

*United Nations*  
**GENERAL  
ASSEMBLY**

**THIRTY-NINTH SESSION**

*Official Records\**



SIXTH COMMITTEE  
30th meeting  
held on  
Tuesday, 30 October 1984  
at 3 p.m.  
New York

**SUMMARY RECORD OF THE 30th MEETING**

Chairman: Mr. GOERNER (German Democratic Republic)

**CONTENTS**

AGENDA ITEM 124: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)

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)

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The meeting was called to order at 3.20 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/16261, 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/39/581-S/16782; A/39/593; A/39/596-S/16789; 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 and A/39/180 and Corr.1, A/39/441; A/39/581-S/16782; A/C.6/39/L.2 and L.4)

1. Mr. EL HAJ (Libyan Arab Jamahiriya) said that, although the contexts for the two items under discussion were different, both items had to do with the revision of the Charter and with strengthening the role of the Organization. That was the double task before the international community, faced as it was with the rising wave of international tension, nuclear peril and intervention by certain racist and imperialist countries which had laid bare the powerlessness of the United Nations.
2. At the heart of the problem lay the weakness of the mechanism set up by the Charter of the United Nations, a mechanism which could not be used for the punishment of aggressors because the exercise of the right of veto in the Security Council prevented the adoption of the legitimate sanctions provided by the Charter. The Security Council and, consequently, the United Nations as a whole thus could not fulfil their function of ensuring the maintenance of international peace and security. Far-reaching amendments to the Charter were therefore necessary in order to take account of developments in the international situation which had taken place since that document - which, like any legal text, could be improved in the light of circumstances - had been drafted. The right of veto was in fact abusively exploited by the great Powers to the benefit of their selfish designs and to the detriment of the interests of small States and of struggles for the liberation and self-determination of peoples.
3. The League of Nations Covenant had been a reflection of nineteenth-century liberalism and had been based on the established order, the existence of independent and sovereign States, and the powerful position of the great European Powers of the time; that, at any rate, was what emerged clearly from article 4 and article 5, paragraph 1, of the Covenant. Certain jurists agreed in recognizing that the failure of the League of Nations had been due to the existence of the unanimity rule.
4. The authors of the Charter of the United Nations had taken into account the formation of blocs following the victory of the allied Powers and the new balance-of-power policy which had come into being immediately after the Second World War. That was reflected in Articles 23 and 27 of the Charter which conferred

(Mr. El Haj, Libyan Arab Jamahiriya)

the right of veto upon five States, although no attempt had been made to provide a general legal foundation for that decision. Abuse of the right of veto by even one of the permanent members of the Security Council was enough to paralyse the executive body of the United Nations, although it was vested, in particular under Articles 24, 41, 42 and 43, with considerable responsibilities for the peaceful settlement of disputes and for the maintenance of international peace and security.

5. The replacement in the Security Council of nationalist China by the People's Republic of China had demonstrated the unacceptability of Article 23 which appointed the permanent members of the Security Council in immutable fashion without taking account of developments in the world military and political situations. Unlike the League of Nations Covenant, the Charter of the United Nations did not provide for a possibility of increasing the number of the Security Council's non-permanent members. The Charter had, in fact, been drafted by only a few countries, but the Organization's membership had increased considerably since 1945 and to take account of that development would hardly be to create a constitutional crisis.

6. The right of veto was also a flagrant attack on the principle of the equality of States Members of the Organization set forth in Article 2, paragraph 1, of the Charter. It also happened, in some sensitive situations, that the non-permanent members of the Security Council could exercise a right of veto because the majority needed in the Security Council was nine votes. However, the great Powers certainly exercised an absolute right because the Charter had not limited the use of the right of veto and it could apply to any resolution. The right of veto had both legal and practical effects because it prevented the Security Council from adopting a resolution and paralysed it despite the obvious existence of a majority among its Members. A single permanent member of the Security Council could block the working of that machinery, thus enabling wars to break out, to continue or to spread, in particular by preventing the adoption of the measures set forth in Article 43 of the Charter. It was in fact in the interest of some to use their right of veto to increase their arms sales or defend the cause of their allies to the detriment of the interests of the international community and the cause of peace. Even when resolutions were adopted, they proved to be superficial and ineffective because the guilty were rarely punished. For instance, the appeals made by the United Nations concerning the questions of Palestine, Kashmir, the Congo, Bizerta and the conflict between India and Pakistan had remained dead letters.

7. The Charter also laid down that the General Assembly should decide on the admission to membership in the Organization upon the recommendation of the Security Council, where the right of veto could again be exercised. During the cold war, the two blocs had opposed the admission of certain States while trying to increase their own influence. The right to belong to the United Nations was, however, an acquired right belonging to all peace-loving peoples.

