

UNITED NATIONS  
**General Assembly**

FORTY-FOURTH SESSION

*Official Records*

SIXTH COMMITTEE  
13th meeting  
held on  
Monday, 9 October 1989  
at 10 a.m.  
New York

SUMMARY RECORD OF THE 13th MEETING

Chairman: Mr. TUERK (Austria)

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Distr. GENERAL  
A/C.6/44/SR.13  
12 October 1989

89-56194 1522S (E)

ORIGINAL: ENGLISH

The meeting was called to order at 10.10 a.m.

AGENDA ITEM 146: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/44/33, A/44/409 and Corr.1 and 2, A/44/585, A/44/602)

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1. Mr. ZURITA (Venezuela) said that his country adhered absolutely to the purposes and principles of the United Nations, but realized that new approaches were required to deal with new problems. International peace and security were threatened not so much by armed conflict as by hunger, poverty, drugs and the depredation of the environment. It was therefore time to review the mandate of those organs which, like the Special Committee on the Charter, were called upon to help strengthen the role of the United Nations in the maintenance of international peace and security.
2. The Sixth Committee had been working for several years on the drafting of norms and the strengthening of the mechanisms of the Organization. The Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security attested to the efforts made by Member States in that regard.
3. The proposal contained in document A/AC.182/L.60 (A/44/33, para. 20) was worthy of special attention. The Charter did indeed empower the Security Council, the General Assembly and the Secretary-General to undertake fact-finding missions in order to maintain international peace and security. In the view of his delegation, the aim now was to institutionalize a mechanism for exercising that authority. It was important to bear in mind such fundamental principles as the freedom of the parties to choose the means of settlement and establish the nature of the facts to be determined. Hence, the greatest difficulty lay in reconciling those principles with the authority to send fact-finding missions.
4. Another constructive proposal in the effort to find formulas for the settlement of disputes between States was to be found in the working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations (A/44/33, para. 123). Good offices, mediation and conciliation fell within the wide spectrum of procedures available for the settlement of international conflicts. Again, it was important that the parties involved should be allowed to choose the method of settlement.
5. International peace and security could be guaranteed only through full recognition of international law. His delegation therefore viewed with satisfaction the work done by the Special Committee in drawing up a set of norms which might contribute to the achievement of the universal objective of maintaining

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(Mr. Zurita, Venezuela)

international peace and security. The General Assembly should declare a decade of international law, as proposed in The Hague Declaration of the Meeting of the Ministers of Foreign Affairs of the Movement of Non-Aligned Countries to Discuss the Issue of Peace and the Rule of Law in International Affairs (A/44/191).

6. Mr. KURUKULASURIYA (Sri Lanka) said that the international community, weary of war, had turned a new leaf, and there was a new and real expectation of mutual understanding, peace, coexistence and friendly interdependence in international affairs. His own country was just emerging after five or six years of violent conflict which had brought untold suffering to its people. In those years, a purely domestic dispute had turned into an international conflict and had threatened to engulf other countries in the region and endanger peace and security. Fact-finding missions unable and, regrettably, sometimes even unwilling, to understand the historical, cultural, social and economic backdrop to the conflict, had fuelled the flames of conflict by their one-sided reporting, sometimes carried on the front pages of the international press. His country had seen the insidious role played by propaganda, often supported by highly sophisticated technology, in the making of conflicts to serve some interest or other, conditioning the world to a particular perception of the dispute. That his country was emerging from the nightmare with the fundamentals of its democratic traditions, socio-economic values, and cultural and national identity intact, was perhaps the best testimony of the commitment of its people to democracy, freedom and the peaceful settlement of disputes.

7. His delegation wondered whether there was not a slight abstractness in the manner in which the subject of fact-finding was being approached in the Special Committee, which should, at its next session, examine the subject against the backdrop of the realities of armed conflict. He wished to offer some suggestions which might contribute to the discussions of the Special Committee and the ultimate outcome of its work.

8. First, the extent to which that outcome evoked the confidence of all States - large and small, weak and powerful - would be fundamental to the Special Committee's success. Equally important were the guarantees and safeguards that would be worked into the system to ensure complete and absolute impartiality and objectivity in fact-finding, leaving no room for the slightest trace of bias or imbalance.

9. Second, the scheme for fact-finding which the Special Committee was working on sought to deal with a wide variety of conflict situations, from small bilateral or regional disputes to major armed conflagrations. The Charter provided the authority for the Security Council, the General Assembly and the Secretary-General to initiate fact-finding operations. There seemed to be some nexus, in practice if not in theory, between the intensity of the conflict and the organ most likely to concern itself with fact-finding operations. His delegation would not like to see the Special Committee extend the scope of the fact-finding powers of the Security Council under Chapter VII of the Charter to other organs of the United Nations or justify a scheme formulated for other organs on the grounds that it was permitted to the Security Council under that Chapter.

