

UNITED NATIONS

# General Assembly

FORTY-SIXTH SESSION

*Official Records*

SIXTH COMMITTEE  
9th meeting  
held on  
Monday, 7 October 1991  
at 3 p.m.  
New York

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SUMMARY RECORD OF THE 9th MEETING

Chairman: Mr. AFONSO (Mozambique)  
later: Mr. TETU (Canada)

CONTENTS

AGENDA ITEM 131: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

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Distr. GENERAL  
A/C.6/46/SR.9  
16 October 1991  
ENGLISH  
ORIGINAL: FRENCH

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

AGENDA ITEM 131: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)  
(A/46/33 and Corr. 1, A/46/335, A/46/383)

1. Mr. BERG (Germany) said that in order to enable the United Nations to respond to the demands placed on it, it was necessary to strengthen the position of the Secretary-General and to increase the effectiveness of the Secretariat. Moreover, the discussion and suggestions concerning possible reform of the Charter were evidence of the willingness to prepare the Organization to meet its future challenges. If the Charter were to be amended, his delegation believed that the provisions of Articles 53 and 107, known as the enemy-State clauses, should be eliminated, since they were no longer applicable.
2. The draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (A/46/33, para. 19) was a balanced text, which took into consideration both the interests of the Organization and those of States which advocated or hosted a fact-finding mission. By calling for States to adopt a more positive attitude in that field, the draft Declaration helped to defuse tensions at an early stage.
3. The title and the "solemnity" of the Declaration were inspired by the 1988 Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (General Assembly resolution 43/51, annex). His delegation hoped that the General Assembly would adopt without a vote the draft resolution on the draft Declaration, which the sponsors would soon be presenting. At the same time, his delegation could not help but regret the fact, as expressed by the Secretary-General in his report on the work of the Organization (A/46/1), that the pool of information available to the Secretary-General was wholly inadequate and that States seemed reluctant to provide him with the necessary means.
4. The Secretary-General's report also dealt with other issues involving the work of the Special Committee, among them, the recommendation to extend to the Secretary-General the authority to request advisory opinions from the International Court of Justice and the role of regional agreements and regional organizations in the peaceful settlement of disputes. In that connection, the Soviet proposals for the enhancement of cooperation between the United Nations and regional organizations (A/46/33, para. 46) were most useful, since in an increasingly interdependent world, every conflict had aspects which transcended regional boundaries and which might call for action on the part of the United Nations. It would still be necessary to agree on the exact scope of those proposals and to determine whether their thrust was political, or whether they were intended to interpret or even to further develop provisions of the Charter.

(Mr. Berg, Germany)

5. With respect to the draft United Nations rules for the conciliation of disputes between States (A/C.6/45/L.2, annex 1), he pointed out - as that matter was also **the** subject of the draft handbook on the peaceful settlement of disputes between States, of which he wished to commend the great practical usefulness to States and scholars - that a large number of conventions relating to conciliation already existed. A first step, therefore, would be to examine how the proposed rules would add to the existing instruments, bearing in mind the need for flexibility and discretion, which were essential to successful conciliation procedures. The Special Committee should consider that draft at its next session, during its discussion of the general role of conciliation in the peaceful settlement of disputes, with particular attention to the **provisions** relating to a procedure of the Conference on Security and Cooperation in Europe (CSCE) for **the** peaceful settlement of disputes set forth in document A/46/335.

6. In conclusion, he stressed that the Special Committee, which played a vital part in the United Nations **system**, had **made** a seminal contribution to the United Nations Decade of International Law. He wished also to reaffirm his delegation's desire to continue its active collaboration with the **Committee** .

7. Mr. DE SARAM (Sri Lanka) said that the draft handbook on the peaceful settlement of disputes between States (A/46/33, annex) would serve as an extremely valuable reference work, which only a handful of legal research and study centres in the world could have produced. Consultations with the Special **Committee** during the preparation of the draft handbook would have been appropriate; that working method should be kept in mind for similar studies in the future. He hoped that the handbook would be available soon as a United Nations publication, and not just as a United Nations document, and that efforts would be made **to** ensure that ministries of foreign affairs gave the handbook the attention it deserved. In that connection, letters to Permanent Representatives from **the** Legal Counsel would be **helpful**. He also hoped that the Office of Legal Affairs would keep the handbook current by issuing addenda and, after a suitable interval, a second edition.

8. The purpose of the draft Declaration on Fact-finding by the **United Nations in the Field of the M..intenance** of International Peace and Security (ibid., **para.** 19) was to strengthen the United Nations. It gave full recognition to the value of the role played by the Secretary-General in "**quiet diplomacy**" and consultations and **the fact that**, in certain cases, other bodies could **make** important contributions. It **did not derogate** in any way from the relevant provisions of the Charter of the United Nations, nor did it have an impact on the responsibilities conferred by the Charter on the principal organs of the United Nations. As the Organization gained experience in that field, the Declaration could no doubt **be** further refined.

(Mr. De Saram, Sri Lanka)

9. He wished to commend the delegation of Guatemala for the initiative it had shown with respect to the **United Nations** rules for the conciliation of **disputes** between States (**A/C.6/45/L.2**, annex I). It should, however, be kept in mind that the principal appeal of conciliation, as compared with arbitration and, **more** importantly, judicial procedures, was its flexibility and informal nature; care should **be** taken not to dilute those characteristics by elaborating provisions that **were** too detailed.