8. Article 109 instituted a rational mechanism for revision, but it contained a contradiction because its paragraph 1 did not mention the right of veto, whereas paragraph 2 stated that any alteration of the Charter recommended by a two thirds

(Mr. El Haj, Libyan Arab Jamahiriya)

vote of the revision conference should take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council. In that case, the unanimity rule would not prevail because the great Powers had yet again full latitude to defend maintenance of the status quo and prevent revision of the Charter.

9. In 1950, the General Assembly had adopted resolution 377 (V) entitled "Uniting for Peace" which had raised the problem of the Security Council's responsibility when the latter refused to take the action recommended by the General Assembly. The Secretary-General had affirmed, on that point, that only the Security Council was empowered to resort to force and that the General Assembly could only make recommendations or take decisions, the responsibility for implementing them lying with the Security Council alone and, ultimately, with its five permanent members.

10. In theory, Article 53 provided that no enforcement action should be taken without the authorization of the Security Council. In practice, as it had transpired, both in 1956 for the Suez affair and in 1962 in Cuba, certain permanent members of the Security Council, which should have been the first to respect the Charter, had had no compunction about violating it, and the Security Council had been unable to intervene. Article 53 might therefore be considered a dead letter. In the case of Cuba, the right of veto had in fact exacerbated the conflict between the two blocs, which could have plunged the world into nuclear war.

11. Some maintained that the right of veto would serve as a sort of safety valve which might sometimes be useful but might be abused. On the contrary, the right of veto must be judged in the light of its specific repercussions in terms of human values. The cause of liberty, peace and liberation had not been served by the right of veto which had always been exercised arbitrarily by the permanent members of the Security Council. In fact, the great Powers had imposed on the small countries which had become members of the United Nations provisions such as those in Articles 23 and 27 of the Charter.

12. The abuse of the right of veto had been illustrated in particular by the reaction of the United States to the General Assembly's adoption of historic resolution 3379 (XXX). That resolution was in fact a direct attack on the right of veto, in that the General Assembly had sought to free itself from the monopoly of the great Powers. At that time, President Qaddafi had appealed to the States which had voted in favour of that resolution to unite against the exercise of the right of veto, which he had compared to the divine right of the Middle Ages. At the Fifth Conference of Heads of State or Government of Non-Aligned Countries, held at Colombo in 1976, the Libyan Arab Jamahiriya had proposed a draft resolution calling for an end to the right of veto.

13. His delegation had taken careful note of the proposals put forward in the report of the Special Committee (A/39/33), particularly of the one appearing in working paper A/C.6/39/L.2, which could contribute to the speedy settlement of disputes, as well as of the handbook on the peaceful settlement of disputes and the



(Mr. El Haj, Libyan Arab Jamahiriya)

proposals relating to the rationalization of existing procedures of the United Nations. All of those initiatives had a certain interest and contained important elements for strengthening the role of the Organization, but his country was convinced that only the elimination of the right of veto would give the United Nations back its freedom of action.

14. He proposed, first of all, that the Charter should be revised to eliminate its defects so as to allow the Organization to respond to the hopes placed in it by mankind: the Charter was not sacred and Articles 108 and 109 offered possibilities of revising it which the Organization had turned to good account when amending Articles 23, 27, 61 and 109; secondly, he proposed that the number of members of the Special Committee should be increased with an eye to ensuring greater geographical and political diversity in its composition; thirdly, the Special Committee should continue its work with a broader mandate so that it could deal with essential issues concerning the deficiencies of the Charter. In order to serve the cause of peace and the equality of States, the Charter had to be profoundly changed and the right of veto abolished.

15. Mr. KARRAN (Guyana) said that the use and threat of force in the settlement of disputes had never been so evident in international relations as at present and that there was a growing tendency for States to bypass the United Nations and to seek confrontation rather than peaceful means for the settlement of their disputes.

16. For the past three years, the Secretary-General in his reports on the work of the Organization, had sought to encourage Member States to utilize United Nations organs and facilities in settling their disputes, quite rightly indicating that a tolerable future for all humanity ultimately depended on the full utilization by States of the principles and purposes of the Charter. In his 1983 report (A/37/1), he had underlined the decline of the institutions provided by the Charter and the need for a reliable, flexible and effective system of collective security. It was the recognition of that decline that had brought about the establishment of the Special Committee. The Minister for Foreign Affairs of Guyana, for his part, had indicated in his statement to the General Assembly that no State Member of the Organization could assert with conviction that the United Nations system was sufficient to protect fully all its interests.