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(Mr. Kurukulasuriya, Sri Lanka)

10. Third, fact-finding missions must do just that and nothing more. They must find the facts. His delegation, with the experience of the past few years, knew only too well how difficult that task could be. Since foreign fact-finders brought with them standards of measurement acquired in a totally different environment, perhaps one way of making some advance towards objectivity might be to include representatives from the region directly affected or persons who had real, not just academic and journalistic, associations with the area of conflict in the fact-finding mission. It might be useful to consider including some guidelines on the matter in the final documents of the Special Committee.

11. Fourth, fact-finding missions must never be thrust on a State, as that would have serious implications for the principle of sovereignty. In fact, even an effort to do so would leave indelible stains of suspicion and sully the noble efforts of the Special Committee.

12. The very act of sending a fact-finding mission often, if not always, presupposed a certain lack of faith in the normal reporting mechanism of States. His delegation held the view that if a fact-finding initiative was to succeed, the United Nations must take the States concerned into its fullest confidence and act with due regard for their sensitivities. His delegation would therefore like to make the following suggestions to that end:

13. First, the Special Committee might wish to bear in mind the need to couch the scheme for fact-finding in a language and tone that underscored the principle of sovereignty of States and the principle of non-interference in the internal affairs of States, as set forth in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

14. Second, fact-finding missions might be undertaken only after all possible means of information-gathering had been exhausted and the Secretary-General, in particular, had fully utilized his preventive diplomacy functions. His delegation would also like to caution against too much reliance on the media in the preliminary information-gathering processes.

15. Third, the composition of the fact-finding mission must be undertaken with the full concurrence of the parties to the conflict.

16. Fourth, once the concurrence of the States had been obtained, with regard both to the composition of the mission and to its mandate, the parties to the conflict remained in duty bound to accord their fullest co-operation to the mission to execute its mandate properly.

17. Fifth, the preliminary report of the fact-finding mission should be made available to the parties to the conflict, and their observations and comments thereon should be annexed to the report before it was released to the public. His delegation would even favour a system of cross-references, through footnotes, to enable a reader to see a particular aspect of the report in its widest possible perspective.

(Mr. Kurukulasuriya, Sri Lanka)

18. In conclusion, his delegation wished once again to express its admiration for the Chairman and members of the Special Committee, who had worked with deep commitment, to call upon the Special Committee to bring into sharper focus the realities of a conflict situation and to urge it to proceed towards the elaboration of a scheme for fact-finding under the United Nations system that would be founded firmly on the twin principles of sovereign equality of States and non-interference in the internal affairs of States.

19. Mr. SOKOLOVSKIY (Byelorussian Soviet Socialist Republic) said that the constructive and businesslike atmosphere which had prevailed during the session of the Special Committee had been a reflection of the new processes taking place in the world and in the United Nations. The old atmosphere of confrontation had disappeared and the Special Committee had rightly concentrated on developing everything positive that had been achieved in recent years by the joint efforts of all its members. As a result, the Special Committee had made real progress in implementing its mandate and strengthening its position.

20. Solving the problem of devising better fact-finding machinery for the investigation of international disputes and conflicts was closely linked with such vital issues as the peaceful settlement of disputes between States, eliminating dangerous hotbeds of tension and regional conflict, and avoiding crisis situations. Timely, objective information and knowledge of the circumstances might in future be a basis for the principal organs of the United Nations, primarily the Security Council, to take effective decisions. The two working papers considered by the Special Committee were a good foundation for the preparation of an international legal text that would reveal the importance of international investigation and fact-finding as part of the United Nations peace-keeping potential. The two working papers complemented one another and could quickly become component parts of a single text.

21. Fact-finding had great political potential and could be the basis for creating more extensive machinery within the United Nations which would not be limited to investigating and establishing facts but would also make use of other components of the United Nations peace-keeping activities.

22. The Special Committee's efforts to implement the ideas of the Manila Declaration had produced guiding principles for the resort to a commission of good offices, mediation or conciliation within the United Nations. His delegation advocated the adoption of those guiding principles by consensus during the current session of the General Assembly. It also considered that further consideration of the question of the peaceful settlement of international disputes should remain one of the Special Committee's main concerns, together with consideration of the strengthening of international peace and security. It would also be important to complete the Special Committee's work on the draft handbook on the peaceful settlement of disputes between States. Such a document would be a valuable practical tool and provide States with guidance in the field of the peaceful settlement of disputes.

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(Mr. Sokolovskiy, Byel Russian SSR)

23. Proceedings in the Special Committee had evidenced growing interest in rationalizing existing United Nations procedures. Proposals made during the discussion of that topic had focused on finding ways of increasing the effectiveness of the General Assembly. Although it had not been possible to complete consideration of the topic, the discussion had shown that the Special Committee had every possibility of preparing recommendations on the subject at its next session.

24. The non-confrontational period currently developing in international relations once more raised the question of the United Nations role in the modern world. Processes were occurring within the Organization that were strengthening its authority and influence and it was increasingly becoming a real centre for agreeing on practical action. The revival of the role of the United Nations was directly connected with the improvement in the international climate and the responsibility being shown by increasing numbers of States in their foreign policy. His delegation considered that the international community's principal current task was to promote a transformation of international relations with the most active participation of the United Nations. Steps to that end could include increasing its peace-keeping potential and concentrating its activities in areas where general agreement had already been achieved or was taking shape.

