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at 3 p.m.  
New York

**SUMMARY RECORD OF THE 27th MEETING**

Chairman: Mr. GOERNER (German Democratic Republic)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 124: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)  
(A/39/56-S/16231, A/39/59-S/16241, A/39/60-S/16242 and Corr.1, A/39/71-S/16262, A/39/95-S/16304, A/39/110, A/39/126-S/16394, A/39/134-S/16418, A/39/158-S/16445, A/39/163-S/16460, A/39/187-S/16489, A/39/203-S/16496, A/39/226-S/16522, A/39/318-S/16637, A/39/360, A/39/396-S/16697, A/39/413-S/16707, A/39/448-S/16723, A/39/473-S/16734, A/39/495-S/16742, A/39/550-S/16767, A/39/552-S/16769, A/39/561-S/16774, A/39/593; A/C.6/39/L.2)

AGENDA ITEM 133: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)  
(A/39/33, A/39/79 and Corr.1, A/39/180 and Corr.1, A/39/441; A/C.6/39/L.2)

1. Mr. AENA (Iraq) observed that although the Special Committee's work had produced only limited results, the positive character of its deliberations and the dialogue initiated within that framework should not be overlooked. His delegation wished to contribute to the comprehensive evaluation of the negotiations which had taken place in the Special Committee, in accordance with the new mandate entrusted to the latter in General Assembly resolution 38/141.
2. The question of the maintenance of international peace and security touched upon equilibriums and political interests, whereas the clauses and provisions of the Charter had been formulated in general terms and reflected the special context of the Second World War and the various conferences that had preceded the San Francisco Conference, with the result that they sanctioned an accomplished fact rather than providing a means of reaching democratic solutions. Consequently, legal activity, especially that of the Special Committee, was shaped less by juridical objectivity than by political considerations relating to the attitudes of the various countries - and especially the biggest countries - vis-à-vis the activities of the Organization and its organs in the sphere of international peace and security and reflected the common lack of political will to apply the provisions of the Charter. Furthermore, the admission of many young States to the Organization following decolonization and the changes that had taken place in the world economic and social situation made it necessary to enhance the capacity of the United Nations, notably in view of its failure to impose effective sanctions against States which violated the provisions of the Charter and to strengthen the system of collective security and the principle of equality in international relations. It was for that reason that his delegation opposed the view that the special responsibility of certain States with regard to international peace and security precluded any amendment of the Charter and any strengthening of the role of the Security Council or the system of informal consultations within the Council, which had nevertheless proved its utility and effectiveness. His delegation considered that all States, without exception, had a general responsibility to preserve international peace and security within the framework of democratic relations among States. The special responsibility of certain States embodied in the Charter presupposed that the common interests of the international community would be taken into account.

(Mr. Aena, Iraq)

3. Although spectacular progress could hardly be expected, given the political context in the world at large and in the United Nations, his delegation remained prepared to co-operate in any positive and constructive effort aimed at advancing the Special Committee's work. However, it feared that if, as requested by some delegations, the Special Committee adopted new methods, in the hope of making greater progress with regard to the maintenance of international peace and security, special interests would once again prevail over legal objectivity. With regard to the basic thrust of the Special Committee's work, his delegation wished to reaffirm its opposition to the view mentioned in paragraph 18 of the Special Committee's report (A/39/33), to the effect that the Special Committee should not present results on only one aspect of the question of the maintenance of international peace and security but should on the contrary undertake an overall examination of the entire question. Such an overall examination was bound to entail inextricable complications and altercations, whereas the historical experience of the League of Nations and the United Nations showed that a pragmatic approach, involving an in-depth study of specific aspects of the question, constituted the best way of making progress with regard to the maintenance of international peace and security. Thus, the League of Nations had studied successively the questions of economic pressure, sanctions against States which resorted to war, prohibition of war and the revision of certain articles of its Covenant. The United Nations, in the context of numerous informal consultations, had considered the questions of the distribution of the seats of non-permanent members of the Security Council, the strengthening of the Council's role, the convening of extraordinary sessions of the General Assembly, and the mounting of peace-keeping operations.

4. In the Working Group, his delegation had participated in the negotiations concerning the working paper entitled "Prevention and removal of threats to the peace and of situations which may lead to international friction or give rise to a dispute" (A/39/33, para. 20). That title was based on the Special Committee's mandate, but certain expressions included in it, such as "prevention and removal" or "international friction" were imprecise from the legal standpoint, and the title as a whole drew an unjustified distinction between two types of situation - those which constituted a threat to peace and those which did not - whereas the generally accepted view was that any international tension could generate a conflict that might threaten international peace and security. Furthermore, the Charter provided for mechanisms and means that made it possible to cope with conflict situations, just as it affirmed the primary responsibility of the Security Council in that area. The title of the working paper submitted to the Special Committee presupposed the existence of other mechanisms and means, and his delegation therefore considered that a more appropriate title would be "Improvement of methods of preventing and removing situations that may entail recourse to force in international relations". With regard to the rest of the paper, his delegation approved of the comments set forth in paragraphs 26-31, 34, 40, 41, 47-51, 58, 64-66, 69, 82, 86, 90, 96, 99, 100, 104, 109 and 110 of the report of the Special Committee, it being understood that the latter had undertaken only a first reading of the working paper, which was therefore subject to revision and did not prejudice the right of any delegation to submit other documents if it considered that necessary.

(Mr. Aena, Iraq)

5. With regard to the question of the peaceful settlement of disputes between States, and more precisely the proposals concerning the establishment of a permanent commission on good offices, mediation and conciliation for the settlement of disputes and the prevention of conflicts among States (A/39/33, para. 120) and the elaboration of a handbook on the peaceful settlement of disputes between States (A/39/33, para. 133), his delegation felt that the first proposal would tend to strengthen the principle of the peaceful settlement of disputes but would raise problems with regard to the purposes and principles of the Charter. The nature of the preventive role of the commission and the conditions in which it could be called upon to play that role would have to be defined precisely. Furthermore, the quasi-automatic role of the commission would have to be reconciled with the desire of States not to have a mandatory procedure imposed by a third party without their prior consent. The proposal would therefore have to be analysed and studied in greater depth in order to determine whether the proposed body would indeed effectively enhance the capacity to settle disputes, whether it was in conformity with the provisions of the Charter and whether it respected the functions of other bodies. There was some opposition to the establishment of a new body, with the additional expenditure which that might entail. The proposal could, however, be improved by envisaging the establishment, by the Security Council or the General Assembly, of a subsidiary body and not a permanent commission, and by guaranteeing the voluntary nature of recourse to that body, in accordance with the provisions of Article 33 of the Charter. His delegation would make more detailed comments on working paper A/C.6/39/L.2 in the course of the Special Committee's work. With regard to the second proposal, his delegation approved of the conclusions reached by the Working Group concerning the preliminary outline on the possible content of a handbook on the peaceful settlement of disputes between States. It nevertheless considered that the results in that domain would depend on the attitude adopted vis-à-vis the handbook and its content and the actual way in which it was prepared. In that regard, his delegation approved of paragraphs 136, 138, 140 and 143-145 of the Special Committee's report.