10. With respect to the future work of the Special Committee, **he** hoped that informal consultations, held before delegations **crystallized** their positions, would enable **members to reach** a consensus on priority issues.

11. Mr. VAN DE VELDE (Netherlands) said that like many other delegations, the Netherlands delegation would like to **see** more flexibility in the draft United Nations rules for the conciliation of disputes between States (**A/C.6/45/L.2**, annex I); it was often the elements of flexibility and adaptability that persuaded States to use that type of procedure. In that spirit, the application of the rules, as established in article 1, should be widened to include disputes of a purely legal nature, in view of the fact that Article 33 of the Charter included conciliation among the peaceful means for the settlement of "any" dispute. Furthermore, in the English version, the title of Chapter **III** of the draft rules, which read "Cases in which more than one State has the same interest with regard to the dispute", should **be** amended to bring it **into** line with **the** text of the **article**, which dealt with disputes to which more than two States were party.

12. **As** the 12 States members of the European Community had emphasised in the reply submitted by Luxembourg (**A/46/383**), it was important to strengthen existing structure<sup>6</sup> in **the** area of conciliation. However, duplication in that field should be carefully avoided by using existing mechanisms, **procedures** and institutions as extensively as possible.

13. On the premise that the United Nations could provide adequate organisational and administrative assistance in the course of a conciliation process, the draft United Nations rules **for** the conciliation of disputes between States envisaged a significant role for the Secretary-General. Apart from the potential financial implications of that premise for the United Nations budget, the question might be raised as to whether it was **the** most appropriate solution. His delegation would like to see regional organisations and other existing institutions involved in the conciliation process, in particular **the** International Bureau and **the** Secretary-General of the Permanent Court of Arbitration, which might play a coordinating role. Thus, conciliation procedures would be backed by a support body responsible for **organizational** and administrative matters. **Furthermore**, the draft rules might be combined with the provisions of The Hague Conventions for the Pacific Settlement of Disputes of 1899 and 1907, which had been supplemented in 1962 by **the** Rules of Arbitration and Conciliation for International Disputes between two Parties only one of which is a State. Under **such a system**, new

(Mr. Van De Velde, Netherlands)

procedures would not be needed and States could benefit from the expertise of **the** Secretary-General of the **Permanent** Court of Arbitration and the services of **the** International Bureau.

14. He stressed that while it was important to make the rules more flexible and to enhance the quality of the procedures, the essential was to promote procedures for the peaceful settlement of disputes.

15. **Mr. KASOULIDES** (Cyprus) said that the draft Declaration on Fact-finding by the **United Nations** in the Field of the **Maintenance** of International Peace and Security (A/46/33, **para.** 19) was a positive contribution which would assist in enlarging the scope and increasing **the** effectiveness of fact-finding missions. His delegation agreed that the term "Declaration" should be used. It also strongly endorsed all means of strengthening the mechanisms used by the **United Nations** in its efforts to seek solutions to international conflicts, including the occupation of part of the territory of the Republic of Cyprus.

16. He welcomed the completion of the draft handbook on **the peaceful settlement Of disputes between States** (ibid., annex) and hoped that it would be issued and widely distributed. He also welcomed **the** publication of the bibliography on the peaceful settlement of disputes between States.

17. The Special Committee's future activities should aim to strengthen positive international developments and the new spirit of international solidarity and cooperation and to **examine** their legal implications.

18. Cyprus had been striving for years to resolve the conflict in that country through peaceful means and **the** good offices of the Secretary-General of **the United Nations**. **It** favoured authorizing the **Secretary-General** to request advisory opinions from the International Court of Justice. With the object of enhancing cooperation between the United Nations and regional organizations, **the** working document submitted by **the Soviet Union** (A/46/33, **para.** 46) highlighted the important role of regional arrangements in the peaceful settlement of disputes. The many recent initiatives in that area by regional organizations, in particular by the Conference on Security and Cooperation in **Europe** (CSCE) in Europe and the **Organization** of American States (OAS) in Latin America, **emphasized** the need to codify and clarify the working relationship between regional organizations and the United Nations in a spirit of **complementarity** and not of competition, in order to pool resources and increase effectiveness.

19. In view of the confusion and ambiguity arising from the application of sanctions against Iraq after the Gulf crisis, attention should be paid to such issues as assistance to third countries suffering as a consequence of sanctions, humanitarian aspects, and the elaboration of flexible general guidelines designed to expedite intervention by the Security Council and equitable treatment for all States Members of the United Nations. His

(Mr. Kasoulides, Cyprus)

delegation wished also to endorse the development and codification of the United Nations rules for the conciliation of disputes between States; it was convinced that the Special Committee was the competent body to discharge that task.

20. Mr. TETU (Canada) said that the Gulf crisis had highlighted the fact that the United Nations did not play a strong enough role in conflict prevention, and Canada therefore called upon all Member States to implement the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (General Assembly resolution **43/51**, annex).

21. His delegation fully endorsed the draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (**A/46/33**, para. 19) which, once adopted, would help provide detailed information about the relevant aspects of a dispute or situation and thus assist the United Nations in carrying out its role in the maintenance of international peace and security. It welcomed the fact that the Special Committee had clarified the role of the Organization without rewriting the Charter.