17. However, the Charter was a dynamic instrument which would allow existing institutions to respond better to the current needs of States if applied in practice with the necessary ingenuity and foresight. The Organization was still the best institution for mobilizing international co-operation for solving problems of international relations in accordance with legal principles. His delegation therefore saw the function of the Special Committee as being to enhance the effectiveness of the Charter's provisions rather than to amend them.

18. Article 24 of the Charter conferred on the Security Council the primary responsibility for the maintenance of international peace and security. But it had to be conceded that, quite often, the Security Council had not been as effective as the framers of the Charter had envisaged, and his delegation felt that one of the

(Mr. Karan, Guyana)

reasons for its ineffectiveness was the Council's inability to ensure implementation of its own resolutions. It would be helpful, therefore, if the Special Committee explored ways and means of enhancing the effectiveness of the Charter provisions under that head. In that connection, the working paper reproduced in paragraph 20 of the report of the Special Committee (A/39/33) should be given full consideration. His delegation, which had made concrete proposals in another forum for the enhancement of the information-gathering capabilities of the United Nations and for the increased utilization of United Nations fact-finding missions in potential conflict areas, agreed with the intention of the sponsors of the working paper under reference to provide a comprehensive formula which would cover both fact-finding missions established by the Security Council and missions dispatched by the Secretary-General to gather information.

19. Another aspect of the decline in the effectiveness of the Security Council was the apparent reluctance of States to use the facility available to them under Article 35, paragraph 1, of the Charter until it was too late for the Council to have any serious influence or to take effective action. That tendency could be arrested only to the extent that the Security Council could demonstrate to Member States that it was capable of dealing effectively with conflicts.

20. One of the primary lessons to be learned from the ineffectiveness of the Security Council was that it was essential to reduce tension and to create a climate of greater confidence in the relations between the two super-Powers. His delegation was convinced that the functioning of the Council would be greatly enhanced if the permanent members were to discharge their responsibilities in normal conditions.

21. His Government categorically and unconditionally supported the international legal principle of the peaceful settlement of disputes between States, as that went to the very core of the maintenance of friendly relations among States and the securing of peace.

22. The need to strengthen the role of the Organization in that area had been universally recognized. His delegation therefore supported the conclusions of the Special Committee (A/39/33, para. 133) to call upon the General Assembly to request the Secretary-General to prepare a handbook on the peaceful settlement of disputes between States. It also expressed its appreciation to Nigeria, the Philippines and Romania for their working paper (A/C.6/39/L.2) and had noted in particular that it was not the intention of the authors to make the proposed commission a permanent institution, but rather a mechanism which, in keeping with the principle of the free choice of means for the peaceful settlement of disputes, would only be activated on the prior consent of the States concerned.

23. As to the rationalization of existing procedures of the Organization, his delegation considered that a continuing process of harmonization of the work of the Organization as well as co-ordination among its various organs was vital to the efficient utilization of available time and resources. The conclusions in paragraph 151 of the Special Committee's report should therefore be recommended to the General Assembly for adoption.

(Mr. Karran, Guyana)

24. In conclusion, his delegation supported the renewal of the mandate of the Special Committee to permit it to continue the work in progress.

25. Mr. GUTIERREZ (Colombia) said that the United Nations was the incarnation of the great Liberator Simon Bolivar whose dream had been that the world would one day know a nation of republics.

26. The Congress of 1826, with the participation of Mexico, Central America, Peru, the United Kingdom and the Netherlands, had already agreed that war should be prohibited and that States should be obliged to seek conciliation through the Assembly of signatory States; the history of Latin America made it possible to say, not without pride, that peace was the fundamental principle on which relations between the countries of the region and other countries was based.

27. The resolution which the General Assembly had recently adopted by consensus on the situation in Latin America supported the belief that the activities of the Contadora Group already justified the proposal for the establishment of a commission of good offices, mediation and conciliation (A/C.6/39/L.2); his delegation fully supported that proposal.

28. The reference in the Manila Declaration on the Peaceful Settlement of International Disputes (General Assembly resolution 37/10), to the possibility that States could choose, in the free exercise of their sovereignty, to recognize as compulsory the jurisdiction of the International Court of Justice, in accordance with Article 36 of its Statute, encouraged his delegation to reiterate its concern at the excessive latitude left to States in that connection. The world would be safer and less violent if all States were prepared to accept the jurisdiction of the Court. Parallel action by the Security Council and the Court would guarantee both political equilibrium and respect for law throughout the world. His delegation reminded members of the useful comment by the representative of Spain on the wording of point III of the outline in paragraph 133 of the Special Committee's report (A/39/33): it was essential to mention, in addition to the General Assembly and the Security Council, the most important judicial organ, namely the International Court of Justice.