6. Lastly, with regard to the question of the rationalization of the existing procedures of the United Nations, his delegation welcomed the constructive spirit which had prevailed in the Working Group during the consideration of that question, and had enabled the Special Committee to complete its work on that subject and to submit its conclusions to the current session of the General Assembly. His delegation approved of those conclusions and hoped that the Assembly would adopt them by consensus. It considered, however, that the rationalization of the Organization's procedures was a continuing process and that the Special Committee - whose mandate should be renewed - should be able to resume its consideration of the subject should that prove necessary.

7. Mr. KOSTOV (Bulgaria) said that, as a result of its new mandate, the Special Committee had been able to make some headway in its work. With regard to the strengthening of the role of the Organization, his delegation remained firmly convinced that the Charter was a flexible and balanced instrument which had enabled the United Nations to play an outstanding role in promoting peace, security and



(Mr. Kostov, Bulgaria)

co-operation among States. Therefore, it believed that any attempt to deviate from the basic provisions of the Charter would affect the interests of a great number of Member States.

8. The report of the Special Committee (A/39/33) demonstrated that the new mandate was subject to various interpretations, some of which could in practice lead to the circumvention of the basic provisions of the Charter. For its part, his delegation considered that the Special Committee's mandate permitted a broader interpretation of the question of the maintenance of international peace and security, but only within the context of strengthening and enhancing the effectiveness of the Charter and the role of the Organization. The Special Committee's mandate should not be interpreted as embracing conflict prevention alone. Indeed, the maintenance of international peace and security included other important aspects such as the strengthening of the role and effectiveness of the principal organs of the United Nations, particularly the Security Council, and the role that States must play in international relations, the prevention of nuclear war and the improvement of the political climate in the world.

9. Turning to the question of the peaceful settlement of disputes, he said that his delegation welcomed the principles and outline that had been approved for the preparation of a handbook on the peaceful settlement of disputes between States. It agreed that the handbook should be a source of information and should help the parties to an international dispute in selecting the appropriate settlement procedures. The handbook should be based on the provisions of the Charter and should reflect the relationship between the principle of peaceful settlement of disputes and other fundamental concepts of contemporary international law, such as the non-use of force in international relations, the sovereign equality of States, non-interference in the internal affairs of States and the use of negotiations, which were a basic means of peaceful settlement of disputes. In that connection, he said that the existing arrangements for the settlement of disputes under Chapter VI of the Charter had considerable potential which had not been sufficiently exploited; they should not therefore be amended or further elaborated.

10. The Special Committee's work on the rationalization of existing procedures of the United Nations had been extremely satisfactory. His delegation agreed with those delegations which felt that the Special Committee could revert to that topic at the appropriate moment since there were further possibilities for rationalization, some of which might receive general support.

11. The momentum provided by General Assembly resolution 38/141 and reinforced by the Special Committee's 1984 session should enable the Special Committee to make further progress in accomplishing its task.

12. During the general debate at the current session, the great majority of Member States had defended the Organization and the strengthening of its role and effectiveness in international relations, thus belying the gloomy vision that some Member States had of the United Nations. For its part, Bulgaria had always felt

(Mr. Kostov, Bulgaria)

that the United Nations was an important instrument for consolidating international peace and security and promoting international co-operation, and it had always supported any proposal aimed at strengthening that particular role of the Organization.

13. Mr. KRIŽ (Czechoslovakia) said that two different approaches had emerged from the consideration of the question of the maintenance of international peace and security. The first, which was reflected in the working paper reproduced in paragraph 20 of the report of the Special Committee (A/39/33), was limited both in principle and in conception, and a number of questions might be raised about the content of that paper. First, lack of information could not be regarded in any instance as the cause of conflict. In fact, the collection and dissemination of information could exacerbate the situation, and it was not at all certain that such activities, which often involved extremely delicate questions of the security of States, were in line with the Charter, particularly if pursued by the Secretary-General on his own initiative. Indeed, they did not fall within the framework of the functions entrusted to the Secretary-General under Articles 98 and 99 of the Charter. The possibility of holding periodic meetings of the Security Council to review the international situation was already provided for in Article 28, paragraph 2, of the Charter. However, it should not be forgotten that the States concerned often preferred direct negotiations. In such cases, it was clear that their choice must be respected. The proposal that the Security Council might hold informal meetings with a view to ascertaining the facts involved a subject that fell within the exclusive competence of the Council. That proposal should also be examined in the light of the principle of free choice by the parties of the means of settling a dispute and the principle of non-interference, with which it might conflict. The working paper was no more than the expression of the position of one group of delegations on one aspect of the question of the maintenance of international peace and security.

14. His delegation believed that it was necessary to consider all aspects of the question, which included the functions of the principal organs of the United Nations, the conduct of States in accordance with the principles of non-use of force, non-interference in the internal affairs of other States and self-determination, as well as the role to be played by States in the efforts aimed at disarmament, the prevention of nuclear war and the establishment of peaceful co-operation among States. That was the only way in which the Special Committee would achieve positive results. It was essential that all measures aimed at strengthening the effectiveness of the United Nations in conflict prevention should consistently comply with the spirit as well as the letter of the Charter, particularly with regard to the particular powers of United Nations organs. His delegation opposed any proposals aimed at amending the Charter, directly or indirectly.

15. On the question of the peaceful settlement of disputes between States, his delegation did not favour the proposal for the establishment of a commission for good offices, mediation and conciliation. Its position on that question as stated

(Mr. Kríž, Czechoslovakia)

at the thirty-eighth session of the General Assembly remained unchanged despite the amendments made by the sponsors in document A/C.6/39/L.2. In brief, the proposed commission would, in certain respects, have greater powers than the Security Council, and its establishment would affect the powers of the United Nations organs as they had been set forth in the Charter. In addition, the proposal was incompatible with the principle of free choice of means for the peaceful settlement of disputes embodied in the Charter and reaffirmed in the Manila Declaration. His delegation believed that the establishment of new mechanisms would only reduce the efficiency of existing ones. It fully supported the preparation of a handbook which would summarize existing international practice in the peaceful settlement of disputes and would contain guidelines for Member States. In that connection, it felt that the handbook should focus primarily on disputes constituting a threat to peace within the meaning of Article 33 of the Charter.

