



SUMMARY RECORD OF THE 15th MEETING

Chairman: Mr. FRANCIS (Jamaica)

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The meeting was called to order at 3.05 p.m.

AGENDA ITEM 132: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (A/41/33, A/41/183; A/41/189-E/1986/54, A/41/213-E/1986/56, A/41/337-E/1986/87, A/41/343-E/1986/91; A/41/398-S/18131)

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1. Mr. CULLEN (Argentina), Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introduced the report of the Special Committee on the work of its 1986 session (A/41/33). He pointed out that the agreement reached at the beginning of the session on the allocation of the Working Group's time to the three main topics before the Special Committee had required a spirit of co-operation among those delegations which would have preferred to focus on one of the topics or another. He noted that there was a general trend in Committees reporting to the Sixth Committee to devote a large amount of time to discussing organization of work, with a consequent loss of time and resources. He felt that such debate should take place in informal contacts at the beginning of sessions.

2. The statement of the Rapporteur on the topic of peaceful settlement of disputes between States was contained in paragraphs 14 to 31 of the report. The Working Group had considered the proposal by Romania contained in the working paper entitled "Resort to a commission of good offices, mediation or conciliation within the United Nations" (A/AC.132/L.47). The consensus among the Working Group had been that the discussion had made a positive contribution and had revealed the existence of some elements on which general agreement might well be possible, and that that should enable further progress to be made on the proposal (para. 29).

(Mr. Cullen, Argentina)

3. With respect to the progress of work on the draft handbook on the peaceful settlement of disputes between States, the Secretary-General had invited States members of the Special Committee to attend a meeting of the Consultative Group on the Handbook before the beginning of the Special Committee's session, to review drafts prepared by the Secretariat for the introduction and chapter I and for section A of chapter II (para. 30). After a short debate, the Working Group had taken note (para. 31) of the progress report of the Secretary-General (A/AC.182/L.46).
4. The statement of the Rapporteur on the topic entitled "Rationalization of existing procedures of the United Nations" and a summary of the debate were contained in paragraphs 32 to 43 of the report. The Working Group had had before it a revised version (A/AC.182/L.43/Rev.1) of a working paper submitted at the previous session by France and the United Kingdom.
5. The discussion of the topic entitled "Maintenance of international peace and security" was summarized in paragraphs 44 to 83. The Working Group had before it a revised version (A/AC.182/L.38/Rev.2) of the working paper submitted at previous sessions by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain (para. 44) and a working paper (A/AC.182/L.48) submitted by Czechoslovakia, the German Democratic Republic and Poland (para. 45).
6. The submission of two documents on the topic had provoked debate on how they should be considered. To reconcile differences of opinion, informal consultations had been held. The agreement reached was recorded in paragraph 49 of the report. He regretted that time and resources had been wasted in the process. Working paper A/AC.182/L.38/Rev.2 had been examined in the light of the relevant provisions of working paper A/AC.182/L.48 and with a view to identifying points of agreement (paras. 55-72). The sponsors had expressed gratification at the constructive turn of the discussion and had indicated that comments made would be taken into account (para. 72). The Working Group had then considered working paper A/AC.182/L.48 part by part (paras. 73-83).
7. Reference had been made on several occasions to the question of the legitimacy of the Special Committee and to the fact that it should seek to achieve concrete results. He recalled the disappointment expressed by his predecessor at the lack of tangible conclusions on any of the items under consideration at the previous session of the Special Committee. There were items on the Special Committee's agenda on which consensus was possible and on which, with a minimum of good will, tangible conclusions could be reached. Within its limitations, the Special Committee had functioned very well and had made an important contribution. He hoped that at the next session, new efforts would be made by all its members.
8. Mr. VOICU (Romania), recalling his country's continuous efforts to promote the cessation of conflicts and the peaceful settlement of disputes, especially through negotiations, noted that it was a Romanian proposal that had led to the adoption of General Assembly resolution 40/9, which contained a solemn appeal to States in conflict to cease armed action forthwith and to settle disputes between them

(Mr. Voicu, Romania)

through negotiations. The idea of establishing a permanent commission of good offices, mediation and conciliation, originally advanced by Romania in 1975, had been formally submitted by Nigeria, the Philippines and Romania at the thirty-eighth session (A/38/343) and had been under consideration by the Sixth Committee at every session since then. At the latest session of the Special Committee, Romania had submitted a new working paper (A/AC.182/L.47), the text of which was reproduced in paragraph 14 of the Special Committee's report (A/41/33). The Working Group of the Special Committee had devoted several meetings to the consideration of the proposal, a general exchange of views on the document being followed by paragraph-by-paragraph analysis. Almost 30 of the 40 delegations attending the session had taken part in that discussion, which had been livelier and more detailed than on past occasions. As stated in paragraph 15 of the report, many delegations had stressed that the proposal was worthy of serious consideration, and the new version had generally been viewed as an improvement over previous ones. As the sponsor of the proposal, his delegation felt that a new stage had been reached, general comments having given place to close and constructive analysis.