29. His delegation was optimistic on the issue of the peaceful settlement of disputes because the Manila Declaration provided for the introduction of an effective procedure for ensuring world peace.

30. Mr. RAO (India) noted with satisfaction that, thanks to resolution 38/141, which had been adopted without a vote, the Special Committee, at its latest session, had been able to engage in a genuine dialogue and exchange of views resulting in a number of agreements.

31. On the question of the rationalization of procedures, the conclusions of the Special Committee, in paragraph 151 of its report, were not innovative: generally speaking, they comprise a reiteration of existing rules of procedure of the General Assembly and Security Council. The points merited repetition as the current

(Mr. Rao, India)

practice tended to stray from the prudent, economical and optimum use of existing resources and mechanisms. The strict implementation of the Special Committee's recommendations would serve the eminent purpose of promoting the public image of the United Nations as an efficient, action-oriented organization; such an image was central to strengthening its role in international affairs.

32. The Special Committee had also discussed, but without reaching agreement, the need for the General Assembly to review the impact and implementation of its resolutions and to develop resolutions and decisions as far as possible on the basis of consensus. Resolutions and decisions reached on the basis of general agreement or consensus would result in effective implementation. But it was equally clear that, in the existing conditions of a divided world, general agreement or consensus was not always possible. Hence, to insist on consensus would be to shackle innovative initiatives and to muffle majority opinion which the Organization must honour in its role as the keeper of the modern world's conscience. It would therefore seem that consensus could not be absolute and that account must be taken of the distinction between the imperatives of maintaining international peace and security, on the one hand, and the different approaches to the promotion of optimum world public good, on the other. It must not, however, be forgotten that the search for consensus was a constant process, both within and outside the United Nations. Consensus had already been defined as the absence of any formal objection and had been well accepted in the context of the long negotiations of the Third United Nations Conference on the Law of the Sea, which the Secretary-General, in his annual report for 1984, had described as a broadly accepted new régime for the oceans.

33. His delegation welcomed the outline for the proposed draft handbook on the peaceful settlement of disputes. The handbook would be useful as a reference guide even though it would be without any specific legal value and would only have an essentially descriptive character.

34. His delegation welcomed the amendments (A/C.6/39/L.2) of Romania, Nigeria and the Philippines to the proposal for the establishment of a permanent commission of good offices, mediation and conciliation, but a number of problems remained. The fact was that it was not the lack or inadequacy of mechanisms which inhibited parties in their search for genuine solutions. Indeed, the Presidents of the General Assembly and Security Council, the Security Council itself, the Secretary-General and Member States could from time to time offer their good offices; the Contadora Group, for example, was a recent example of mediation. Moreover, the proposal attempted to combine within a single commission the three different methods of good offices, mediation and conciliation, and would not take account of the fact that the terms of reference, procedures and freedom of choice available to parties were not the same in the three methods. Above all, a major disadvantage of the proposal was its rigid formalization of procedures which functioned best in an atmosphere of informality. It was also necessary to guard against the danger of the early internationalization of disputes or situations which would be best handled by the parties themselves. Further, in cases of disputes or situations endangering international peace and security, the requirement that the Security

(Mr. Rao, India)

Council, the General Assembly or the Secretary-General should consider recommending as a first step the establishment of a commission, even if the consent of the parties concerned was needed, appeared to put pressure on them and to that extent was contrary to the principle of free choice of means.

35. On the question of the maintenance of international peace and security, his delegation noted that the working paper contained in document A/AC.182/L.38 had given rise to an interesting exchange of views in the Special Committee at its 1984 session. A number of general points made in that paper were obviously of value. There was no need to re-emphasize the virtues of quiet diplomacy and informal consultations of a confidential nature or to dwell on the need to collect accurate and authentic information when handling delicate problems of threats to peace and security. His delegation felt, however, that several Articles of the Charter, and particularly Articles 24, 34 and 99, enabled the Security Council and the Secretary-General to act with the required flexibility and effectiveness in various situations involving threats to international peace and security. Articles 34 and 99 had stood the test of time and it would not be desirable to dilute their provisions. His delegation did not wish to reject the merits of the proposals contained in the working paper; it merely noted that the real cause of the relative ineffectiveness of the United Nations in dealing with the present maladies suffered by the international community lay not in any particular deficiency of the Charter system or the functioning of its organs or procedures, but in the lack of appreciation of common interests and, likewise, in the lack of political will, particularly among the more powerful and wealthier States, which should do more to fulfil their role as trustees of the weaker and poorer nations.

36. In conclusion, the system established by the United Nations Charter was basically sound. The Charter was not perfect and its provisions did not perhaps fully reflect the realities of the contemporary world, but it nevertheless remained the best instrument available to the international community. An effort should be made to harmonize the roles entrusted to the General Assembly and the Security Council and to establish relations of trust between the Council and the Secretary-General. In the end, however, the only way to make the Organization more effective was to have faith in it and to accept its decisions with a sense of discipline.