16. With respect to the rationalization of existing procedures, his delegation considered that the work of the Special Committee had been fairly successful, although not all the possibilities for rationalization had yet been exhausted. It would continue to support the constructive work of the Special Committee and all proposals that conformed to the Charter.

17. Mr. MATHANJUKI (Kenya) welcomed the fact that the Special Committee had been able to focus on the question of the maintenance of international peace and security. However, the mandate of the Committee, as provided in General Assembly resolution 38/141, paragraph 3 (a), should not be restrictively interpreted to limit it only to proposals relating to the prevention and removal of threats to the peace and of situations which might give rise to a dispute. The Special Committee had a very wide mandate that hinged on the improvement of the functioning of the Security Council and the General Assembly. Various proposals on that aspect remained to be discussed. His delegation therefore considered that the work of the Special Committee was only in its initial stage and that the Committee should return to the consideration of those proposals. In particular, it should examine the reasons why the United Nations had been unable to maintain international peace and security, and should consider what measures could be taken within the system for the effective implementation of the provisions of the Charter, in co-operation with Member States.

18. His delegation was in favour of the establishment of a commission on good offices, mediation and conciliation. However, it believed that before States were provided with an extra option for the settlement of disputes, the question should be carefully considered. In particular, it might be useful to clarify as early as possible how the mechanism would work, taking into account that both parties to a dispute must agree to have recourse to the commission. The mandate of the commission should also be carefully worked out to ensure that it would not be seized of matters that would heighten misunderstanding rather than settle disputes between States.

19. On the question of the rationalization of existing procedures, his delegation commended the Special Committee for having submitted recommendations. It

(Mr. Mathanjuki, Kenya)

considered that that part of the Committee's mandate had therefore been accomplished and that it should concentrate in future on the two remaining topics.

20. Mr. KNIPPING-VICTORIA (Dominican Republic) said that he was deeply concerned at the continuing disputes and tensions that were endangering international peace and security. In order to promote and to institute a true climate of peace, States must respect the norms and principles of international law and the provisions of the Charter, and the United Nations must fulfil its obligations with respect to the peaceful settlement of disputes and the maintenance of international peace and security through quiet but effective diplomacy.

21. Regarding the Special Committee's report, his delegation welcomed the progress the Committee had made in accomplishing its mandate. The proposal to establish a commission on good offices, mediation and conciliation was timely and useful. He noted with satisfaction that the sponsors had specified that their proposal was in no way intended to amend the Charter nor to encroach upon the competence of the various United Nations organs.

22. His delegation considered that the elaboration of a handbook on the peaceful settlement of disputes was an initiative that would allow the principle of peaceful settlement of disputes to be promoted effectively and thus would strengthen international peace.

23. Mr. SANGSOMSACK (Lao People's Democratic Republic) said that the consideration of the report of the Special Committee (A/39/33) had revealed that States continued to be seriously concerned about the question of the maintenance of international peace and security. That concern was all the more justified as the world was currently living through a critical period marked by distrust, confrontation and a senseless arms race. It was understandable that an attempt should be made to seek ways and means of reducing tension and of encouraging States to coexist in peace. His delegation did not think that the search should be limited to ways of strengthening the role of the principal organs of the United Nations or of assigning them new duties; the Charter itself already offered a vast range of ways and mechanisms to prevent conflicts. What was needed was a global approach to the problem of the maintenance of peace in all its aspects. States should reaffirm in good faith their commitment to the spirit and the letter of the Charter and have the political will to use existing options. The determining factor was the behaviour of the States themselves. Threats to the peace would be totally eliminated if States refrained from behaving in a manner that could lead to friction or give rise to a dispute and if they conformed to the fundamental principles governing international relations, such as the non-use of force, non-interference in the internal affairs of States and good-neighbourliness.

24. His delegation would make detailed comments on the working paper reproduced in paragraph 20 of the report of the Special Committee during the subsequent consideration of that paper. However, his initial reaction was that it did not go to the heart of the problem; in other words, it failed to deal with the real causes

(Mr. Sangsomsack, Lao People's  
Democratic Republic)

of situations that might provoke conflict, and merely suggested remedies for situations.

25. Concerning the establishment of a commission on good offices, mediation and conciliation for the settlement of disputes and the prevention of conflicts among States, his delegation had already expressed its doubts as to the effectiveness of such a mechanism. It had emphasized that the proposed commission would encounter two major obstacles: on the one hand, the problem of a balanced division of competence between the principal organs of the United Nations, and, on the other hand, the principle of the sovereignty of States. In spite of the sponsors' efforts to clarify their initial proposal, the revised document (A/C.6/39/L.2) was not convincing either. Moreover, it contained certain elements that were likely to lead to confusion, both with regard to the functions of the commission and with regard to the procedures that it would be called upon to follow. Indeed, if its functions were similar to those of the Security Council, it was hard to envisage the role that it might play in the prevention of conflicts. Besides, he wondered how it would be possible to establish a subsidiary organ of the General Assembly and assign to it functions that the General Assembly itself did not possess in the field of the peaceful settlement of disputes, such as investigative or fact-finding functions. At the procedural level, the automatic submission of disputes to the commission, as suggested in paragraph 129 of the report, would amount to encouraging interference in the internal affairs of sovereign States and to limiting the principle of free choice of the means of settlement. He feared that the commission would further complicate the settlement of disputes which might arise between States. If an increasing tendency to use force, rather than peaceful means of settling disputes, was apparent, it was not because Governments were not aware of existing mechanisms for settling disputes, but because the political will was lacking.

26. As far as the handbook on the peaceful settlement of disputes between States was concerned, his delegation saw a need for it and considered that in addition to the principle of peaceful settlement of disputes itself, all the other related principles should be reaffirmed, such as the non-use of force, non-interference in internal affairs and good-neighbourliness. His delegation also agreed with the Special Committee's conclusion that the General Assembly should request the Secretary-General to prepare a draft handbook on the basis of the agreed outline, in the light of the views that had been expressed and in consultation with competent individuals from among the members of the permanent missions.