9. Romania welcomed the Working Group's consensus, noted in paragraph 29 of the report, that the discussion had made a positive contribution and had revealed the existence of elements on which general agreement might well be possible. It had to be recognized, however, that certain delegations had continued to express reservations. He proposed to respond to some of the misgivings, especially for the benefit of delegations not represented in the Special Committee.

10. The proposal in its new version made it absolutely clear that the commission would operate solely on the basis of agreement between the States concerned. The fact that it would enter into operation for each particular dispute meant that it was not envisaged as a permanent body, but as a procedure permanently at the disposal of the competent organs of the United Nations and of Member States. The commission's existence would not in any way affect the competence of the Security Council or the General Assembly, or their practical action in the field of peaceful settlement of disputes; nor would it affect the balance between the powers conferred upon them by the Charter.

11. Any ambiguity in that respect was precluded by the provision to the effect that in the event of a dispute submitted to it in accordance with the provisions of the Charter, the Security Council would consider, inter alia, the possibility of recommending that the States parties to the dispute or those directly affected by it should set up a commission of good offices, mediation or conciliation as an adequate means of settlement. A similar provision was included, mutatis mutandis, in respect of the General Assembly.

12. The procedure envisaged was an auxiliary and flexible one to be used voluntarily by the parties concerned. It was designed to facilitate negotiation between the parties, to reconcile their positions and to support them in the search for a negotiated and freely accepted settlement.

(Mr. Voicu, Romania)

13. The detailed description of the procedure to be followed also made it clear that resort to a commission was not envisaged as a substitute for but rather as an extension of action by the Security Council or the General Assembly. In the absence of a recommendation from the Council or the Assembly, the procedure would not normally be activated, but the parties concerned could agree among themselves to set up such a commission following contacts with the Secretary-General, in conformity with the generally recognized principle of free choice of means of peaceful settlement of disputes. The proposed procedure would be an integral part of the existing mechanisms of the United Nations. It would merely offer an additional option to Member States and to the competent principal organs of the Organization.

14. After summarizing the procedures described in paragraphs 10, 11 and 12 of the proposal (A/41/33, para. 14), he emphasized that the proposal reflected the overriding importance of negotiation in international life as a whole, as well as the growing interest of States in good offices, mediation and conciliation, to which various multilateral conventions adopted under United Nations auspices since 1969 bore witness. The proposal also reflected the obvious need to improve United Nations mechanisms for the peaceful settlement of international disputes, and to broaden the range of options available in that field. It represented an attempt to enable the Security Council and the General Assembly to act in a less formal and more effective manner, through continuous contact with the parties, in seeking and promoting solutions to disputes. Enhancing the Organization's effectiveness in that area meant, in the last analysis, strengthening its role in the sphere of preventive multilateral diplomacy. The United Nations should not only be a political forum for discussing serious disputes; it should be capable of intervening at a stage where disputes could still be avoided. As the Secretary-General had stated in his latest report on the work of the Organization (A/41/1), the inability of the United Nations to avoid, or resolve, many of the armed conflicts between Member States seriously affected the credibility of the Organization in the eyes of the public, on whose support the vitality of the United Nations ultimately depended.

15. His delegation hoped that the discussion in the Sixth Committee would consolidate the progress achieved by the Special Committee and would help the latter to complete the consideration of the proposal in 1987. In conclusion, he reiterated his delegation's support for the French proposal on the preparation of a draft handbook on the peaceful settlement of disputes, referred to in paragraphs 30 and 31 of the report.

16. Mr. ROMPANI (Uruguay) said that his country was committed to the United Nations. It based its foreign policy on respect for the principles governing inter-State relations. In 1907, the President of Uruguay had advocated mandatory arbitration as a means of settling disputes between States, and had proposed the establishment of an international body to that end. In keeping with its peace-loving tradition, Uruguay had participated in the talks that had eventually led to the establishment of the United Nations; it was one of the original signatories to the Charter.