22. The draft handbook on the peaceful settlement of disputes between States (**A/46/33**, annex) would prove to be an excellent **contribution** to the United Nations Decade of International Law. In a world in the throes of **depolarization**, where, unfortunately, regional tensions still existed, States needed instruments of that type to help them prevent disputes from turning into armed conflicts more than ever. The quality of the handbook ensured that it would prove valuable and effective. His delegation therefore urged all the members of the international community to consult and use it.

23. With respect to the future work of the Special Committee, the working paper entitled "**New** issues for consideration in the Special Committee" (**A/45/33**, **para. 14**), submitted by the delegation of the Soviet Union, could serve as a useful basis for discussion, in particular on the questions of improving cooperation between the United Nations and regional organizations and strengthening the Secretary-General's role in peacemaking. Canada would be pleased to have the Special Committee consider the issue of United Nations supervision of elections as a means of conflict prevention. It would also be appropriate for it to consider the Guatemalan proposal for draft United Nations rules for the conciliation of disputes between States (**A/C.6/45/L.2**, annex I).

24. Ms. DASCALOPOULOU-LIVADA (Greece) said that her delegation endorsed the draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (**A/46/33**, **para. 19**), which enhanced the competence of the United Nations by specifying and developing the relevant Provisions of the Charter without departing from the text. It attached particular importance to paragraph 13 of the draft Declaration, which

(Mrs. Dascalopoulou-Livada, Greece)

authorized the **Secretary-General** to consider undertaking fact-finding missions on his own initiative or at the request of the States concerned, and to paragraphs 9 and 11, under which the Security Council or the General Assembly should consider the possibility of providing in their resolutions for recourse to fact-finding. It would also have been appropriate to provide for recourse to fact-finding activities in order to monitor the implementation of the resolutions of those organs. Still, even in their **current** form, the provisions of paragraphs 9 and 11 would give those resolutions a factual dimension which might, in some cases, **contribute** significantly to defusing a potential threat to international peace and **security**.

25. With respect to the future work of the Special Committee, the proposals by the Soviet Union relating to the enhancement of cooperation between the United Nations and regional organizations (ibid., **para. 46**) merited further consideration. There was a great deal to be explored in that field since regional organizations, in particular the Conference on **Security** and Cooperation in Europe (CSCE), had made considerable progress in elaborating methods for the peaceful settlement of disputes. The working paper entitled "**New issues for consideration in the Special Committee**" (A/45/33, para. 14) contained many useful suggestions. In particular her delegation endorsed paragraph 2 (b), which suggested submitting for the consideration of the Special Committee the question of the way and **means** of implementing the Charter of the United Nations and the norm of international law as well as related enforcement action vis-à-vis a State that had breached the peace or failed to comply with Security Council **decisions**. It **was** high time that Security Council resolutions ceased being dead letters, as was the case with those relating to the Republic of Cyprus. Her delegation also wished to express its strong support for the idea set forth in paragraph 2 (e), which provided that the Special Committee might consider **measures** aimed at strengthening the collective security regime provided for in the Charter of the United Nations. In her opinion, the Special Committee should go **still** further and on the **basis** of the provisions of the Charter, draw up a declaration on collective security, which would supplement the Manila Declaration on the Peaceful Settlement of International Disputes (General Assembly resolution 37/10, annex) and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations (General Assembly resolution 42/22, annex). Such a declaration would define the rules governing collective security, the obligations of Member States and of third States and, above all, the obligations and powers of the organs of the United Nations, in particular the Security Council.

26. The handbook on the peaceful settlement of **disputes** between **States** (A/46/33, annex) was complete and easy to use and would certainly prove useful to States, organizations, practitioners and **students** of **international law** and **international relations**.

(Mrs. Dascalopoulou-Livada, Greece)

27. His delegation was in favour of the extension of the mandate of the Special Committee.

28. Mr. Tétu<sup>A</sup> (Canada) took the Chair.

29. Mr. SHEVCHENKO (Ukraine) said that the irreversible changes taking place in the countries of Eastern Europe, the affirmation of a common responsibility for the maintenance of international peace and security and the **specific** actions taken to strengthen the role of the United Nations gave rise to the hope that members of the international community would soon be inclined to abide scrupulously by the provisions of the Charter and to act on the basis of the primacy of international law and international obligations.

30. It was symbolic that the General Assembly had designated the second decade of the twenty-first century as the United Nations Decade for International Law. The profound changes taking place in the world opened the possibility of at last **realizing** the dream **of** former generations that relations between States could be conducted on the basis of the rules of international law. In his delegation's opinion, one of the main contributions of the Decade should be to promote respect for the rules of international law at the national level, including strict respect for the obligations deriving from international instruments. The Decade should make it possible to **utilize** all the possibilities offered **by international** law to combat **international terrorism** and narcotics trafficking effectively. His delegation intended to contribute actively to the achievement of the Decade's goals.

31. The strengthening and full utilization of the possibilities offered by the United Nations with respect to the maintenance **of** peace were **of** fundamental importance at the present juncture. It had become essential to examine the possibility of creating comprehensive and effective machinery under Chapter VII of the Charter which would make it possible to react quickly against acts of aggression and threats to international **peace** and security. There **was** also growing awareness of the need for preventive **measures, which** would also entail the existence within the framework of the United Nations **of** A reliable system of early detection of potential areas of international tension.