27. At its 1984 session the Special Committee had successfully finished its work on the question of the rationalization of procedures, and had thus been able to adopt preliminary conclusions. Since that item was of a permanent nature, it might be the subject of further consideration in the Special Committee at a future date.

28. Mr. BAKER (Israel) said that the progress achieved by the Special Committee at its latest session, on the important topics it had been requested to consider was encouraging. With regard to the maintenance of international peace and security,



(Mr. Baker, Israel)

his delegation had read with interest the working paper entitled "Prevention and removal of threats to the peace and of situations which may lead to international friction or give rise to a dispute" (A/AC.182/L.38). If the primary aim of the process of pacific dispute settlement was negotiation between the parties involved, it followed that the goal of any institutionalized, formal or informal processes of dispute prevention should be to effect direct discussion or dialogue between the parties involved. The later stages of the process, including informal discussions in the Security Council, must not prejudice the capability and will of the parties to settle their differences directly. Although information gathering and quiet diplomacy played an important role in conflict prevention, the United Nations must nevertheless realize its purpose of serving as a "centre for harmonizing the actions of nations" as defined in Article 1, paragraph 4, of the Charter. To that end, the publicity-seeking diplomacy currently so evident in the United Nations must give way to the diplomacy of reconciliation and negotiation which was necessary for the prevention and removal of threats to the peace and of situations which might lead to conflicts.

29. His delegation welcomed the progress made by the Special Committee on the preparation of a handbook on the peaceful settlement of disputes, but recalled that, at the practical level, each dispute developed in unique circumstances requiring special settlement techniques. It also wished to refer to its previous suggestion that in the preparation of the handbook two United Nations publications entitled respectively "Systematic survey of treaties for pacific settlement of international disputes, 1928-1948" (Sales No. 49 V.3) and "A survey of treaty provisions for the pacific settlement of international disputes, 1949-1962" (No. 66 V.5), should be consulted.

30. With regard to the working paper submitted by Nigeria, the Philippines and Romania on the establishment of a commission for good offices, mediation and conciliation (A/C.6/39/L.2), his delegation, like many others, had doubts as to the need to institutionalize procedures currently at the free disposal of States, especially in view of the related questions regarding the relationship between such new procedures and the competence of the principal organs of the United Nations, as embodied in the Charter. According to the Charter, only the Security Council was competent to deal with disputes which threatened international peace. Experience had shown, however, that while the value of the Security Council as a standing body was incontestable, each situation was unique and required a different approach. The composition and terms of reference of any auxiliary body which might be required in one or other phase of the dispute settlement process were part of the complex of problems with which participating Governments and the Security Council were faced. Since the language of the Charter allowed for a rather flexible interpretation of the ways in which the Security Council could act, there was room for diplomatic inventiveness. His delegation wished to emphasize its preference for the settlement of disputes by means of a mutually-agreed process and through direct negotiations.

31. The Special Committee's decision set forth in paragraph 151 of its report (A/39/33) showed that some progress had been made on the question of the rationalization of United Nations procedures. His delegation considered

(Mr. Baker, Israel)

particularly useful those provisions dealing with the selection and definition of different negotiation procedures in the Main Committees according to the subject matter involved. It felt, however, that some basic elements of the Organization's functioning needed to be comprehensively examined. At the thirty-third session of the General Assembly, his delegation had registered its distress at the fact that the Charter and the rules of procedure of the United Nations organs were neither interpreted nor applied in good faith. Although the Charter was the result of human effort and therefore imperfect, and was adaptable to new circumstances, it became an object of mockery when it was constantly flouted through sheer weight of numbers. A judge of the International Court of Justice, in a separate opinion concerning a 1980 decision of the Court on the question of the interpretation of the Agreement between the World Health Organization and Egypt, had said that the decision of an international organization which was contrary to international law did not become lawful because a majority of States had voted in favour of it. Such sentiments should be taken into account during consideration of the proposals listed in paragraph 160 of the report regarding the moral force and general acceptability of Assembly resolutions.

32. His country, which had been restricted to being a member of a regional group composed of one State only, had repeatedly deplored the unbalanced character of the organs of the General Assembly. Since elections were a function of purely political factors, it would be preferable to give substance to the principles of the sovereign equality of States and the universality of the United Nations by introducing a rotation system which would better ensure the realization of those principles.

33. Mr. SKIBSTED (Denmark) said that his Government was deeply interested in the question of the peaceful settlement of disputes between States. The principle of non-use of force in international relations, laid down in the Charter, had as a corollary the principle of the peaceful settlement of disputes. In view of the current world situation, in which armed conflicts continued to occur in various regions of the world, those basic principles should be repeatedly stressed. Joint efforts should be made to promote the process of peaceful settlement of disputes. Short-term considerations of expediency must not be allowed to take precedence over the longer-term objective of creating a peaceful world order. His delegation welcomed the preparation of a handbook on the peaceful settlement of disputes between States. A comprehensive review of all existing means and mechanisms and the provision of concrete information on how they could be applied would undoubtedly be most valuable to all States.

34. His delegation had noted with interest the working paper on the establishment of a commission for good offices, mediation and conciliation (A/C.6/39/L.2). It welcomed, in particular, the proposal to establish a mechanism involving the use of third parties for the peaceful settlement of disputes.

35. It was essential, however, to avoid weakening the established procedures for the peaceful settlement of disputes, and especially that of the role of the

(Mr. Skibsted, Denmark)

International Court of Justice. Furthermore, the relationship between the proposed commission and the principal organs of the United Nations should be carefully examined.

36. He expressed doubts as to whether the proposed new mechanism would be more likely to succeed than the existing machinery for the peaceful settlement of disputes. He recalled that the Charter and the Manila Declaration already provided highly flexible means for the settlement of disputes between States. What was lacking in many cases was the effective will on the part of States to make proper use of those means.

37. His Government firmly believed that international relations should, in the interest of all nations, be governed by the rule of law. That concept could be realized if all nations accepted that recourse to a judicial body was just as indispensable in international relations as in national legal systems. In that respect, the International Court of Justice should play its natural role in settling international legal disputes between States. His Government had recognized the jurisdiction of the Court as compulsory, in accordance with Article 36 of the Statute, and appealed to all those States which had not yet done so to consider making a declaration to that effect.

38. In his delegation's view, the main obstacle to the utilization of existing mechanisms for the settlement of international disputes was that the majority of States were not yet ready to accept the idea that the decisions of an independent international organ should have binding force in legal disputes between States.