37. Mr. OKELLO (Uganda) said that, although the maintenance of international peace and security had been the primary motive for establishing the United Nations, after close to 40 years it still found itself unable to solve the problems that arose in that area in a satisfactory manner. Systematic violations of the principles of the Charter had continued unabated and the organs entrusted with primary responsibility for the maintenance of international peace and security had consistently proved powerless to respond. Obviously, the functioning of the existing mechanisms was defective.

38. Accordingly, in 1974, his delegation had joined with the overwhelming majority of Member States in supporting General Assembly resolution 3349 (XXIX) entitled "Need to consider suggestions regarding the review of the Charter of the United Nations". Then, as now, that undertaking was justified by the fact that the world



(Mr. Okello, Uganda)

had changed considerably since 1945. In other words, the Organization had to face up to present reality and adapt to completely new circumstances. Unfortunately, since the establishment of the Special Committee, priority had no longer been given to the need to review the Charter, and efforts had been dissipated in the so-called tripartite approach, covering the three complementary topics dealt with in the report of the Special Committee and which therefore deviated considerably from the original objective of 1974.

39. The report of the Special Committee for 1984 limited itself to questions of conflict prevention and almost entirely ignored the equally important question of conflict resolution. While commending the delegations which had submitted the working paper discussed in paragraphs 20 to 119 of the report of the Special Committee, his delegation regretted the fact that the document did not deal with conflict resolution which, in its view, remained the principal problem the Special Committee had to solve. The ideas expressed in the document were, of course, useful for the maintenance of international peace and security. However, they were not really new to United Nations practice; nor were they totally absent from the Charter. Thus, the gathering of information with a view to defusing potential conflicts was a method of conflict prevention already used by the Secretary-General and by regional institutions such as the Organization of African Unity. The periodic meetings of the Security Council and the involvement of the Secretary-General through quiet diplomacy or good offices, among other measures suggested in document A/AC.182/L.38, were in themselves not enough. Other suggestions, such as the sending of fact-finding or good-offices missions or the sending of military and civilian observers to areas of potential conflict could not be easily accepted in practice and under existing law. In addition, the appeal to States to draw the attention of the Security Council to areas of potential conflict, made in paragraph 2 (c) of section I of that document, served only as a reminder since States had always drawn the attention of the Security Council to such situations, for instance in southern Africa and the Middle East.

40. The real problem was that the Council had been unable to act because of the veto of one or more of its permanent members. In other cases, good relations between some permanent members and offending States had succeeded in diverting Council resolutions from their real goal when they had been adopted. The resolutions adopted by the Council were therefore, in general, much diluted and the Secretary-General was called upon to bear responsibility for their implementation when the Council knew perfectly well that he had little chance of success. That state of affairs did considerable damage to the credibility of the Organization and to the prestige of the office of the Secretary-General, whose role in the maintenance of international peace and security was indisputable. The true problem lay therefore in the manner in which some permanent members of the Council had exercised their veto power.

41. His delegation was of the view that little could be done to enhance the role of the United Nations in the maintenance of international peace and security while that problem persisted in the Security Council. With regard to the peaceful settlement of disputes between States, his delegation noted with pleasure that,



(Mr. Okello, Uganda)

after the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes at the thirty-seventh session of the General Assembly, some progress had been made in that area. The agreement reached by the Special Committee on the outline for the proposed handbook on the peaceful settlement of disputes between States would enable work to proceed on the handbook itself, which would be a definite contribution to the promotion of the peaceful settlement of disputes between States. As indicated in paragraph 136 of the report of the Special Committee, emphasis should be placed on the practical measures that States could take to that end. The handbook should therefore be a practical guide without being of a legally binding character. His delegation supported the decision to entrust the task of drafting the document to the Office of Legal Affairs, and hoped that the adoption of the handbook would not pose a problem.

42. With regard to the proposal to establish a permanent commission on good offices, mediation and conciliation, his delegation understood the concern of the sponsors of that proposal, which was a timely follow-up to the Manila Declaration on the Peaceful Settlement of International Disputes. However, the proposal dealt with a very complex matter and, in the view of his delegation, deserved to be examined with the greatest care.

43. On the rationalization of existing procedures of the United Nations, his delegation welcomed the conclusions reached by the Special Committee. However, the 12 points raised in paragraph 151 dealt only with the General Assembly and did not take into account the other bodies within the United Nations system. They were nevertheless positive proposals that needed to be examined. To the extent possible, all the bodies within the United Nations system should be encouraged to develop rational working methods. In that connection, his delegation would like to remind the Sixth Committee of the proposals recently submitted to it by the Asian-African Legal Consultative Committee. Since it was for each body to rationalize its work in accordance with its own needs, his delegation proposed that the item should not be included in the new mandate of the Special Committee.