32. The draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (A/46/33, **para.** 19) was exceptionally important and it was to be hoped that it would be adopted by the General Assembly **at its current session**. Defining the principle of fact-finding was a prerequisite to strengthening the peace-keeping capacities of the United Nations. It was important **for** Member States to accept it, and not to oppose **the** sending of United Nations missions to their territory. The handbook on the peaceful settlement of disputes between States (ibid., annex) would certainly contribute to a more **frequent** resort to peaceful methods for the settlement of international disputes.



(Mr. Shevchenko, Ukraine)

33. His delegation was determined to support the United Nations and the basic principles of the Charter. It hoped that the **Organization**, on the eve of its fiftieth anniversary, would adapt itself to the new conditions of international life. It was proposing the establishment of an environmental safety council and the elimination of **some** of the Organization's outmoded bodies. It would also be useful to rid the Charter of anachronisms such as the reference to "enemy States". His delegation considered that the Organization's effectiveness could **be** improved by making full use of the possibilities offered by the Charter for strengthening security and developing **internaticnal** cooperation,

34. The Soviet Union's proposals concerning the enhancement of cooperation between the United **Nations** and regional organizations (ibid., **para.** 46) and **some** of the proposals made by other delegations at plenary **meetings** of the General Assembly's forty-sixth session were of great interest in connection with the improvement of the Organization's structures and procedures. His delegation shared the view of those representatives who believed that the Special Committee should consider measures to strengthen the **system** of collective security envisaged in the Charter and was prepared to contribute to strengthening the role of the United Nations in the maintenance of peace and collective security.

35. Mr. RAYA (Philippines) said that, in spite of the positive developments in the world, recent events in the Gulf, in Europe **and in** Latin America showed that, **more** than in the past, the international community **must maintain** its positions of principle firmly, resolutely repudiate the use of force in international relations and demonstrate its interest in the application of the norms and principles of international law. The draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (**A/46/33, para.** 19) and the handbook on the peaceful settlement of disputes between States (ibid., annex) should promote that process.

36. The draft Declaration was important because it provided a comprehensive elaboration and codification of fact-finding. It was understandable that States would insist on their sovereign prerogatives **and** recognition **was** therefore required of the need for the **pricr** consent of **a State to a** fact-finding mission on its territory. The handbook was **a summary of** the methods of peaceful settlement of disputes. It was to **be** hoped that it would encourage States involved in **a** dispute to explore the many methods of peaceful settlement open to them.

37. His delegation had taken note of the proposals put forward **by the** Soviet delegation on new issues for consideration **by the** Special Committee (**A/45/33, para.** 14). It reserved the right to express its views on those proposals at **a** later stage.

(Mr. Raya, Philippines)

38. His delegation welcomed the draft Rules for the Conciliation of Disputes between States (A/C.6/45/L.2, annex I) and the comments they had elicited (A/46/383). It considered that continued discussion of the question in the Special Committee would be helpful.

39. The time had come to eliminate the last remnants of the cold war and finally to address those conflicts, regional or bilateral, that had thrived under that bygone era. In the new atmosphere of international harmony, States should give greater attention to solving their domestic problems. The benefits that would bring for their own citizens would be the real "peace dividend".

40. Mr. WLOSOWICZ (Poland) said it would be unrealistic to expect all international disputes to disappear completely. What must therefore be done was to promote ways and means of settling them peacefully. From that point of view, fact-finding had already proved its usefulness. It had still to be codified legally, however, and the draft Declaration on Fact-Finding by the United Nations in the Field of the Maintenance of International Peace and Security (A/46/33, para. 19) should meet that need.

41. With regard to the question of prior consent by States to the sending of fact-finding missions, his delegation continued to believe that that was an essential requirement for the proper functioning of such missions. In that context, Article 25 of the Charter should not be overlooked, for it remained possible for the time being, in view of current international disputes, that the Security Council might make a decision concerning fact-finding.

42. The Soviet Union's proposal concerning the enhancement of cooperation between the United Nations and regional organizations (*ibid.*, para. 46) was very timely. It was to be expected that regional arrangements would play a prominent role in peace-keeping and peacemaking processes. A clear-cut picture of each region was still needed.

43. The handbook on the peaceful settlement of disputes between States (A/46/33, annex) was an excellent piece of work which would serve as a source of information for practitioners, scholars and students. It should be widely distributed among students of international law and international relations all over the world, translated, if necessary, and regularly updated. It could perhaps be expanded through the inclusion of a list of recent cases or their summaries.

44. Mr. POSADA (Colombia) said that despite the progress made in some aspects of international life towards growing democracy and *détente*, the world was still living under the constant threat of situations and problems which threatened international peace and security. The United Nations thus still had a vital role to play in promoting the peaceful settlement of disputes and preventing and eliminating factors likely to endanger peace. In order to fulfil that mission it was clear that impartial and timely knowledge of the ins and outs of potentially volatile situations was an absolute necessity.

(Mr. Posada, Colombia)

45. In that context the draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (A/46/33, para. 19) was an important step forward. It acknowledged that the comprehensive, objective, impartial and timely knowledge of facts likely to constitute a threat to peaceful international relations should be seen as a means for guaranteeing the realization of the aims of the Organization without disregarding the sovereign rights of States. In that context the recommendation contained in paragraph 6 of chapter I of the draft Declaration, according to which the sending of a United Nations fact-finding mission to the territory of any State required the prior consent of that State, should be retained with all that it implied, particularly the acknowledged right of the State concerned to determine in advance, clearly and unequivocally, the conditions for the admission of the mission, its stay and its departure from the territory in conformity with the relevant provisions of the Charter.

