the contrary, it should deal with matters on which views differed. A consensus on a principle arrived at too hastily and announced too quickly might prove to be devoid of all real substance. How, for example, could it be said that consensus had been achieved on the principle of sovereign equality of States before the question of a State's sovereignty over its natural resources had been settled? The consensus method undoubtedly had its uses at times, but the Special Committee should bear in mind that its main duty was to prepare the ground by clarifying the situation. It therefore would be useful from time to time, when every possibility to achieve unanimity had been exhausted, to have recourse to a vote, preferably by roll-call, not in order to decide on the adoption of a text but in order to indicate clearly to the General Assembly how much genuine support there was for each of the views put forward.

33. His delegation associated itself with those delegations that had supported the idea of reconvening the Special Committee and giving it sufficient time to complete its work.

34. With regard to the substance of the principles, in his delegation's opinion and in accordance with the decisions of several international conferences, including the Cairo Conference of Non-Aligned Countries, the force prohibited in Article 2 of the Charter included economic and political pressure.

35. In connexion with the principle of the prohibition of the threat or use of force, he drew attention to the proposal for excepting those who were struggling against colonialism for their liberation. Some had actually said that the prohibition laid down in Article 2 affected only the use of force in international relations and that domestic rebellion was permissible under international law, although outside assistance was prohibited. To say so was to forget that the struggle against colonialism was, in fact, an international struggle; for the colonizing Powers were foreign Powers which had carried out an illegal de facto occupation. No one could deny the legitimacy of that struggle or the fact that its aim was to achieve the objectives of the United Nations. Aid in that struggle, therefore should be permissible.

36. He reserved his delegation's right to speak later on the draft resolutions.

37. Mr. MOLINA (Venezuela) said that his delegation had stated its position clearly at earlier sessions of the Sixth Committee and during the discussions of the 1964 and the 1966 Special Committees. The object was to codify certain principles of the Charter that were clearly established in theory but differently interpreted in actual application. Neither a mere reaffirmation of those principles nor a distortion of them on the pretext of adapting them to the times

would do; the mean between those two extremes would have to be found. The difficulties were obvious, inasmuch as some considered that any development of ideas should take place within the framework of lex lata and others thought that such development should be accompanied by reform involving the introduction of elements de lege ferenda.

38. His delegation had taken an active part in the discussions that had led to the adoption of resolution 1966 (XVIII), by which the General Assembly had established the 1964 Special Committee, and it had participated in the work of that Committee and of the 1966 Committee, at the twenty-third meeting of which it had announced its intention to support all efforts to reconcile the opposing points of view.

39. The 1966 Special Committee had not brought its work to a successful conclusion largely because of lack of time. However, it had reached agreement on important elements of the principles of sovereign equality of States and of the peaceful settlement of international disputes, and it had succeeded in identifying areas of agreement on the principle of the duty of States to co-operate with one another and the principle of good faith. It would have been better, of course, if a more complete formula had been found for the first two principles; but no short-cuts should be taken. For example, failure to agree on the right of States to dispose freely of their natural resources, the removal of foreign military bases, the prohibition of all actions having harmful effects on other States and the compulsory jurisdication of the International Court of Justice was no reason for discouragement. It would be virtually impossible to work out, with the agreement of all States, a formula covering so many elements, for inevitably it would be too complex.

40. The majority of delegations felt that if the Sixth Committee drew up a solemn declaration it would not have fully discharged its duty; it would merely have taken a step towards codification. It should be remembered that any progress, however, small, brought the Committee nearer its goal. Had not the International Law Commission, which had the advantage of being composed of members who were appointed in their personal capacity and who were highly qualified jurists, spent long years codifying the law of the sea and the law of treaties?

41. The Sixth Committee should, in fact, be chiefly concerned with two principles: prohibition of the threat or use of force and non-intervention. The former, as pointed out in the 1966 Special Committee's report, was the corner-stone of peaceful relations among States; and the serious political events currently taking place in certain States appeared to confirm that view. The text drawn up at Mexico City had not proved very successful. Some delegations, including his own, had thought it would do as a working document; but no progress towards agreement had been made in 1966 because of profound differences on the interpretation of the word "force" as used in Article 2 of the Charter. War propaganda, wars of aggression, acts of reprisal and frontier problems had also given rise to much controversy. On the second principle the Special Committee had not been able to achieve even limited agreement. However, it had approved by an overwhelming majority the draft resolution submitted by Chile and the United Arab Republic (see A/6230, para. 284), which provided that in formulating the principle of non-intervention the Special Committee should abide by the declaration in General Assembly resolution 2131 (XX).