44. Mr. EDON (Benin) said that the Special Committee should consider all measures conducive to the maintenance of international peace and security. At the current stage in the debates, it should place the emphasis on preventive diplomacy.

45. With regard to the necessary strengthening of the role of the main organs of the United Nations, particular attention should be given to the Security Council, where a democratization of the decision-making process should be considered. That necessarily required a strengthening of the role of the small States, whose commitment to international peace was particularly strong as they needed it in order to solve their economic development problems. Benin would support any solutions which would guarantee equitable representation and democratization of the decision-making process within the Security Council. The reaffirmation of the Security Council's authority through the strict observance of its decisions and the implementation of its resolutions by all States without exception was another, equally important, constitution for the strengthening of its role. The Special Committee should emphasize that point.

(Mr. Edon, Benin)

46. His delegation welcomed the Special Committee's constructive proposals for strengthening the principle of the peaceful settlement of disputes. He was grateful to the delegations of Nigeria, the Philippines and Romania for their concrete 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. 121 et seq.), which, far from weakening the existing organs of the United Nations would serve only to strengthen them and supplemented the Manila Declaration on the Peaceful Settlement of International Disputes. The Special Committee should calmly consider the proposals contained in the revised document A/C.6/39/L.2 with a view to further developing it and ensuring that the commission was an effective instrument for peace. His delegation also welcomed the proposal concerning the elaboration of a handbook on the peaceful settlement of disputes between States and hoped that the handbook would be published as soon as possible. It would be of great interest for developing countries.

47. Lastly, his delegation felt that it was necessary to review the procedures of the Organization in order to adapt them to developments in international relations and ensure their effectiveness. It urged the Special Committee to give further consideration to the different proposals in order to avoid going from one extreme to another.

48. Mr. AL-KHASAWNEH (Jordan) said that the 1984 session of the Special Committee represented progress over its 1983 session. The latter, however, had been a total failure, and in many vital areas for the continued existence of the Organization the results obtained were not encouraging.

49. Although the General Assembly had specifically requested the Special Committee to accord priority to the question of the maintenance of international peace and security in all its aspects, it had not made any discernible progress in that regard. It seemed to have limited itself to consideration of a working paper (A/39/33, para. 20) concerning the preventive aspects of the maintenance of international peace and security, which had diverted its attention from an analysis of the functioning of the collective security system and the reasons for its failure to respond effectively to breaches of international peace and security. Furthermore, it was debatable whether an approach which divorced the preventive aspects from the other aspects of the question had any chance of success. It should also be noted that that working paper could just as well have been considered within the context of the peaceful settlement of disputes. For all those reasons, his delegation felt that the Special Committee, at its 1985 session, should give priority to all aspects of the maintenance of international peace and security, with emphasis on the reasons for the failure of the collective security system.

50. With regard to the peaceful settlement of disputes, he stressed that international peace must not be achieved at the expense of international justice, since such a peace would degenerate into appeasement of aggression. The debate on that question showed that for some, the peaceful settlement of disputes was merely

(Mr. Al-Khasawneh, Jordan)

synonymous with direct negotiations between the parties concerned, of which one was generally the aggressor and the other the victim. It should not be forgotten that under international law there was no absolute duty to negotiate, particularly under such conditions. Furthermore, negotiations were not a panacea, as some suggested: without good faith, political will and agreement on the terms of reference and objectives of that process, negotiations became a catch-word while the dispute which they were supposed to settle worsened and the aggressor reaped the benefits of his aggression, while pretending to be engaged in negotiations. In many cases, the accent was placed on direct negotiations in order to exclude the United Nations from the settlement of the dispute or at least to relegate it to a secondary role, which, of course, did not strengthen its effectiveness.

51. His delegation was not suggesting that there was necessarily always an aggressor and a victim. In many cases the peaceful settlement of disputes had a very important role to play both as a form of preventive diplomacy and as a method of harmonizing the conflicting interests of States. Flexibility of methods and procedures was of vital importance and, with that consideration in mind, his delegation urged caution with regard to the proposal of Nigeria, the Philippines and Romania on the establishment of a commission for good offices, mediation and conciliation (A/C.6/39/L.2), and welcomed the proposal concerning the elaboration of a handbook on the peaceful settlement of disputes between States, while expressing the hope that the handbook would be merely descriptive in nature.