46. Furthermore, it was important that the measures proposed in the report of the Special Committee should strike a balance between the Security Council, the General Assembly and the Secretary-General. For purposes of achieving that balance, the General Assembly should play its role as the body in which all States were represented.

47. The principle contained in paragraph 15 of chapter II of the draft Declaration, according to which the Security Council and the General Assembly should, in deciding to whom to entrust the conduct of a fact-finding mission, give preference to the Secretary-General, was also important. To that end it was essential that the Secretary-General should have available the necessary resources to facilitate the fulfilment of his mandate. That was a provision which should be expressly stated in the text of the Declaration.

48. As for the phrase introducing the operative part of the draft Declaration, his delegation considered that exchanges of views should continue in order to reach a formula acceptable to all delegations. It would prefer wording which avoided the adverb "solemnly", since the primarily technical nature of the Declaration did not justify it and because it considered the misuse of the concept of solemnity inappropriate, in that it should be reserved for documents elaborating fundamental principles of international law. It would not, however, oppose any consensus which might arise around the wording proposed by the Special Committee.

49. The handbook on the peaceful settlement of disputes between States (ibid., annex), drawn up by the Special Committee, should be published and distributed in an appropriate way because of its intrinsic and pedagogical worth. In addition, it represented a valuable contribution to the United Nations Decade of International Law.

50. His delegation shared the idea put forward by several delegations that the handbook should be used as the basis for elaborating a universal convention on the peaceful settlement of disputes which would set out precise

(Mr. Posada, Colombia)

rules on the resort to various **means** of settlement recognized by international law, namely negotiations and consultations, inquiry, good offices, mediation, conciliation and arbitration, judicial settlement and acknowledgment of the compulsory jurisdiction of the International Court of Justice. In that connection, the ideas and **proposals** which might be put forward by various delegations concerning conventions on specific procedures for the peaceful settlement of disputes, for example the Guatemalan proposal on conciliation, might be brought together in a coherent way with a view to elaborating a general convention based on **the** handbook's contributions.

51. Even though the Court had before it a growing number of disputes concerning relations between States, his delegation shared the concern expressed by the Secretary-General **concerning** the inadequate use of the principal judicial organ of the United Nations. One way of contributing to strengthening collective security would be to give the Secretary-General the option of asking the International Court of Justice for advisory **opinions**. His delegation endorsed the opinion of the Court on the **importance** that such a possibility would have for the exercise of its functions and **hoped** that it would be made possible without delay, as it would simultaneously strengthen the International Court of Justice and the function of the Secretary-General.

52. The working paper submitted by the USSR on the enhancement of cooperation **between** the United Nations and regional organizations (**A/46/33, para. 46**) merited further consideration. While it felt that regional organizations had a pivotal role to play in the maintenance of international peace and security, his delegation considered that their characteristics, legal instruments and particular attributes should be looked at closely in order better to determine relations with the competent bodies of the United Nations, and especially how they should complement one another. In order to strengthen the role of regional organizations and prevent possible operational problems between them and the United Nations, communication and the exchange of information initiatives between them needed to be improved **and the number of joint initiatives increased**. For **that** reason, paragraph 14 of the working document **submitted by the USSR was important since it proposed establishing a permanent communication mechanism between the Secretary-General and the leaders of regional organizations relating to problems of common interest**.

53. **The position of the Latin American countries concerning the role of regional organizations was set out in the document prepared by the Rio Group on a general outline for the revitalization of the United Nations which had been officially transmitted to the Secretariat. The document described the convergence of the aims and guiding principles of regional organizations and the United Nations, a convergence which favoured cooperation between the two bodies.**

54. Lastly, his delegation believed that the new world realities justified a reassessment of the role of the Security Council in order to determine the extent to which the excessive concentration of the power to make decisions in the hands of a restricted group of States was compatible with the changing demands of a constantly evolving international community. Colombia, which had

(Mr. Posada, Colombia)

since the creation of the United Nations **expressed** serious reservation<sup>6</sup> concerning the right of veto contained in the Charter, believed that the **time was** right to discuss questions concerning the Security Council which for many years had caused unease among many delegations.

55. **Mr. ORDZHONIKIDZE** (Union of Soviet Socialist Republics) **said** that international relations had entered into a period of profound upheaval in which the bipolarity of the super-Powers which had **characterized** the cold war era was being replaced by **an** interdependent world dominated by the spirit of cooperation. In that new climate, the role of the United Nations as a unique mechanism for **harmonizing** the efforts of the **members** of the international community could only grow. The question that **now** arose was how to replace a world **system** based on a balance between opposing forces with a new **system** of security and cooperation based on a balance of interests. The primacy of law was the essential principle **around which the** new model of international security should **be organized**.

56. The United Nations Charter could **be seen** as a kind of constitution of the international community, **the** cornerstone of the new world order. That historic document had lost none of its relevance. While it had been difficult to envisage at the **time** of its adoption the appearance of **new** world problems **such** as the environmental threat, international terrorism and the illegal trade in drugs, the humanist **ideals** and democratic values on which it was based meant that it was still the effective **guarantee** of the security of the planet. On the other hand, the **United Nations** and the agencies of the **system** needed to be adapted to the new world realities and their functioning improved through reforms while taking care not to destroy those structures which had proved their effectiveness. A new reading of **the** Charter would allow its full potential to be **realized** and **give** new **substance** to the **Organization by rationalizing** the structures and agenda of its principal organs.

