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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 and Add.1, A/C.6/L.607/Rev.1 and Add.1, A/C.6/L.608-610):

- (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. The CHAIRMAN invited members of the Committee to comment on the draft resolution in document A/C.6/L.607/Rev.1 and Add.1 and the amendments to it (A/C.6/L.608), and on the draft resolution on methods of fact-finding (A/C.6/L.610).

2. Mr. ENGO (Cameroon) said that the sponsors of the revised draft resolution in document A/C.6/L.607/Rev.1 had decided to incorporate in their text some of the amendments submitted in document A/C.6/L.608 by deleting from the sixth preambular paragraph the words "as much", "as possible", and "at the twenty-second session of the General Assembly".<sup>1/</sup> They had also decided to insert after operative paragraph 6 a new operative paragraph 7, worded as follows:

"Further requests the Special Committee, having considered, as a matter of priority, the principles referred to in operative paragraphs 5 and 6 above, to consider any additional proposals with a view to widening the areas of agreement expressed in the

<sup>1/</sup> A second revised draft was subsequently circulated as A/C.6/L.607/Rev.2.

formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;".

Subsequent paragraphs would be renumbered accordingly.

3. For the time being the sponsors did not contemplate accepting any other amendments, but that did not mean that agreement in that connexion was impossible, for the consultations were still going on.

4. The CHAIRMAN asked the sponsors of the amendments in document A/C.6/L.608 how far the amendments mentioned by the Cameroonian representative met their wishes.

5. Mr. RAKOTOMALALA (Madagascar) said that his delegation, wishing as it did to encourage the Special Committee to continue its work in 1967, and knowing what difficulties the Committee had encountered at its previous sessions, had joined the sponsors of the draft resolution in document A/C.6/L.607/Rev.1 because it felt that efforts should be made to harmonize the divergent views on the formulation of the five principles on which the Special Committee had been unable to reach agreement. In the same spirit of good will it supported the important amendments that the Cameroonian representative had accepted on behalf of the sponsors.

6. The General Assembly resolutions that sought to ensure the progressive development and codification of those fundamental principles of international law had a juridical content, inasmuch as they were based on an objective interpretation of the Charter and all other sources of international law. It was regrettable, therefore, from the legal and even from the psychological point of view, that certain States should be seeking to limit the Special Committee's task, although its importance was acknowledged by all. His Government therefore hoped that the General Assembly would allow the Special Committee to continue its work, thus making a genuine and positive contribution to international peace.

7. For the same reasons his delegation fully supported the draft resolution in document A/C.6/L.610, which aimed at the establishment of a rational procedure for settling disputes by peaceful means. The draft resolution itself laid the foundations for a solution, thus lightening the heavy burden of the Special Committee, which both at Mexico City and at New York had been unable to reach agreement on the question, a very important one which was connected with the principle of the peaceful settlement of international

disputes. In inviting Member States to submit their views and suggestions on that subject to the Secretary-General, the draft resolution took both theoretical and practical considerations into account. In order to associate itself with the efforts being made to exorcize the hideous spectre of war, his Government would support the two draft resolutions now before the Committee.

8. Mr. MATSUNAGA (Japan) said that his delegation, which was a sponsor of the draft resolution on methods of fact-finding (A/C.6/L.610), endorsed the views expressed by the Netherlands representative at the 939th meeting.

9. His Government attached great importance to that question, which required careful consideration. In a statement made during the twentieth session of the General Assembly,<sup>2/</sup> the Japanese Minister for Foreign Affairs had proposed that in order to establish a United Nations presence in various parts of the world for peace-keeping purposes, representatives of the Secretary-General posted permanently in the various geographical regions, or roving institutions, might be entrusted with inquiries and other activities relating to the peaceful settlement of disputes. He had also drawn the attention of Member States to the Panel for Inquiry and Conciliation established by General Assembly resolution 268 D (III) and had suggested that it would be useful to make a thorough study of the reasons why that institution had not been very active and to consider whether it might be improved. His delegation considered that that question should be taken up as soon as possible in order to ascertain what could be done in that connexion, and it hoped that the draft resolution on the subject would be adopted.