42. In the light of experience and of the existing situation, his delegation shared the general feeling that the Special Committee should be reconvened and that efforts should be redoubled to find solutions to all those problems. In its opinion, however, the Special Committee should work only on the five principles for which no text had yet been adopted. As unanimous agreement on those principles was not yet within reach, they should be adopted by as large a majority as possible. His delegation was convinced that codification could proceed only by general agreement; but the expression of the views of a steadily growing majority was bound to encourage the development of a common opinion.

43. Mr. ALCIVAR (Ecuador) pointed out that the Sixth Committee had initiated the debate on the item under consideration in the tense atmosphere of the international crisis of October 1962 and that the delegations of small countries, particularly those of Latin America, had expressed doubts about the usefulness of a mere reaffirmation of the principles of the Charter in a draft declaration drawn up by the delegation of Czechoslovakia.[1] Thus the idea of the codification and progressive development of those principles, in application of Article 13 of the Charter, had been born. Unfortunately, in both 1964 and 1966 the unanimity rule had prevented the Special Committee from fulfilling its task with complete success. The limited agreement reached on two of the seven principles in 1966 dealt only partially with the dangerous obstacles hindering the development of the international community.

44. With regard to the principle of sovereign equality of States, he regretted that in the 1966 Special Committee the Kenyan amendment on the right of States freely to dispose of their national wealth and natural resources (ibid., para. 363) had been rejected, inasmuch as various General Assembly resolutions, as well as a draft resolution recently adopted by the Second Committee,[2] showed the amendment to be a proper one. Despite the fact that control over national wealth and natural resources was an integral part of State sovereignty, the economically weak countries, harassed by their immediate needs, were frequently forced to surrender control of their resources. The tendency to require that acts of jure gestione should become acts of jure imperio was growing more marked from day to day and, in practice, restricted the exercise of sovereignty, however intact it might remain in law.

45. With regard to the formulation of the principle of non-intervention, the Special Committee had decided that General Assembly resolution 2131 (XX) should be adhered to. It was curious, therefore, that attempts were now being made to minimize the legal effect of the Declaration contained in the resolution, which had

[1] See Official Records of the General Assembly, Seventeenth Session, Annexes, agenda item 75, document A/C.6/L.505.

[2] Subsequently adopted as General Assembly resolution 2158 (XXI).

been adopted with only one abstention and no opposing votes. What chiefly concerned his delegation was the rejection of the various elements that complemented the principle of non-intervention and the attempt to give legal status to so-called areas of influence. As the former Minister for Foreign Affairs of Ecuador had stated at the current session of the General Assembly (1416th plenary meeting), programmes of co-operation could not achieve their purpose if they concealed pressures that tended to limit the sovereignty of the recipient countries.

46. With reference to methods of fact-finding and the Netherlands proposal concerning the establishment of a permanent investigating organ that could assist the principle organs of the United Nations (see A/6373), he stressed the importance of General Assembly resolutions 1967 (XVIII) and 2104 (XX).

47. Everyone recognized that changes had taken place in the world since 1945. Law, in general, was not static, and still less so international law, which, since the time of the San Francisco Conference, had been widening its field of application in accordance with current trends. The Charter of the United Nations was not a historical monument but a living instrument. To modify those principles by incorporating in them elements of progressive development was to adapt empirical reality to the ideal requirements of Kant. The unanimity rule adopted by the Special Committee was holding up progress on the item, and the persistent refusal to recognize complementary factors for the application of the principles was not the best way to keep peace among peoples. Whether one liked it or not, a new legal order was being established in the world through the United Nations, and the march of time could not be halted.

48. He was in favour of another session of the Special Committee, hoping that it would change its methods or work. Its functions were limited, however, and it would be for the full membership of the United Nations to take decisions on the matter at the next session of the General Assembly. That did not mean that he did not appreciate the Special Committee's work; but action on the matter could not be postponed indefinitely.

49. Mrs. TSATSOS (Greece) thanked the members of the Special Committee for their efforts in a very difficult undertaking. She pointed out that the concepts under discussion should be defined not with a view to limiting them but in order to develop them by giving them their full meaning. Using as an example the most ambiguous of the principles—non-intervention—she stressed that armed intervention, in reality, was the culmination of a series of such acts as propaganda, traffic in arms, corruption, defamation and political and economic pressure. It would therefore be wise, in order to frustrate armed intervention, to prevent the initiation of that preliminary process. The small States, which often served as a pretext for great conflicts, were particularly vulnerable; and when the great Powers attacked them in that way, it could well be described as intervention.

The meeting rose at 6.10 p.m.

Litho in U.N. 77601—May 1967—2,050