57. It was from that perspective that the **work of the** 1991 session of the Special Committee should be examined. It had been called on to play an essential role in the process of consolidating international legality. The session's **major** achievement **had been the adoption by consensus** of the draft Declaration on Fact-finding by the United Nations<sup>6</sup> in the Field of the Maintenance of International Peace and Security (A/46/33, para. 19). His delegation considered that if the General Assembly adopted the Declaration by consensus, the gathering by the United Nations of the objective facts which were indispensable in order to **take** balanced and effective decisions **would be** strengthened. Such an instrument would provide the **basis** on which to build an extended network of monitoring **mechanisms designed** to prevent international disputes and conflicts or to settle them without delay. It would also **be a** concrete contribution to **the** achievement of the aims of the United Nations Decade of International Law and to the establishment of a climate of predictability, stability **and** trust in the world.

(Mr. Ordzhonikidze, USSR)

58. The completion of work on **the** draft handbook on the peaceful settlement of disputes between States **was** also to be **welcomed**; its particular merit **was** that it detailed the nature and principal features of every method of settlement, illustrated with examples taken **from real** situations. The adoption of the handbook could pave the **way** for a future **general** instrument on the peaceful settlement of **disputes between** States which would take account of the experience accumulated in that field, **for example the** outcome of the Valletta Meeting of Experts on the **Peaceful Settlement of Disputes** of the Conference on Security and Cooperation in Europe (see A/46/335).

59. His delegation **was** pleased to **note** the general **opinion** of the members of the Special Committee that the working **paper entitled "New issues** for consideration in the Special **Committee"** (A/45/33, **para. 14**), submitted by the Soviet Union, constituted a good foundation for the future work of the Special **Committee on** the maintenance of international peace and security **within** the terms of its mandate. It also **welcomed the fact** that a majority of Sixth **Committee member6** had endorsed the content of the document and thus considered that **the mandate** of the Special Committee should be extended to cover **consideration** of the issues detailed **in the document**. In formulating its proposals, the **Soviet** Union had based itself **on** the principle that there was a need to strengthen the central role of the United Nations and its principal organ, the Security Council, in guaranteeing international peace and the **security and stability** of States. At the same **time**, there **was** a need to **improve the practice of settling** conflicts and to **take** full advantage of the **possibilities offered** by the United Nations with a view to **establishing a multilateral structure** of preventative diplomacy which would **defuse** crisis situations.

60. It was vital to **establish** by **common** agreement within the United Nations a range of **effective methods designed** to dissuade any potential aggressor, and to **elaborate legal procedures** allowing concerted and rapid action against acts of **aggression** and threats to international **peace**. Such a mechanism **could** encompass **the various** stages of collecting **and** processing information, the **establishment by the Secretary-General** of provision6 for the possible outbreak of conflict situations, the adoption by the Security Council of varied **preventive and, if necessary, coercive** measures, in conformity with the provisions of the Charter. In that connection a study should be carried out of the **specific elements** of such a mechanism, particularly with **respect to States making available** armed forces to the Security Council (Art. 43 of the Charter) and the role to be assigned to the Military Staff **Committee** and its regional **subcommittees** (Art. 47), etc.

61. The **Soviet Union** considered that the international community should **also** **vigorously protest against the resort to force** and the armed **conflicts** which were occurring **inside some countries**, promote a democratic solution of their internal problems and **ensure respect** for human rights everywhere.

(Mr. Ordzhonikidze, USSR)

62. The Soviet Union was deeply convinced that the enhancement of cooperation between the **United Nations** and regional **organizations**, envisaged under Chapter **VIII** of the Charter, **was** one of the **most promising methods** of guaranteeing universal security. Regional processes of **security** and cooperation were moreover developing at an accelerated rate in **Europe**, **Asia**, **Africa** and **Latin America**. It was important to harmonize without delay the action taken by the United Nations and regional **organizations** in the fields of disarmament, military policy, economic and social life, the environment; and humanitarian activities. Lastly, lessons should be drawn from the **European** experience and applied to other **regions**, taking into account of course their specific nature. In that connection, his delegation had submitted at the most recent session of the Special Committee a working paper on cooperation between the United Nations and regional **organizations** (A/46/33, para. 46).

63. Under conditions of interdependence, the authority and influence of a **State** depended increasingly on the **moral** and legal character of its foreign policy. Only a policy which respected law, that was to say, a policy defined by respect for the interests of other peoples and the international community as a whole, could serve a country's real **national** interests. The end of the era of ideological confrontation created political and legal conditions which would allow the United Nations to **become** a true centre for coordinating the efforts of nations on a basis of respect for international legality.

64. Mr. FUKUKAWA (Japan) said that the events of the past year had shown that conflict prevention was a matter of highest priority. For that reason, he Japanese Minister for Foreign **Affairs** had proposed to the General **Assembly** the establishment of a conflict prevention **system** based on: **substantial** strengthening of the Secretariat's ability to monitor constantly and to analyse information relating to possible conflicts; the dispatch of on-situ fact-finding missions; the issuance of "early warnings" if the situation required; and good offices and mediation efforts under the authority of the Secretary-General.