10. Mr. SINCLAIR (United Kingdom) thanked the Cameroonian representative and the other sponsors of the draft resolution contained in document A/C.6/L.607/Rev.1 for agreeing to incorporate in their text changes that would enable the sponsors of the amendments to withdraw those relating to the first and sixth preambular paragraphs and operative paragraph 5 (A/C.6/L.608, paras. 1, 2 and 4). The new operative paragraph 7 seemed to correspond to the views expressed by many delegations during the debate. The Special Committee should be authorized to study any additional proposals relating to the accepted texts of the first two principles, but such study, of course, would not take precedence over the consideration of the five principles on which agreement had not yet been reached. The most difficult question, which was the subject of the amendments to operative paragraphs 3 and 6, was still unresolved, but he hoped that further consultations would result in agreement on those amendments also.

11. His delegation had not spoken on the question of methods of fact-finding during the general debate, for it had already explained its views on that subject to the Sixth Committee at the twentieth session of the General Assembly (881st meeting). It supported the draft resolution in document A/C.6/L.610, which proposed a practical course of action for the future handling of this topic.

<sup>2/</sup> See Official Records of the General Assembly, Twentieth Session, Plenary Meetings, 1339th meeting, para. 58.

12. Mr. ROWE (Jamaica) said that his delegation, which was one of the sponsors of the draft resolution in document A/C.6/L.610, still thought that existing bodies for fact-finding in connexion with international disputes could play a more effective role without impairing the authority of the General Assembly and the Security Council or infringing the principle of State sovereignty. General Assembly resolution 268 D (III), which established a Panel for Inquiry and Conciliation, had remained a dead letter. The draft resolution under consideration would give the General Assembly a fresh opportunity to consider the question without any prejudice to future action.

13. His delegation noted with satisfaction that the United Nations Institute for Training and Research, had decided to undertake a study on fact-finding and conciliation procedures (see A/6492, para. 35) and hoped that that study would be given a certain degree of priority in that body's programme of work.

14. As a sponsor of the amendments in document A/C.6/L.608, his delegation associated itself with the thanks addressed to the sponsors of the draft resolution set forth in document A/C.6/L.607/Rev.1. When the question of the inadmissibility of intervention in the domestic affairs of States had been considered by the First Committee at the twentieth session of the General Assembly, his delegation had said that a declaration, rather than a resolution, should be drawn up and submitted to the General Assembly at its twenty-first session.<sup>3/</sup> His delegation had voted for General Assembly resolution 2131 (XX), although it had indicated that it would have preferred the General Assembly to give thorough consideration to a draft universal declaration on non-intervention, even if that took several months more. It was therefore unwilling to give up any important element of that resolution, but it urged the Sixth Committee not to tie its own hands in any way by anticipating the results of a study that must be carried out very carefully.

15. Mr. OGUNDERE (Nigeria), referring to methods of fact-finding, said his delegation remained convinced that a special group or special machinery established for each case would have definite advantages over a permanent body; the questions that would be subject to fact-finding were of many different kinds and sometimes necessitated the services of experts. In an international community in which alliances were constantly changing, the principal advantage of an *ad hoc* body was that it would benefit not only from the climate prevailing at the given time but from all the elements available, whatever their source.

16. His delegation, therefore, did not share the opinion expressed in the last preambular paragraph of the draft resolution contained in document A/C.6/L.610. Nor could it agree to the operative part of the text, which was based on the idea of establishing a permanent fact-finding body. However, it would not submit an amendment to operative subparagraph 1 (b) of the draft, for it feared that the only effect of such an amendment would be to mutilate the draft resolution and deprive it of all meaning.

<sup>3/</sup> Ibid., First Committee, 1406th meeting.

17. His delegation associated itself with the statement made by the Cameroonian representative concerning the draft resolution in document A/C.6/L.607/Rev.1; as negotiations were still in progress, he would not dwell on that subject but would revert to it in due course.

18. Mr. ROSENNE (Israel) said that his delegation could support the draft resolution in document A/C.6/L.607/Rev.1 as amended by its sponsors. It was a procedural draft, designed to enable the work undertaken to be continued until a complete draft declaration was drawn up and the Special Committee submitted its final report. Inasmuch as he was confident that the sponsors of that draft and the sponsors of the remaining amendments in document A/C.6/L.608 could reach agreement, he suggested that the Committee should defer the conclusion of its consideration of the item until the next meeting.