52. With regard to the rationalization of procedures, sweeping changes might prove to be counterproductive. In that connection, it might be useful to consult the recommendations of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly set up at the beginning of the 1970s.

53. However important the proposals concerning the handbook and the rationalization of procedures might be, they could not represent the rationale for the Special Committee. The manner in which the Special Committee had set out to fulfil its mandate confirmed the impression that some of its members refused to recognize the gravity of the challenges to the very existence of the Organization, hence the fragmentation of its mandate and debates. Nevertheless, the Special Committee was the ideal forum for tackling those problems and it was to be hoped that in 1985 it would respond to the hopes which the international community had placed in it.

54. Mr. OLWAEUS (Sweden) noted with satisfaction that the Special Committee seemed to have been able to reverse the stagnative trend of previous years.

55. He pointed out that the views of his Government on the role of the United Nations in the maintenance of international peace and security had been expressed in detail at the previous session of the General Assembly (A/C.6/38/SR.65) and noted with satisfaction that important progress had been made on that item thanks to the submission of the working paper reproduced in paragraph 20 of the report of the Special Committee (A/39/33). That document summed up various constructive suggestions, which had come from many quarters during the past few years, for

(Mr. Olwaeus, Sweden)

strengthening the role of the Organization in the field of conflict prevention and reflected, *inter alia*, a number of views set forth by the five Nordic countries in 1983 in document A/38/271. In spite of the complexity of the question and the difficulties encountered in reaching agreement, it seemed reasonable to assume that the main thrust of the ideas set forth in the working paper had met with broad support. His delegation therefore looked forward with great interest to the new version of the document to be produced by the sponsors in the light of the suggestions made in the Special Committee and in the debate in the Sixth Committee. Nevertheless, it should not be forgotten that substantial progress could be achieved only if efforts were made to moderate the rigid positions which in the past had led to a stalemate in the Special Committee. The fortieth anniversary of the Organization and the tenth anniversary of the Special Committee would provide an excellent opportunity for such a re-evaluation.

56. Thus far, the discussions in the Special Committee had focused on preventive action to be taken by the relevant organs of the United Nations; many other aspects of its mandate, such as the question of reviewing the implementation of the decisions of those organs and the various problems related to the measures and procedures for the pacific settlement of disputes under Chapter VI of the Charter, would have to be considered. Nevertheless, experience had shown that the Special Committee had been right in choosing the step-by-step procedure since such an approach was undoubtedly the only way to avoid another failure. With regard to the future mandate of the Special Committee, he felt that the momentum gained at the last session must not be lost and that the Special Committee in 1985 should focus to an even greater extent on the question of the maintenance of international peace and security.

57. His delegation noted with satisfaction that agreement seemed possible on an outline for a draft handbook on the peaceful settlement of disputes between States. However, the absence of any direct reference to the International Court of Justice was unfortunate, and his delegation associated itself with the many delegations which had recommended that the role of the Court should be spelled out more clearly. There was a tendency to forget the provisions of Article 36, paragraph 3, of the Charter. In that connection, he associated himself with the remarks made by the representative of Denmark on the importance of compulsory third-party settlement of disputes.

58. With regard to the proposal of 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 was not fully convinced of the need to add another organ to the existing machinery, since the main problem seemed to be the reluctance of States to make full use of the various methods that the Charter put at their disposal, particularly in Chapter VI. Nevertheless, that initiative had set off a most interesting debate on the functions of the United Nations organs. Furthermore, the possibility that such a commission might play a useful role in certain situations should not be excluded. His delegation therefore commended the sponsors of the working paper for their efforts to amplify their proposal, which ought to receive a thorough analysis at the 1985 session of the Special Committee.

(Mr. Olwaeus, Sweden)

59. Lastly, with regard to the question of the rationalization of existing procedures of the United Nations, his delegation noted that some of the Special Committee's recommendations on that subject seemed to be self-evident and even devoid of much practical content, but was prepared to believe that the proposals as a whole would be useful. His delegation had no objection to retaining the item on the Special Committee's agenda, at least as a subsidiary matter. It should be left to the discretion of the Special Committee to decide whether and when the proposals on the subject should be discussed further.

60. Mr. DJIENA WEMBOU (Cameroon) said that, on the whole, the Special Committee had made significant progress at its 1984 session. Its report (A/39/33) reflected the constructive and positive nature of its work, particularly with regard to the question of the maintenance of international peace and security. It was nevertheless unfortunate that the Special Committee had not considered all aspects of that question. His delegation endorsed the working paper reproduced in paragraph 20 of the report which, although it had not dealt with the real causes of situations which might give rise to conflicts, ought to constitute a good basis for work at the Special Committee's 1985 session if its sponsors expanded their proposals in the light of the debate in the Sixth Committee, particularly by developing section III.