65. His delegation therefore strongly urged that the General Assembly, in a resolution adopting the draft Declaration on Fact-finding by the United Nations in the Field of the **Maintenance** of International Peace and Security, should request the Secretary-General to study ways of improving the Secretariat's capacity to implement the **draft** Declaration and to report on the **outcome** of the study to the General Assembly at its forty-seventh session. It believed that the draft Declaration, **once** adopted, would constitute a major contribution to the United Nations Decade of International Law.

66. His delegation supported the publication and wide dissemination of the handbook on the peaceful settlement of disputes between States (A/46/33, annex) and hoped that it would prove a useful reference not only for academics and government experts on the settlement of **disputes**, but also for students of international law and for the general public. The handbook represented another important contribution of the Special Committee to the United Nations Decade of International Law.

(~~Mr. Fukukawa, Japan~~)

67. It was encouraging to note that the Secretary-General's trust fund to assist States in settling disputes through the International Court of Justice was already being put to use. In that regard, his delegation agreed with the United Kingdom delegation that the fund should be **more widely publicized** and that contributions should **come from as wide a range of sources as possible**, including private sources. Japan, for its part, had contributed **\$55,000** to the fund in the current year.

68. The time had **come** for the Sixth Committee to consider new topics which should **be** entrusted to the Special Committee. In light of the Special Committee's experience, his delegation believed that the **new items** selected should focus on certain specific areas of international peace and security, and that the **aim** of the Special Committee's work should **be to** formulate a series of **concrete** recommendations for enhancing the capabilities of the relevant organs of the United Nations. Such recommendations should be action-oriented and **should** enjoy broad support. Lastly, the endeavour **must be** conducted in accordance with the principles set forth in the United Nations Charter. In that regard, he hoped that the Special Committee would, at its next session, engage in a constructive discussion on its programme of work and reach an agreement on a specific agenda to be presented to the **Sixth Committee** at the forty-seventh session of the General Assembly.

69. It was imperative that all States which valued the United Nations should work with each other and with the Secretary-General to strengthen the role of **the Organization**. Lastly, his delegation reiterated that the clauses relating to former enemies in the Charter were an anachronism which should be promptly deleted.

70. ~~Mr. ARRIA~~ (Venezuela) said that the draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (**A/46/33, para. 19**), by affirming the competence of the General Assembly or the Secretary-General to dispatch fact-finding missions, constituted a clear step forward in broadening the powers of those organs in a field of such importance as the maintenance of peace and, especially, the implementation of measures to counteract the risk of international conflict.

71. It was, however, important to specify that States which exercised complete self-determination had the right to impose conditions on the sending of a fact-finding mission. The requirement of the State's consent, set forth in paragraph 6 of the draft Declaration, included not only acceptance of the mission but also the conditions of its conduct. Thus, any State had the right to withdraw its consent if the circumstances giving rise to the sending of the fact-finding mission changed or disappeared, and such withdrawal of consent could in no way be considered as prejudicial to efforts to settle the dispute or crisis in question.

72. His delegation believed that the enjoyment of immunities and facilities referred to in paragraphs 22 and 23 of the draft Declaration **should be subject to the legislation and practice** of States.



(Mr. ~~Arria, Venezuela~~)

73. It associated itself with other delegations in congratulating the Soviet delegation on the working document it had presented on the enhancement of cooperation between the United Nations and regional organizations (ibid., para. 46), since it firmly believed that such cooperation would promote a reduction in international conflicts,

74. The Soviet proposal could, however, be improved. It showed a certain imbalance in so far as it did not assign the same importance to the General Assembly and the Secretary-General, although both were organs of the United Nations which, under the Charter, were called upon to carry out important work in the area of maintaining international peace and security. Moreover, the Secretary-General, in his report on the work of the Organization (A/46/1), had once again deplored the limitation of his powers in those areas. The General Assembly, for its part, was the seat of power of the States Members of the Organization, which were also bound by the Charter to work for the maintenance of international peace and security. Given those facts, the Soviet proposal could be improved by expressly assigning to those principal organs of the United Nations a well-defined role in the area of cooperation with regional organizations.

75. The handbook on the peaceful settlement of disputes between States (A/46/33, annex), which was based on the principles of freedom in choosing the means of settling disputes and of the consent of States to any given means of settlement, constituted, in its balanced presentation, a very useful source of information on mechanisms for settling disputes and their modes of operation, and an important contribution to the dissemination of international public law. Lastly, his delegation proposed that Guatemala's proposal concerning conciliation (A/C.6/45/L.2, annex I) should be submitted to the Special Committee for further consideration.

76. Mr. SANDOVAL (Ecuador) said that the final version of the document concerning fact-finding by the United Nations in the field of the maintenance of international peace and security (A/46/33, para. 19) set forth basic concepts to which his delegation attached great importance, namely the necessity of obtaining the express consent of the State to whose territory a proposed fact-finding mission was to be sent and the right of that State to impose, along with its consent, certain conditions that must be observed by the mission and to take decisions on the composition of the mission. He regretted that there had been no discussion in the Special Committee on the form which the document should take, and, thus, on the question of its final title. His delegation was, however, prepared to support whatever majority opinion emerged on that point in the debate of the Sixth Committee. The usefulness of the document, which he hoped would be adopted by the General Assembly, would depend on the use which States and the principal organs of the United Nations made of the mechanisms for which it provided.

77. His delegation hailed the completion of the handbook on the peaceful settlement of disputes between States (A/46/33, annex). The more it could be

(Mr. Sandoval, Ecuador)

circulated in all the official languages of the United Nations in university and government circles, the more useful it would be.