39. His delegation would prefer a system containing compulsory elements with regard to both the procedure to be followed and the outcome of the procedure.

40. International peace and security would be strengthened if States agreed beforehand to rely on efficient mechanisms for the settlement of disputes. When negotiations or other bilateral contacts did not lead, within a reasonable period, to the expected results, his delegation did not see any other solution than to have recourse to a third party settlement. For Denmark, that had been the case in its disputes concerning such important questions as territorial sovereignty and the delimitation of the continental shelf.

41. Experience showed that when third party machinery for the settlement of disputes between States existed, negotiations were generally more productive and fruitful. The mere existence of an efficient settlement method could often inspire the parties involved to show more flexibility and to adhere more strictly to the rules of international law in their negotiations.

42. Mr. APOE (Nigeria) said that the work of the Special Committee was an attempt to assist the United Nations to adapt to changes in the world since its inception and to correct its weaknesses before they led to its collapse. Experience acquired since the founding of the Organization could help the Special Committee in

(Mr. Apoe, Nigeria)

accomplishing its task. The working paper submitted by several delegations on the prevention and removal of threats to the peace and of situations which might lead to international friction or give rise to a dispute (A/AC.182/L.38) would form a useful basis for the preparation of guidelines to assist the United Nations in the prevention of international conflicts. Casual observers judged the Organization by its effective handling of international conflicts or situations that endangered international peace, without attaching the same importance to its economic and social achievements.

43. His delegation was a sponsor of the revised working paper on the establishment of a commission for good offices, mediation and conciliation for the settlement of disputes and prevention of conflicts between States (A/C.6/39/L.2); the sponsors had attempted to take account of all the views expressed in the Special Committee concerning the initial working paper. It was certainly not the intention of the sponsors of the working paper to amend the relevant provisions of the Charter concerning the peaceful settlement of disputes by proposing the establishment of a conciliation commission. Such a commission would only supplement the existing United Nations machinery on the matter. Moreover, the proposals contained in the document arose from a genuine desire to encourage States to use the machinery provided by the Charter. The revised working paper clearly recognized the paramount role of the Security Council and the General Assembly in the settlement of international disputes. The setting up of a commission for a particular dispute would be subject to the authorization of the Security Council or the General Assembly or the recommendation of the Secretary-General. The primary responsibility for international peace and security therefore still rested with the Security Council and the General Assembly. An important aspect of the revised document was the consent of parties at every stage of the functions of the commission. The revised document did not prevent the Security Council or the General Assembly from recommending to the parties other means of settlement, nor did it exclude the possibility of a bilateral or regional approach to the settlement of a dispute. His delegation hoped that that document, which was aimed at providing additional means of accomplishing the purposes of the United Nations Charter, would result in the drafting of a document which would be adopted by consensus.

44. His delegation welcomed the initiative of France concerning the elaboration of a handbook on the peaceful settlement of disputes between States; such a handbook would be of immense help to States which were not too conversant with the procedures of peaceful settlement within the United Nations system. The General Assembly should request the Secretary-General to draft such a handbook, as one of the many ways to enhance the effectiveness of the organs of the United Nations in the prevention of conflicts among States.

45. Mr. MAUNA (Indonesia) said that his delegation was pleased to see that the 1984 session of the Special Committee had been constructive and that its efforts to find means of ensuring the safeguarding and strengthening of the provisions of the Charter had progressed.

(Mr. Mauna, Indonesia)

46. His delegation shared the concern expressed by the Secretary-General in his report on the work of the Organization (A/39/1), that the world was "still very far from general acceptance of the principles of the Charter as rules to be lived by at all times by all Governments in their international relations". The United Nations Charter contained various possibilities and mechanisms for the maintenance of international peace and security and for the peaceful settlement of disputes which were still relevant nearly 40 years after their adoption. It should, however, be noted that the whole potential of the Charter had not been fully utilized, primarily because Member States had not demonstrated the necessary political will. The Organization's effectiveness currently depended on the will of Member States to fulfil their obligations under the Charter, to seek practical solutions and to conform to them when peace and security were at stake.

47. The Security Council had played an important role not only in the maintenance of international peace and security but also in the settlement of various conflicts which could have led to a major military conflagration. It should, however, be noted that the political will of the great Powers to co-operate in the Security Council had been visibly lacking. Their tendency to interpret different events in the context of their mutual relations had often hampered the Organization's efforts to maintain peace. In addition, on various occasions, certain problems had not been submitted to the Security Council early enough to prevent the outbreak of an armed conflict or the Council had not been able to stop a conflict. Consequently, Member States were becoming less inclined to seek solutions to disputes through the Security Council.

48. His delegation supported the working paper (A/AC.182/L.38) on the prevention and removal of threats to the peace referred to in paragraph 20 of the Special Committee's report (A/39/33) and particularly welcomed the paragraphs in which an attempt was made to enhance the role of the General Assembly and the Secretary-General in clearly specified situations. Similarly, the provisions concerning modalities of preventive action - in particular sending good offices missions and observers - and the recognition of the need for action at the regional level deserved serious consideration, as did the strengthening of the Organization's ability to collect information in potential conflict areas. The various aspects of the informal efforts undertaken by the Security Council and the Secretary-General to prevent or settle conflicts also deserved deeper study, and his delegation hoped that at its next session the Special Committee would be able to give priority to that working paper and allow enough time for studying it.

49. The 12-point recommendation submitted by the Special Committee in paragraph 151 of its report concerning the rationalization of the Organization's procedures proved that common elements had been found in that respect and that general agreement was possible.

50. His delegation welcomed the agreement on the outline for the handbook on the peaceful settlement of disputes between States and supported the conclusion in



(Mr. Mauna, Indonesia)

paragraph 133 of the Special Committee's report that the Secretary-General should be requested to prepare a draft handbook on the basis of the outlines and in the light of the views expressed in the course of the Special Committee's discussions. That handbook should constitute a new tool for strengthening the principle of the peaceful settlement of disputes.

51. With regard to the important amendment submitted in document A/C.6/39/L.2 by the sponsors of the working paper on the establishment of a permanent commission for good offices, mediation and conciliation for the settlement of disputes, his delegation considered that the revised document should be studied in greater detail at the next session of the Special Committee because it contained very positive elements and showed sponsors' desire to take into account views and suggestions expressed by the members of the Special Committee.

