

Active participants in the discussions were: E. Lippmaa (Tallinn), V. Gorodnyuk (Minsk), H. Vainu (Tallinn), J. Bojars (Riga), J. Prikulis (Riga), E. Udam (Tallinn), L. Hannikainen (Helsinki), L. Pavlova (Minsk), and V. Vare (Tallinn).

Suggestions for the resolution were made by D. A. Loeber (Kiel), V. Smolin (Tallinn), E. Duraczynski (Warsaw), J. Bojars (Riga), V. Vadapalas (Vilnius), K. Pihlakas (Tallinn), N. Drak (Lvov), and V. Gorodnyuk (Minsk).

Here we have an optional selection of presentations.

Läbirääkimistel võtsid sõna E. Lippmaa (Tallinn), V. Gorodnjuk (Minsk), H. Vainu (Tallinn), J. Bojars (Riia), J. Prikulis (Riia), E. Udam (Tallinn), L. Hannikainen (Helsingi), L. Pavlova (Minsk) ja V. Vare (Tallinn).

Ettepanekuid resolutsiooni projekti kohta tegid D. A. Loeber (Kiel), V. Smolin (Tallinn), E. Duraczynski (Varssavi), J. Bojars (Riia), V. Vadapalas (Vilnius), K. Pihlakas (Tallinn), N. Drak (Lvov) ja V. Gorodnjuk (Minsk).

Sõnavõttud on avaldatud valikuliselt.

В прениях приняли участие Э. Липпмаа (Таллинн), В. Городнюк (Минск), Х. Вайну (Таллинн), Ю. Боярс (Рига), Ю. Прикулис (Рига), Э. Удам (Таллинн), Л. Ханникайнен (Хельсинки), Л. Павлова (Минск) и В. Варе (Таллинн).

С предложениями по проекту резолюции выступили Д. А. Лозбер (Киль), В. Смолин (Таллинн), Э. Дурачиньский (Варшава), Ю. Боярс (Рига), В. Вадапалас (Вильнюс), К. Пихлакас (Таллинн), Н. Драк (Львов) и В. Городнюк (Минск).

Выступления публикуются выборочно.

authority of the constituent republics in internal policy as well as in their foreign economic relations. We are being told that the union republics have delegated this and that, and that theoretically they should delegate authorities to deal with their external affairs, and so on and so forth. Not a single treaty, not a single document says anything about the delegation of the sovereignty of the union republics, or the delegation of their right to self-determination. You will not find anything like that anywhere. And I think that now the Baltic Republics will never agree to such an approach. Thank you.

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I would like to speak about the legal aspect of the Pact from August 23, and about what it means for us today from the standpoint of international law. Excuse me, I shall have to speak a little in English now as I cannot agree with the previous speaker.

Now I must take exception with the points of view put forward by Dr. Oerter. We have heard quite a lot about the Monroe Doctrine here. I think this is out of date because Monroe after all fought the English for the independence of the United States and was quite understandably somewhat angry with the colonies on the American continent. I would rather speak about the Montevideo Convention from the year 1933, although it was signed in Rio de Janeiro, as far as I remember, and it formed later the basis for the United Nations' Charter, the Atlantic Charter and many other documents, which are lawful. The convention was written in 1933, mind, and was certainly valid in 1939. And it reads: "The contracting states definitely establish as the rule of their conduct the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force." That was in 1933. So I can't agree with you at all. Secondly, about the effects such aggressive attitudes had. Of course these were immense. This Pact and the Protocols from 23rd of August made it possible to issue ultimatums to Finland, to the Baltic States, to Rumania, and, in case of Finland, it led to war and to exclusion of the Soviet Union from the League of Nations. It was no small thing. How can you deny it? How can you say that it was immaterial? That it was somehow not in the context of international law? If the League of Nations threw out the Soviet Union, the same way as Japan was excluded for Manchuria? I can't agree with you.

Now I shall continue in Russian.

I would like to say that the Russian-German spheres of influence were actually more than just spheres of influence. The spheres of influence are also described in the Secret Protocol between England and Poland. By the way, they included in addition Belgium, the Netherlands, Lithuania, and numerous other countries. It did not mean that Poland intended to occupy Belgium or the Netherlands. Their approach was quite different... At the same time the agreement made between Germany and the Soviet Union said quite exactly that the spheres of influence meant actually the borders of the division of Europe. It seems to me that I shall have to read one telegram once more. It is a telegram from the 25th of September:

“Stalin bezeichnete diesen Vorschlag als Material für die bevorstehenden Verhandlungen mit Herrn Reichsaußenminister und hinzufügte daß Sowjetunion in Falle unseres Einverständnisses sofort an der Lösung des Problems der Baltischen Staaten gemäß Protokols von 23. August herantreten würde und dabei einwandfreie Unterstützung durch die deutsche Regierung erwarte. Stalin sprach ausdrücklich von Estland, Lettland und Litauen...”

What does it mean? It means the following. Let us have a look at this map. This is the division of Poland and the division of Europe. Isn't it a concrete plan for conquering territories? Moreover, here is Stalin's signature in blue pencil, as a rule, he signed death sentences in blue. So, it was no joke.