78. His delegation supported the inclusion of an item on the Guatemalan proposal concerning United Nations rules for the conciliation of disputes between States (see A/C.6/45/L.2 and A/46/383) in the agenda of the 1992 session of the Special Committee.

79. In conclusion, he said it was time to begin planning the future work of the Special Committee and focus efforts on goals to which were in line with contemporary realities.

80. Mrs. DELLUJAN FLORES (Uruguay) said that the draft Declaration on Fact-finding by the United Nations in the field of the Maintenance of International Peace and Security (A/46/33, para. 19) was a balanced document which respected the sovereignty of States by acknowledging the principle of prior consent by the State to whose territory a fact-finding mission was to be sent. In order to strengthen that principle further, the word "express" should be added before "prior consent" in paragraph 6. An objective and comprehensive knowledge of the facts was of paramount importance for the prevention of conflicts. A positive aspect of paragraphs 16 and 30 was that they highlighted the complementary nature of fact-finding activities. Paragraphs 23 and 24 on the immunities and facilities to be accorded to members of fact-finding missions so that they could discharge their mandate more effectively, should contain a reference to international law on the matter, since it included the norms of both treaty law and common law. Her delegation had no objection to the title of the draft Declaration.

81. The working document submitted by the Soviet delegation on the enhancement of cooperation between the United Nations and regional organizations (A/46/33, para. 46) was of interest to her delegation. Her delegation also welcomed the adoption of the handbook on the peaceful settlement of disputes between States (ibid., annex), whose publication would be extremely useful for universities and would also have practical value. The handbook represented a major contribution by the Special Committee to the United Nations Decade of International Law and could serve as a basis for the elaboration of a universal convention on the peaceful settlement of disputes.

82. The proposal to give the Secretary-General the authority to submit requests to the International Court of Justice for advisory opinions, referred to in paragraph 37 of the report, should be adopted. The Minister for Foreign Affairs of Uruguay had echoed that proposal in his address to the General Assembly during the current session.

83. Lastly, her delegation wished to see the mandate of the Special Committee renewed, as it could play a very vital role in ensuring the reforms and revitalization of the United Nations and full respect for international law, a hope expressed by the authors of the Guadalajara Declaration. In the future,

(Mrs. Dellujan Flores, Uruguay)

the Special Committee could consider such questions as the legal framework for the obligation to assist third States that were adversely affected by the implementation of Article 50 of the Charter; the provisions of Chapter VII of the Charter and their implementation in the light of recent events; revision of the norms on the peaceful settlement of disputes so as to make States responsible not only for seeking a solution to disputes in good faith but also for actually settling them; and the possibility of making certain General Assembly resolutions binding.

84. Mr. KAMBOU (Burkina Faso) said that the draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (A/46/33, para. 19) was a very valuable compromise text for dealing with a situation before it degenerated into open conflict and a threat to peace. His delegation was in favour of the adoption of the text, as improved by the discussions in the Sixth Committee. It also believed that the question of preventive diplomacy should be considered in depth by the Special Committee.

85. His delegation welcomed the adoption of the handbook on the peaceful settlement of disputes between States (A/46/33, annex), which should be very widely circulated so that States could refer to it as often as possible in order to resolve their conflicts and preserve peace.

86. Referring to the Special Committee's future programme of work, he said that the handbook could serve as a basis for the Committee's elaboration of an international legal instrument on the peaceful settlement of disputes, which should also take into account economic disputes. The question of enhancing cooperation between the United Nations and regional organizations should be explored in depth. The United Nations should encourage States to use mechanisms for the peaceful settlement of disputes which already existed in their regional organizations and to support those organizations whenever they were involved in efforts to restore peace. Additional resources should be provided to the trust fund established by the Secretary-General in order to assist States that lacked the necessary means for recourse to the International Court of Justice or for implementing its decisions. Burkina Faso, for example, found it difficult to finance the demarcation of its border with Mali, as prescribed by the Court in its decision of 22 December 1986.

87. In conclusion, he said that the Special Committee should consider the question of the strengthening of the role of the United Nations by reviewing the structure of the Security Council so that the Organization would no longer be dominated by the major Powers but rather would become or at least more closely approximate a model of democracy. More balanced participation by States based on individual and collective responsibility in the field of peace-keeping would bolster preventive diplomacy and be more in keeping with the dramatic changes and transformations currently unfolding: the disappearance of opposing blocs, an increased number of members of the General

(Mr. Kambou, Burkina Faso)

Assembly, the trend towards regional communities, etc. His delegation hoped that the idea of democratization of the Organization would take its course. It also wished to be part of the Special Committee and thereby make its modest contribution within the framework of the Decade of International Law.

88. Mr. Afonso (Mozambique) resumed the Chair.

89. Mr. SAENZ DE TEJADA (Guatemala) said that the draft rules for the conciliation of disputes between States, initially submitted by his delegation for consideration by the Sixth Committee, should be referred to the Special Committee, which had more than demonstrated that it had the necessary seriousness and flexibility to conclude work on that aspect of the Charter. Many delegations had also expressed that view during the debate.

90. The CHAIRMAN said that he intended to hold consultations on that proposal. If he heard no objection, he would take it that that was the wish of the Sixth Committee.

91. It was so decided.

The meeting rose at 5.50 p.m.