52. In conclusion, he said that the fortieth anniversary soon to be celebrated by the United Nations should be an opportunity not only for a renewal of faith in that unique forum, which was indispensable for harmonizing the interests and actions of peoples, but also for a strengthening of the Organization's capacity to perform its functions and assume the role for which it had been created.

53. Mr. ZURITA (Venezuela) said that the common aim of the States Members of the United Nations was to find ways to safeguard international peace and security; that had caused the General Assembly to include in the agenda of its thirty-fourth session the item entitled "Peaceful settlement of disputes between States" and to adopt resolution 34/102 in which it called upon all States to adhere strictly in their international relations to the principle that States should settle their international disputes by peaceful means. At its thirty-seventh session, the General Assembly had continued along those lines with the adoption of resolution 37/10, in which it had approved the Manila Declaration on the Peaceful Settlement of International Disputes.

54. In its resolution 38/131, the General Assembly had stressed the need to continue efforts to strengthen the process of the peaceful settlement of disputes through the progressive development and codification of international law and through enhancing the effectiveness of the United Nations in that field. In that resolution, as in resolution 38/141, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had been requested to continue consideration of the proposal concerning the elaboration of a handbook on the peaceful settlement of disputes between States. The Special Committee had also been requested, in resolution 38/141, to consider the proposal contained in the working paper on the establishment of a permanent commission on good offices, mediation and conciliation for the settlement of disputes and the prevention of conflicts among States.

55. The report of the Special Committee (A/39/33), indicated that a decisive step had been taken in the efforts aimed at strengthening the role of the Organization in the maintenance of international peace and security. That task had proved more

(Mr. Zurita, Venezuela)

difficult than had been anticipated, mainly because of the weight of political considerations in that field.

56. His delegation wished to reaffirm that it was convinced that effective application of the principle of the peaceful settlement of disputes depended more on the political will of States to assume the obligations they had entered into than on the greater or lesser effectiveness of the means provided by the Charter. That said, the mechanism provided for in Article 33 of the Charter was a favourable basis for the settlement of disputes and Venezuela hoped that the role of the Organization in the maintenance of peace and security would be strengthened, essentially through the exercise by the Security Council of the functions assigned to it.

57. Since Venezuela was convinced of the effectiveness of negotiations and dialogue as means of settling disputes, it had joined the other members of the Contadora Group in seeking conciliation formulas that would make it possible to strengthen security in Central America and settle the problems that arose at the regional level. As a result of that process it had been possible to reach an understanding on a certain number of points and to elaborate the Contadora Agreement on Peace and Co-operation in Central America, which his delegation had high hopes would be signed. The persistence of conflicts or disputes, threatening international peace and security caused his delegation to attach particular importance to strict respect of international law and to support any effort aimed at developing and codifying the content of the provisions of the Charter relating to the settlement of disputes, with a view to enhancing the effectiveness and authority of the Organization.

58. Mr. YOOSSEM-KONTOU (Chad) said that the results achieved by the Special Committee and the proposals that the Secretary-General had submitted in 1982 contained a whole series of improvements that could be made to the functioning of the system of international peace and security provided for by the Charter and represented a great step forward in the search for adequate means to enhance the authority and prestige of the United Nations. The fortieth anniversary of the Organization should provide an excellent opportunity to examine more closely the manner in which the Charter system functioned and to devise new practical measures with a view to adapting the Organization to existing realities while at the same time endeavouring to interpret the provisions of the Charter in good faith.

59. The peaceful settlement of disputes between States was a principle which figured prominently in the Charter but was not always easy to implement. That was why his delegation welcomed the proposal of Nigeria, the Philippines and Romania aimed at strengthening the mechanism for the settlement of disputes and the prevention of conflicts among States. It saw no incompatibility between the proposed commission and existing organs and therefore did not consider that the proposal was such as to modify the Charter, as was alleged. On the contrary, it would contribute to effective application of the mechanism provided by the Charter.

(Mr. Yoossef-Kontou, Chad)

60. As Chad's Minister for Foreign Affairs and Co-operation had stated before the General Assembly, "... dialogue and concerted action offer the only possible means of solving all the major international issues ... Adoption of this peaceful initiative ... is the only way to prevent encroachments on the sovereignty of other States, invasions and even continuing occupation of foreign territories, intervention and other types of aggression" (A/39/PV.27, pp. 83-85). It was in that spirit that the Government of Chad had at all times sought means of settling peacefully the conflict which for more than 10 years had opposed it to one of its neighbours, and it was with that aim that the conflict had been referred to the Security Council and the Organization of African Unity. His Government was still prepared to try to find a peaceful solution to that dispute.

61. It was failure to respect the principles of the Charter and General Assembly and Security Council resolutions which had tarnished the image of the Organization and rendered it ineffective. It was, therefore, more necessary than ever that all Member States should work unceasingly to restore the authority and prestige of the Organization and enter into firm commitments to respect the principles of the Charter and decisions in the adoption of which they had participated as fully sovereign States.

62. Mr. EL-ARABY (Egypt) said that the report of the Special Committee (A/39/33) showed that the 1984 session had been slightly more positive than that of 1983, which had given rise to a general feeling of discouragement. However, although the General Assembly had clearly requested the Special Committee, in paragraph 3, subparagraph (a), of resolution 38/141, adopted by consensus, "to accord priority by devoting more time to the question of the maintenance of international peace and security in all its aspects", there was no indication in the report of any tangible progress on that essential element of the Special Committee's mandate. The Sixth Committee should therefore request the Special Committee to make an in-depth analysis of the underlying causes of the lack of progress in that field so as to prevent a repetition of past errors.

63. In the opinion of his delegation, the underlying causes were to a large extent to be found in the origins of the Special Committee, which should, therefore, be recalled. The drafters of the Charter had incorporated a safety valve in that instrument by providing for its possible amendment so as to adapt it to future events. Pursuant to Article 109, a proposal to call a General Conference of the Members of the United Nations for the purpose of reviewing the Charter had been included in the agenda of the General Assembly at its tenth session. But in resolution 992 (X) the Assembly had taken no specific decision on that question. At the end of the 1960s, the question of the need to consider suggestions regarding the review of the Charter had again been included in the agenda of the General Assembly, where it had remained until the twenty-ninth session. However, the nature of the mission entrusted to the Ad Hoc Committee on the Charter of the United Nations, established at that session, was no longer that envisaged when the aforementioned question had been included in the agenda of the Assembly, and when the Special Committee took over from the Ad Hoc Committee in 1975, it had found

(Mr. El-Araby, Egypt)

itself entrusted with the additional question of the strengthening of the role of the Organization. That heterogeneous combination had only heightened the ambiguities concerning the mission of the Special Committee and had been seized upon by certain elements in order to create all sorts of difficulties and prevent the Special Committee from examining serious proposals. The obstructive manoeuvres to which certain delegations had resorted had so far succeeded in preventing the Special Committee from analysing the question of the maintenance of international peace and security in the light of events which had occurred since the establishment of the Organization.