19. Israel was also prepared to support the draft resolution set forth in document A/C.6/L.610 concerning methods of fact-finding, on the understanding that its vote would in no way prejudice the position it might take at the twenty-second session of the General Assembly on both the substance of the issue and the procedure to be followed. As his delegation had previously indicated, it should be clearly understood that the application of any new methods of fact-finding would in no way affect the functioning of bodies set up under bilateral or multilateral agreements still in force.

20. He thought that the seventh preambular paragraph was redundant and could be deleted, because in accordance with the rules of procedure General Assembly decisions were generally taken on the basis of a report of the competent Committee. The recommendation expressed in that paragraph could be reflected in the report of the Sixth Committee.

21. Mr. CHAMMAS (Lebanon) said that whatever opinion delegations might have of the decision taken by the Special Committee to abide by resolution 2131 (XX), it could not be denied that the Chairman of that Committee and the Chairman of the Working Group established by it had given all members the opportunity to express their views on the substance of the question, in order to facilitate the effort to reach agreement. In point of fact, the principle of non-intervention itself had been studied on that occasion; thus, no one could assert that there had been insufficient time to take a considered decision.

22. He fully supported the draft resolution in document A/C.6/L.607/Rev.1 and thought that it should receive wide support. Inasmuch as the Special Committee had in fact decided to abide by resolution 2131 (XX) concerning the principle of non-intervention, it would not be going too far to recommend, as had been done in operative paragraph 3, that the General Assembly should take note of that decision. Even those who had expressed reservations should be able to support that provision, because to take note was not to approve. In that connexion, he said that inasmuch as the wording "Takes note" was used in operative paragraph 1, he thought that where it appeared in operative paragraph 3 the word "further" should perhaps be added.

23. With regard to operative paragraph 6, under which the Special Committee would continue its work with a view to the formulation of the principle of non-intervention, he thought that it should be possible, without betraying the intention of the sponsors of the text, to amend it in such a way as to make the draft, as a whole, more widely acceptable. In the hope of a compromise, he proposed that the words "to consider any additional proposals on the principle" should be replaced by the words "to continue to consider the principle" and that the phrase "which could widen the area of agreement" should be replaced by the words **"with a view to widening the area of agreement"**. That formulation, of course, would not prevent the Special Committee from examining any additional proposals that might be submitted to it.

24. His delegation shared the Canadian representative's views on methods of fact-finding. The establishment of a new body might be very useful; but very careful study should be given to the results it was likely to produce. The draft resolution in document A/C.6/L.610 did not appear to give rise to very strong differences of opinion. His only reservation was with regard to the seventh preambular paragraph, which envisaged the establishment of a working group by a Main Committee of the General Assembly. It would be better to delete that paragraph in order not to commit the competent Committee in advance to a particular course of action.

25. Mr. NACHABE (Syria) approved the addition to the draft resolution contained in document A/C.6/L.607/Rev.1 indicated by the representative of Cameroon, which should make it possible to broaden the basis of the agreement reached at the 1966 session on the principle of the peaceful settlement of disputes and the principle of the sovereign equality of States. His delegation was prepared to support the draft resolution with that amendment.

26. Mr. VANDERPUEYE (Ghana) proposed that the word "significance" in the sixth preambular paragraph of the draft resolution in document A/C.6/L.607/Rev.1 should be replaced by the word "desirability", inasmuch as "significance" was too categorical a term to be compatible with the recourse to another procedure envisaged in the text that followed. However significant the continuing effort to achieve a general agreement on the elaboration of the principles might be, such agreement would not always be possible, and, as the Cameroonian representative had said, in some cases a vote would have to be taken. Also, in the same paragraph, the word "but" should be inserted before the words "without prejudice", in order to stress the need for leaving open the possibility of applying the General Assembly's rules of procedure; and the word "and" before the words "with a view" in the English text should be deleted.

27. His delegation could not support the remaining amendments in document A/C.6/L.608, because they would perpetuate the consensus procedure that had often been an obstacle to the progress of the Special Committee's work.