Some more words about mutual assistance. What did it mean? How important was it? Here is a telegram from the 18th of June 1940, “For the negotiations concerning the formation of the new governments the Soviet Government had, in addition to the Soviet envoys accredited there, sent the following special emissaries — to Lithuania Dekanosov, to Latvia Vishinski, to Estonia Zhdanov. In connection with the escape of Smetona and the possible crossing of the frontier by Lithuanian Army units, Molotov stated that the Lithuanian border was evidently inadequately guarded. The Soviet Government would therefore assist the Lithuanian Government in guarding the borders.” This is somewhat more than just a sphere of influence. This is a lot more. And a telegram from the 23rd of June: “Molotov made the following statement to me today. The solution of the Bessarabian question brooked no further delay. The Soviet Government was still striving for a peaceful solution, but it was determined to use force should the Rumanian Government decline a peaceful agreement. The Soviet claim likewise extended to Bukovina.” Well, it's quite clear, I think.

So, these were after all military affairs. And in addition a telegram from Ribbentrop from the 16th of June 1940: “I have already given orders through the Gestapo to intern the Lithuanian President with family. This will be done by the Gestapo.” Wonderful! Mutual assistance.

Consequently, it was not so that there existed but certain hypothetical spheres of influence, it was a division of Europe. It is important to bear this in mind. It is likewise important to bear in mind that the Stalinist régime unfortunately approved of such annexations. For example, the Stalinist régime recognized the annexation of Manchukuo by Japan in 1935, also, the Stalinist régime established the Slovak embassy in Moscow in 1939. This was a consequence of the annihilation of Czechoslovakia. There could not be any Czech embassy since Czechia was at that time already part of Germany. So it really was division. Even more. As is well known, threatened by the use of force, President Hácha of Czechoslovakia agreed to the annexation of Czechoslovakia. He had no authority for this, and his case was discussed at the Nuremberg trial of war criminals. He appeared there as a criminal because he had given his consent in the matter where he had no authority. He was not convicted, but still his file is among the documents of the Nuremberg trial because he had agreed to the occupation of Czechoslovakia when threatened by the use of force.

Now historians are writing about it. For example, here is what the Soviet Government thinks about it, “The Soviet Government is not aware of any state constitution that entitles the head of state to abolish its independent existence as a state without the consent of his people. It is difficult to admit that any people would voluntarily agree to the distraction of their independence and to their inclusion in another state.” This was the statement of the Soviet Government, and in connection with it the annexation of Austria was really declared null and void, and it was

of course right to do so. The formulation was this, "The Governments of the United Kingdom, the Soviet Union and the United States of America are agreed that Austria, the first free country to fall victim to Hitler's aggression, shall be liberated from German domination. They regard the annexation imposed upon Austria by Germany on March 15th, 38, as null and void." This irrespective of the fact that a plebiscite had been arranged there where 99.7 per cent had voted for joining Germany: moreover, they had done so on their own free will?

Well, as you can see, there are such precedents. Therefore, I would like to stress once more that numerous independent countries really fell victims of the division of Europe and annexation. There is no doubt that the respective Secret Protocols must be declared null and void from the moment of signing. And the reason is that all this was not a division of spheres of influence, but a plan for annexation.

Thank you.

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Mister President, Dear Participants.

Dr. Oerter from Heidelberg raised the question whether, in fact, the prohibition of aggression was a norm of *ius cogens*, a norm of imperative international law already in the '30s. And I understand his hesitancy, because international experts have different opinions. However, I have written a recent book on *ius cogens*, on the development of *ius cogens* and on the existence of norms of *ius cogens* in international law. And in my study I come to the conclusion that the prohibition of the use of aggressive war or the threat thereof became a norm *ius cogens* in the course of the 1930s. That was confirmed by the International Community in the aftermath of World War II, especially in the Charter of the Nuremberg Tribunal. It is characteristic of a war of aggression or the threat thereof that behind the use of threat or the use of armed force the intention is dictatorial and aggressive. On the other hand, the use of force short of aggressive war did not receive the status of *ius cogens* in the 1930s. So it is, in my opinion, important for the Baltic Republics to stress that they were invaded and annexed through a war of aggression or the threat thereof. That makes your claim stronger.

Then Dr. Oerter questioned: Even if there was a *ius cogens* norm, is it certain that the result of it is that the Secret Protocol was absolutely void? And that is a pertinent question to be studied. My opinion is that because the Nuremberg Tribunal stated that war of aggression is a supreme international crime, so treaties and titles violating the prohibition of war of aggression cannot be anything but absolutely void. I am sorry that I did not discuss in my book the status of the Secret Protocol. I regret that and hope that in the future in the form of an article I can return to this matter. The right of self-determination was not a norm *ius cogens* in the 1930s. But that does not mean that the right to self-determination would have been without importance in international law at that time. Only very few norms of international law are norms of *ius cogens* but that does not mean that other rules would not be important.