64. Another underlying cause of the repeated failures of the Special Committee was its methods of work. The Special Committee should have done what the Secretary-General had done in his 1982 report on the work of the Organization (A/37/1), i.e. it should have analysed clearly the reasons for the failure of the United Nations collective security system provided for in Chapter VII of the Charter to achieve the success expected of it and made concrete proposals aimed at strengthening international peace and security. His delegation wholeheartedly supported the constructive proposals the Secretary-General had made in that connection in his report and pointed out that on behalf of a group of non-aligned countries, it had submitted to the Special Committee at its 1981 session a draft recommendation (A/36/33, para. 269) which included many similar ideas but on which the Special Committee had unfortunately been unable to reach agreement.

65. Since 1985 would mark the fortieth anniversary of the United Nations and bearing in mind the decision taken at New Delhi in 1983, at the summit meeting of the Non-Aligned Countries, to observe 1985 as the Year of the United Nations, it would be appropriate to envisage the establishment of an ad hoc committee to study, for a period of one or two years, the question of the maintenance of international peace and security in all its aspects. Such an approach would be preferable to the current fragmented approach, which had little chance of success.

66. His delegation thanked the five countries which had submitted the working paper reproduced in paragraph 20 of the Special Committee's report. That was a constructive document which it hoped would help the Special Committee out of the impasse in which it found itself with regard to the question of the maintenance of international peace and security. The proposal of Nigeria, the Philippines and Romania for the establishment of a commission on good offices, mediation and conciliation also seemed to be a good idea, but the proposal required further analysis in order to prevent the commission from overlapping existing bodies.

67. The question of the rationalization of procedures, on which much time had already been spent during the two previous sessions, should be removed from the agenda of the Special Committee so that the latter could devote itself to the essential aspect of its mandate. His delegation favoured the preparation of a handbook on the peaceful settlement of disputes between States, as proposed by France, and would participate in its preparation. It felt very strongly, however, that work on the handbook should not take precedence over work on the question of the maintenance of international peace and security.

(Mr. El-Araby, Egypt)

68. In that connection, he proposed that the draft resolution which the Sixth Committee would submit to the General Assembly should indicate clearly that in 1985 the Special Committee must concentrate on the latter question. The draft resolution should also request the Special Committee to submit its conclusions to the General Assembly in the form of a balance sheet.

69. Mr. ROBINSON (Jamaica) said that the General Assembly at its thirty-eighth session had given the Special Committee a new impetus by mandating it to concentrate its efforts on the question of the maintenance of international peace and security. If the Special Committee had failed to achieve significant results in the nine years of its existence, it was because of the internal contradictions in its mandate. The Special Committee had been asked to make proposals which had as their aim the strengthening of the role of the United Nations, but without attempting to change the existing structure of the Organization. Yet it was precisely the inadequacy of the existing structure which had made it necessary to consider ways of strengthening the role of the Organization. The report of the Special Committee (A/39/33) was replete with complaints that certain proposals went too far, would call for an amendment of the Charter, or would alter the delicate balance between the principal organs. The over-zealous guardians of the Charter would do well to bear in mind that unless the Organization sought to adapt to the changing circumstances of the modern world, it ran the serious risk of being overtaken by events or even destroying itself.

70. That did not mean that his delegation supported a wholesale revision of the Charter or that the Special Committee should interpret its mandate as authorizing it to make proposals for changes in the Charter. It nonetheless believed that the Special Committee was entitled to take an enlightened, positive and imaginative approach.

71. The Special Committee should therefore not encourage the negativism reflected, for instance, in paragraph 89 of the report, which maintained that the Secretary-General did not have the competence to use his good offices in a potential dispute if asked to do so by a State or States, because Article 98 of the Charter did not expressly provide for such a function. Such a strictly literal interpretation paralysed the efforts of the Special Committee and ignored the practice which had developed in that area subsequent to the founding of the Organization. Regarding the role of subsequent practice in the interpretation of treaties, reference could be made to article 31 (3) (b) of the 1969 Vienna Convention on the Law of Treaties.

72. Although it would be an overstatement to allege that all of the ills of the Organization with regard to the maintenance of international peace and security were due to the crippling effect of the veto power in the Security Council, it was nonetheless undeniable that the use of that power had on several occasions prevented the adoption of measures to promote the maintenance of international peace and security. The Special Committee would have a better chance of achieving success if it concentrated on the role of the General Assembly and the Secretary-General, without, of course, ignoring the role of the Security Council.



(Mr. Robinson, Jamaica)

73. He thanked the delegations which had submitted the working paper on the prevention and removal of threats to the peace and of situations which might lead to international friction or give rise to a dispute (A/AC.182/L.38). In studying "the question of the maintenance of international peace and security in all its aspects" the Special Committee would have to examine such matters as the conduct of States with respect to the principles and norms of international law. The Special Committee should, indeed, take a broad view of its mandate, as followed from the use of the words "inter alia" in paragraph 3 (a) of General Assembly resolution 38/141, but it was correct for it to begin with a consideration of the prevention of conflicts, as its new mandate specifically provided. It was to be expected, therefore, that at a later stage of its work the Special Committee would turn to other aspects of that complex question.

74. Unlike some members of the Special Committee, his delegation was not of the view that conflict prevention was always clearly distinguishable from conflict management. It was perhaps because such a rigid distinction had been established that no reference had been made to the International Court of Justice in the area of prevention. Yet it seemed to his delegation that judicial intervention at an early stage of a situation which might lead to international friction or give rise to a dispute was an aspect of conflict prevention.

75. It was wise, as advocated in paragraph 16 of the report, to encourage States to approach the United Nations at the earliest possible stage and not use the Organization as a last resort. One reason why States were reluctant to approach the United Nations was their knowledge that the veto power might sooner or later paralyse the action of the Security Council. Yet the Organization was not giving serious consideration to that impediment to international peace and security.