28. His delegation was ready to agree, in accordance with the proposal in the draft resolution enunciated in document A/C.6/L.610, that the question of methods of fact-finding should be studied, but it was doubtful

about the advantages of a permanent fact-finding body. Many special bodies had already come into existence, and they should be used to the fullest extent. Moreover, the decision to establish a new body should not be contemplated without taking into account its financial implications. Finally, it should not be forgotten that fact-finding was an element of judicial procedure and, consequently, should not be separated from the latter.

29. Mr. ENGO (Cameroon) said that the sponsors of the draft resolution in document A/C.6/L.607/Rev.1 welcomed Lebanon's support of their text but hoped that the Lebanese delegation would not press for the amendments it had suggested unless a large number of delegations favoured them.

30. Mr. LOPEZ VILLAMIL (Honduras) associated himself, on behalf of the Latin American delegations, with the observations made by the representative of Lebanon. Resolution 2131 (XX), on the inadmissibility of intervention, could not be regarded as a text drawn up without due consideration or as being more of a political than a juridical nature. It represented the culmination of efforts made throughout the world over a long period of time to affirm a principle which, before being enshrined in the Charter of the United Nations, had found a place in many international instruments that had foreshadowed the Charter, from the **Covenant of the League of Nations** to the Act of Chapultepec. More recently, the Bogotá Charter, the Warsaw Treaty of friendship, mutual assistance and co-operation, the Vienna Conventions, the Declarations of the Conferences of Bandung and Belgrade and the Charter of the Organization of African Unity, among other documents, had confirmed the juridical importance of the principle of non-intervention and bore witness to its universal acceptance.

31. Mr. VANDERPUYE (Ghana) said that following consultations with the sponsors of the draft resolution in document A/C.6/L.607/Rev.1, his delegation had decided to withdraw its proposal concerning the word "significance".

32. Mr. CHAMMAS (Lebanon) said that he, too, was prepared, for the sake of unanimity alone, to withdraw the amendments he had proposed. His delegation would like to join the sponsors of the draft resolution **contained in document A/C.6/L.607/Rev.1.**

33. Mr. MATSUNAGA (Japan) said that in order to avoid repetition it might perhaps be desirable to **combine** into a single paragraph the provisions of operative paragraphs 7 and 8 of the draft resolution set forth in document A/C.6/L.607/Rev.1.

34. Mr. WERSHOF (Canada) said that his delegation would vote in favour of the draft resolution contained in document A/C.6/L.610 on methods of fact-finding; but that should not be taken to imply that it was committing itself on the merits of the issue. His Government, at the moment, was neither for nor against the establishment of a new international body for fact-finding; but it felt that even those who were opposed to the creation of such a body should not on that account feel obliged to vote against the draft resolution, which was designed only to encourage study of the question by giving States the opportunity to express their views on it.

35. With regard to the draft resolution in document A/C.6/L.607/Rev.1 and the amendments to it (A/C.6/L.608, paras. 3 and 5), he thought that the reconciliation of views that had already made possible the consultations currently in progress augured well for the prospects of reaching a generally acceptable compromise. The only remaining problem related to the principle of non-intervention and the instructions that the General Assembly was to give the Special Committee in that connexion, in particular the place that General Assembly resolution 2131 (XX) should occupy in the work of the Special Committee. At the twentieth session his delegation had voted in favour of resolution 2131 (XX); it respected its aims and would be the last to deny its importance and the fact that it undoubtedly represented the will of the General Assembly. That, however, did not mean that all the provisions of that resolution had at once acquired the force of customary international law. The text of the declaration it contained, which had been drafted in the course of consultations that had never embraced all groups in the United Nations, had been adopted somewhat hastily, only some forty-eight hours after the final version had been circulated, in an end-of-session atmosphere saturated with politics. As compared with the methods of work of the Sixth Committee, the Special Committee or the International Law Commission, such a procedure obviously did not provide the best opportunity for the valid formulation of a principle of international law. For that reason the Canadian delegation had made it clear before voting in favour of resolution 2131 (XX) that it did not consider it an acceptable legal statement of the principle of non-intervention and thought that the formulation of such a statement should be assigned to the Sixth Committee and the Special Committee. And for that reason it had thought during the work of the Special Committee in 1966 that the majority by deciding to adhere to resolution 2131 (XX), had been very wrong to prevent the Special Committee **from even discussing the best way of transforming that resolution into a valid formulation of a principle of international law.** His delegation, therefore, could not give its approval to operative paragraphs 3 and 6 of the draft resolution in document A/C.6/L.607/Rev.1, under which the General Assembly would, in effect, merely rubber-stamp that decision of the Special Committee.