61. One of the most important aspects of the question of the maintenance of international peace and security was respect for United Nations decisions in that sphere. The Security Council, which was supposed to represent the commitment of all Member States to act decisively whenever international peace and security were threatened, must be fully capable of playing its role. While there was some sense to the right of veto because, realistically, it had to be acknowledged that it was the great Powers which were concerned first and foremost with the maintenance of peace, it was also true that the partisan exercise of that right, and not the democratization of the Council, was the basic cause of the weakening of the Organization. His delegation hoped that the Special Committee would consider that aspect of the question at its 1985 session. The revitalization and democratization of the Organization were all the more necessary because the world had undergone vast changes since the end of the Second World War and peace was most frequently threatened in poor countries. Legal adjustments were necessary, and the democratization of the United Nations would better equip it to maintain international peace and security.

62. With regard to the peaceful settlement of disputes, the proposal of Nigeria, the Philippines and Romania to establish a commission for good offices, mediation and conciliation (A/C.6/39/L.2) ought to be considered by the Sixth Committee. His delegation hoped that its sponsors would make efforts to specify the legal status of that commission and the relationship it would bear to existing United Nations organs, taking into account Articles 11 and 12 and Chapters VI and VII of the Charter.



(Mr. Djiena Wembou, Cameroon)

63. Nevertheless, the maintenance of international peace and security depended first and foremost on the behaviour of Member States themselves, particularly the great Powers, which ought to renounce escalation, the race for supremacy, hegemonistic aims and the use or threat of force.

64. His delegation welcomed the agreement reached in the Special Committee on the elaboration of a handbook on the peaceful settlement of disputes between States. However, the handbook should make greater reference to the International Court of Justice and include documents relating to regional mechanisms for the settlement of disputes in its annexes.

65. His delegation supported the conclusions of the Special Committee with regard to the rationalization of existing procedures of the United Nations. However, the Special Committee should not allow that question to hold back the debate on the two essential questions falling within its mandate.

66. His delegation favoured the extension of the Special Committee's mandate and hoped that the Special Committee would be able to conclude its work on the occasion of the fortieth anniversary of the United Nations.

67. Mr. MAPALALA (Swaziland) said his delegation supported and encouraged all efforts aimed at strengthening the role of the United Nations, including the working paper entitled "Establishment of a commission for good offices, mediation and conciliation" (A/C.6/39/L.2) and the proposal concerning the elaboration of a handbook on the peaceful settlement of disputes between States, both of which sought to lead States to opt for the peaceful solutions prescribed in the Charter.

68. Nevertheless, those and many other similar initiatives which had been submitted to the Sixth Committee and other forums seemed not to have had concrete results. The fact that the political will of Member States was needed to translate the collective capacity of the United Nations into action and to allow peace-keeping organs, such as the Security Council, to function could not be overemphasized. However, whenever a crisis arose, factors unrelated to the problem at hand often prevented the Council from acting in accordance with the relevant provisions of the Charter. It was important to recall that the effectiveness of the Secretary-General or the Security Council lay in the political will of States to co-operate in the peace process by implementing the decisions of the General Assembly and the Council. Moreover, when members of the Security Council were divided on peace-keeping issues, the public concluded that there was something wrong with the United Nations and the very concept of internationalism.

69. His delegation supported the proposal on the preparation of a handbook on the peaceful settlement of disputes between States, which would enable Governments to make fuller use of the means available for settling the disputes dividing them.

70. His delegation attached great importance to efforts aimed at defusing situations before they led to international friction. In that regard, it welcomed the fact that the sponsors of the proposal entitled "Establishment of a Permanent



(Mr. Mapalala, Swaziland)

Commission on Good Offices, Mediation and Conciliation for the Settlement of Disputes and the Prevention of Conflicts among States" (A/38/343, Annex) had submitted a revised version (A/C.6/39/L.2) which took into account the many suggestions made in the course of the debate. His delegation was prepared to consider that proposal carefully. Many Member States felt that it was insufficient to concentrate United Nations resources on crisis management in the area of international disputes and conflicts. Thus, the General Assembly, in its resolution 38/141, had given the Special Committee a new mandate. His delegation believed that all the Special Committee's proposals must enjoy broad support and that the useful work which that body had done thus far should be continued.

71. He reaffirmed his country's commitment to the peaceful settlement of disputes. He hoped that the debate in the Sixth Committee would guide the Special Committee, and that the latter would be able to make a valuable contribution to the fortieth anniversary of the founding of the United Nations and the International Year of Peace. Swaziland continued to call upon Member States to implement Article 2, paragraph 3, of the Charter in order to safeguard international peace, security and justice.

The meeting rose at 6 p.m.