(Mr. Rompani, Uruguay)

17. The Charter was not perfect, but it was the closest to perfection that those who had devised it could have attained. There was no case for amending it; what it needed was full compliance on the part of all States. Both the Secretary-General and the President of the General Assembly had, at the beginning of the current session, declared their belief that the United Nations had the necessary structure and capacity to address the pressing problems of an interdependent world. His delegation was convinced that the Charter provided the necessary elements for any action required to implement its principles. It was not the fault of the Charter if those principles had not been complied with. The Charter was a glorious achievement and deserved unconditional respect.

18. Mr. ABDEL KHALIK (Egypt) said that in the past, the Special Committee's poor results had been ascribed to the fact that its mandate had been adopted by a vote. But the situation had hardly improved since 1983, when the mandate had been adopted by consensus. The reason for such continuing failure was to be sought in the fact that the Sixth Committee, in endeavouring to produce a mandate acceptable to all, had employed language which was vague, imprecise and open to many different interpretations. Instead of concentrating on the search for language which could meet with general agreement, the Committee should seek real general agreement on the task to be entrusted to the Special Committee, and use such agreement as the basis for drafting the mandate in clear, explicit and precise language.

19. His delegation deeply regretted the Special Committee's failure to adopt any conclusions based on the 1983 agreement to begin by considering the preventive role of the United Nations. In that connection, he thanked the sponsors of working paper A/AC.182/L.38/Rev.2 for presenting a new version of their proposal, which took account of most of the substantive and drafting comments made by the Egyptian and other delegations. Subject to the incorporation of some other ideas, particularly those relating to the conduct of States in connection with preventive action taken by the principal organs of the United Nations, adoption of the working paper could have represented the first step taken by the Special Committee towards fulfilling its mandate on that question. His delegation had formed its opinion of the paper, not because it had been presented by a certain group of States, but because it was the only proposal submitted in accordance with the 1983 general agreement and the only working paper discussed for three successive years by all members of the Special Committee, belonging to all groups of States.

20. His delegation also noted with satisfaction the effort made by the sponsors of working paper A/AC.182/L.48 to widen the scope of consideration of the question of maintenance of international peace and security by adopting a more comprehensive approach. The sponsors were to be commended for addressing an important aspect of the question, namely, the role of States in the maintenance of international peace and security through the effective implementation of the purposes and principles of the Charter of the United Nations. With regard to future work on the proposal, he did not share the sponsors' view that discussion in the Special Committee could lead only to the elaboration of a document of a declaratory nature. His delegation believed that the adoption of specific practical measures to be implemented within a framework of conscientious implementation of the Charter and of the rules of

(Mr. Abdel Khalik, Egypt)

procedure of the Organization's principal organs was the best way of enhancing the effectiveness of the United Nations.

21. Noting that the working paper covered the obligations of States not only in relation to the United Nations, but also outside the framework of the Organization, he remarked that the scope of the paper would appear to be somewhat wider than that of the Special Committee's competence.

22. The situation in the Special Committee, where one group of delegations demanded the adoption of working paper A/AC.182/L.38/Rev.2, while another group opposed that paper and demanded detailed discussion of working paper A/AC.182/L.48, was similar to the situation in the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations. His delegation's view was that the two situations should be addressed together on the basis of continuous co-ordination between the work of the Special Committees and Working Groups established by the General Assembly upon the recommendation of the Sixth Committee. It should be borne in mind that terminating the activities of either of the Special Committees would not be a suitable solution.

23. On the question of peaceful settlement of disputes between States, his delegation had been pleased to see the first part of the draft handbook prepared by the Secretariat on the basis of the outline elaborated by the Special Committee at its 1984 session. His delegation had also been pleased to attend the first meeting of the Consultative Group on the Handbook and to note the constructive spirit of the discussion. The Secretariat deserved commendation for its efforts and it was to be hoped that other parts of the draft handbook would follow soon.

24. With regard to the Romanian proposal on resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.132/L.47), his delegation had noted with satisfaction the new structure of the working paper and the various changes introduced in the text. The difficulties it still had with certain parts of the proposal were reflected in the report. Continuation of the discussion of the proposal at the Special Committee's next session would no doubt help to clarify certain elements of the proposal and to overcome outstanding difficulties. In conclusion, he reiterated his delegation's view that the topic entitled "Rationalization of existing procedures of the United Nations", notwithstanding its importance, should be removed from the Special Committee's agenda, since it was under discussion in many other United Nations bodies, some of which had been established mainly for the purpose of dealing with it.

OTHER MATTERS

25. The CHAIRMAN reminded the Committee of the suggestion he had made in response to a point of order raised by the representative of the United Kingdom at the previous meeting. When collecting texts of statements made by fellow members of the Committee, representatives should proceed in an orderly manner, taking care to ensure that not more than two persons approached a delegation at the same time.

The meeting rose at 4.30 p.m.