36. His delegation's opposition was based primarily on grounds of principle. To declare that a resolution which was the outcome of the work of a political organ could be included as it stood in the formulation of a principle of international law was to establish a very dangerous precedent. The General Assembly had adopted a number of important resolutions that expressed a meaningful political will; but there were very few that could be regarded as statements of lex lata or proposals de lege ferenda.

37. More specifically, it was difficult to see how room for the full text of resolution 2131 (XX), with its lengthy and detailed preamble, could be found in the text of a statement that would doubtless consist of a brief preamble and formulations of the seven basic principles in question. Although operative paragraphs 1-5 of the Declaration contained in resolution 2131 (XX) dealt directly with the principle of non-

intervention and might in fact be used almost unchanged by the Special Committee, operative paragraph 6 had nothing to do with non-intervention and would be more appropriate in a formulation of the principle of the equal rights and self-determination of peoples. Paragraphs 7 and 8, likewise, were extraneous to the question. It thus seemed preferable that the Special Committee should be left a free hand to discuss the actual substance of resolution 2131 (XX), instead of being bound by its terms in advance. The sponsors of the amendments contained in document A/C.6/L.608 had therefore proposed the deletion in operative paragraph 3 of the draft resolution in document A/C.6/L.607/Rev.1 of any mention of the decision taken by the Special Committee in 1966 concerning the principle of non-intervention, and the modification of paragraph 6 so as to request the Special Committee to complete the formulation of that principle "on the basis of General Assembly resolution 2131 (XX)". There was no danger that that would detract from the importance of resolution 2131 (XX); the Special Committee would be extracting its legal content and recasting it as a valid text of international law. If that was fully realized, his delegation hoped that the consultations in progress among the sponsors of the two rival formulae would produce a common text.

38. Mr. GONZALEZ GALVEZ (Mexico) proposed that the meeting should be suspended for a half-hour so that the consultations among the delegations concerned could come to fruition.

*It was so decided.*

*The meeting was suspended at 5.30 p.m. and resumed at 5.55 p.m.*

39. Mr. ENGO (Cameroon) announced that the consultations, although still inconclusive, had taken a very promising turn. He proposed a further suspension of the meeting for about a quarter of an hour.

40. Mr. BELAUNDE (Peru) suggested that it might perhaps be better to adjourn the discussion until the following Monday.

41. The CHAIRMAN invited the Committee to vote on the Cameroonian motion for suspension, which had priority under article 120 of the rules of procedure.

*The Cameroonian motion was adopted by 68 votes to none, with 1 abstention.*

*The meeting was suspended at 6.5 p.m. and resumed at 6.40 p.m.*

42. Mr. ENGO (Cameroon) said that the progress of the consultations justified the hope that a common ground might be found. He proposed that the rest of the debate, and at all events the vote on the draft resolution, should be deferred until the following Monday.

*It was so decided.*

#### Organization of the Committee's work

43. The CHAIRMAN drew attention to the fact that the Committee was two days behind in the work programme that it had set itself. He invited members of the Committee to prepare to take part in the debate on the two items remaining to be considered.

44. The first was the question of technical assistance to promote the teaching, study, dissemination and wider appreciation of international law, which he hoped could be taken up at the next meeting. It should be noted that UNESCO would not be able to communicate its decision on one of the main projects relating to that question before the close of its General Conference, which was to end on 30 November. That should not prevent the Sixth Committee from beginning the general debate on the question; it could conclude the general debate by 1 or 2 December and resume the item briefly at a later date in order to consider and adopt a draft resolution. The Committee would then take up the question of the progressive development of the law of international trade and, lastly, the report of the working group on the right of asylum.

*The meeting rose at 6.45 p.m.*