76. While it was true that everything should be done to enhance the information gathering capabilities of the United Nations organs, such activities would not ordinarily be accorded priority in the area of conflict prevention; they assumed importance only in the artificial circumstances under which the Special Committee was operating, where it was expending its energies on peripheral matters such as information-gathering instead of examining the root cause of the problem. It was surely correct, as stated in paragraph 30 of the report, that lack of information was not the source of the problem. Even in that area, where there was little possibility of disturbing the balance between the Security Council and the General Assembly, scepticism again intruded, for according to paragraph 29 of the report, some members had noted that information-gathering constituted a new activity, "not mentioned as such anywhere in the Charter". It was, however, clear that organs such as the General Assembly and the Security Council, considering both their functions and their goals, had the right to garner information in order to discharge the functions assigned to them by the Charter. As for the Secretary-General, the working paper did not specify whether he gathered information as a function entrusted to him by an organ of the United Nations under Article 98 or on his own initiative under Article 99.

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77. It would be unduly laborious for the Committee to mention each and every provision of the Charter that was relevant to certain aspects of the working paper as some delegations seemed to wish. It must be assumed, as his delegation was prepared to do, that the Committee was working within a framework of consistency with the Charter provisions, or else a saving provision similar to that found in article 6 of the Definition of Aggression to the effect that nothing in the definition should be construed as in any way enlarging or diminishing the scope of the Charter must be inserted.

78. More consideration should be given to the question whether there was any advantage in formalizing and institutionalizing informal consultations by the Security Council. The advantage of such consultations was that they were flexible and spontaneous and it did not seem as though any new element would be introduced by institutionalizing them. It was not necessary to justify the participation of concerned parties in the informal consultations of the Security Council by referring to "general principles of law, equity and justice" or to a "decision" being taken (A/39/33, para. 59); informal consultations in the Security Council did not result in a decision being taken, at any rate, not in the sense of Article 27 of the Charter. The real reason for ensuring their participation was that unless the parties concerned participated in the informal consultations the effectiveness of the latter would be diminished. The second sentence of section I, paragraph 2, of the working paper therefore did not constitute an infringement of the principle of free choice of means in the settlement of disputes. Member States should "fully exercise their right" under Article 35 of the Charter, to bring matters to the Security Council, for the phrase "fully exercise" did not carry the dangers mentioned in paragraph 72 of the report. It was precisely in such an area where, consistent with its limited mandate, the Committee could make proposals for the optimal exploitation of the "potentialities" of the existing system. The structure and workings of the Security Council did not make that organ always suited to quiet diplomacy but his delegation did not interpret the second sentence of section II, paragraph 1 (a) of the working paper to mean that the Security Council would, beforehand and a priori, establish methods and informal procedures; in its view, the establishment of such procedures would be done on a pragmatic, empirical basis in response to an approach.

79. The Secretary-General might be more effective than the Security Council in the area of quiet diplomacy, but that did not mean that his delegation wished to see the Secretary-General become a kind of world president or global arbitrator. As much use should be made of the Secretary-General as was consistent with the provisions of the Charter; it must also be remembered that the use which a Secretary-General made of his powers depended to a large extent on the personality of the individual.

80. His delegation did not agree with the view reflected in paragraphs 90 and 91 of the report that the proposal contained in section II, paragraph 1 (c) of the working paper was in breach of the Charter since under Article 39 of the Charter the determination of a threat to the peace was not done in a vacuum but in a

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context where, such a determination having been made, the Council was obliged to decide on enforcement action under Articles 41 and 42. The question of a breach of the Charter would arise only when the relevant determination having been made by an organ other than the Security Council, that organ sought to take enforcement action under Articles 41 and 42. It must be assumed that when the Secretary-General acted in that manner he would do so with the utmost discretion and would take into account the fact that the parties might be pursuing other remedies.

81. With regard to section II, paragraph 2 (a), of the working paper his delegation did not share the view expressed in paragraph 95 of the report, that it was necessary to indicate how a situation or potential dispute had come before the Council. It was to be assumed that the Council had been properly seized of the matter or else there would be the kind of saving provision to which reference had been made earlier.

82. There could be no automatic endorsement by the Security Council of regional arrangements since Article 52 of the Charter required that such arrangements be consistent with the purposes and principles of the United Nations. The words "where appropriate" in section II, paragraph 2 (a) (iii) of the working paper were therefore important. It would be logical to support the view expressed in paragraph 104 that the Secretary-General was entitled to gather information in relation to any matter which under Article 99 he considered a threat to international peace and security for, if he was entitled to bring such matters to the attention of the Security Council he should be allowed to take such steps as were reasonably necessary to ensure that his submission was well considered.

83. His delegation had been surprised that the working paper did not contain an express reference to resolution 377 (V) entitled "Uniting for peace" under which the General Assembly had assumed for itself a residual responsibility for discharging the functions set forth in Article 1, paragraph 1 of the Charter in cases where the Security Council was by virtue of lack of unanimity, prevented from discharging its primary responsibility for maintaining international peace and security. The resolution was therefore very relevant since it addressed the question of the responsibilities of the General Assembly and Member States in certain circumstances and the Committee should encourage greater use of the system established by that resolution.

84. Giving preliminary views on working paper A/C.6/39/L.2, he noted that the Commission referred to in that document was really a follow-up to the Manila Declaration on the Peaceful Settlement of International Disputes and was intended to facilitate a quick solution of international disputes and prevent them from degenerating into armed conflicts. However, he would welcome clarification regarding the phrase "A Commission ... is opened within the United Nations" contained in paragraph 1 of the document. His understanding was that the Commission, once established, was permanently open to all United Nations Members but that a panel was selected for each case. The use in paragraphs 4, 5 and 6 of the working paper of the term "setting up" was ambiguous since in the view of his

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delegation the Commission was already established but was composed of a particular panel of conciliators in a given case. It would also be useful to clarify the relationship between membership of the Commission and parties to a dispute. The wording "The Secretary-General ... may also come into contact with the States parties to a dispute" used in paragraph 5, was too vague. The reference to "an equitable settlement in accordance with the obligations of States under the Charter of the United Nations and with the principles of international law and justice" did not convert, as was suggested in paragraph 130 of the report, the Commission into a permanent panel of arbitration or a court of justice; moreover, acting in accordance with the principles of international law and justice did not preclude account being taken of the principles of equality of parties and equity. Nothing significant would be lost by the omission of that provision. Paragraph 19 also would benefit from further clarification. Finally, one test of the acceptability of the proposal would be its consistency with the Charter provisions; particular attention must therefore be paid to the saving provisions contained in paragraph 20.

The meeting rose at 6.35 p.m.