25. Mr. STARCEVIC (Yugoslavia) said that his delegation regarded the consideration of the question of fact-finding activities as a continuation of the discussions on 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, adopted unanimously at the forty-third session. In order to ensure that United Nations fact-finding activities would contribute to the strengthening of its role in the maintenance of international peace and security, the Special Committee should focus primarily on the prevention of disputes, even though there was no doubt that fact-finding activities could also be useful at various stages of ongoing conflicts.

26. Although the two working papers submitted on the question (A/AC.182/L.60 and L.52) differed in their approach, his delegation considered them to be complementary, not contradictory. They also contained many points of agreement which, in conjunction with a very constructive debate in the Special Committee, pointed to the existence of considerable readiness on the part of all groups of countries to work towards the elaboration of a document that would represent a substantial contribution to the strengthening of the role of the United Nations in the maintenance of international peace and security.

27. The Special Committee should continue to concentrate in its future work on the question of the role of the United Nations in that area. In addition to fact-finding activities, there were also other subjects that could be considered by that Committee. One of them was the role of the United Nations in peace-keeping operations. That question was, of course, being considered in the Special Committee on Peace-keeping Operations, but bearing in mind the fact that the

(Mr. Starcevic, Yugoslavia)

Special Committee on the Charter was dealing with questions related to the maintenance of international peace and security, as well as the importance of peace-keeping operations in that area, the possibility should be left open for the Special Committee on the Charter to consider certain aspects of peace-keeping operations.

28. The changed climate in international relations had also brought a greater emphasis on the role of international law in those relations. Mention had been made of a strengthened role for the International Court of Justice; in that regard, he wished to recall the Hague Declaration of the Meeting of the Ministers of Foreign Affairs of the Movement of Non-Aligned Countries to Discuss the Issue of Peace and the Rule of Law in International Affairs of June 1989 (A/44/191). In that Declaration, the Ministers had called upon the United Nations General Assembly to declare a decade of international law, beginning in 1990 and ending in 1999. The initiative from the Hague meeting on the proclamation of the decade had been supported by the Ninth Conference of Heads of State or Government of Non-Aligned Countries, held in September 1989 in Belgrade.

29. His delegation had noted with interest the intention of the Secretary-General to establish a trust fund based on voluntary contributions to assist developing States in the settlement of their disputes through the International Court of Justice by providing them with necessary legal expertise or funds that they might lack. His delegation believed that was a step in the right direction, together with all other means of peaceful settlement of disputes that the Organization had devised or would devise in future.

30. As to the item relating to the peaceful settlement of disputes between States, his delegation was pleased to note that, after several years of deliberations, the Special Committee had succeeded in completing its work on the Romanian proposal concerning the resort to a commission of good offices, mediation or conciliation within the United Nations. His delegation agreed that the consideration of that proposal had contributed to a better understanding of conciliation as a means for the settlement of disputes, and welcomed the recommendation of the Special Committee that the proposal should be annexed to a decision to be adopted at the current session.

31. His delegation also appreciated the work of the United Nations Secretariat on the elaboration of a draft handbook on the peaceful settlement of disputes between States. The drafts of some of the sections indicated that the handbook would be a very useful instrument that would reflect experience and practice in the utilization and improvement of mechanisms for the peaceful settlement of disputes.

32. Lastly, his delegation believed that the Special Committee should continue considering the question of rationalization of existing United Nations procedures, with a view to reaching an agreement on the relevant recommendations as soon as possible. The proposals submitted so far dealt with some important aspects of the functioning of the United Nations that had been considered by other United Nations bodies as well. All the proposals should therefore be carefully examined, bearing

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(Mr. Starčević, Yugoslavia)

in mind the need to ensure the continuous efficient functioning of the United Nations, in fulfilment of its objectives.

33. Mr. DEREYMAEKER (Belgium) said that the new atmosphere of trust that was evident in international relations had been reflected in the adoption by the General Assembly, without a vote, of 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). The delegations which had sponsored that Declaration, including his own, had considered it advisable to carry their efforts further by attempting to draw up a general framework for United Nations fact-finding activities. His colleagues from Italy and the Federal Republic of Germany had already commented on the general philosophy underlying the working paper contained in document A/AC.182/L.60. He endorsed their comments, and merely wished to stress that the working paper was based on the premise that by providing accurate information on a delicate question at an early stage, the reports of fact-finding missions should enable United Nations organs to take more effective decisions much more rapidly, before a problem reached a stage where it would be difficult to deal with. His delegation was very pleased that the working paper had been favourably received at the spring session of the Special Committee. He had noted, however, that some delegations had expressed certain concerns regarding the proposals contained in the working paper; he therefore wished to clarify the following points.

34. First, with regard to the subject-matter under discussion (ratione materiae), the document was concerned only with missions responsible for collecting facts. In that regard, document A/AC.182/L.60 seemed to be much more restrictive than the aforementioned Declaration annexed to resolution 43/51, which covered all appropriate methods for the settlement of disputes, including consultation, conciliation and mediation. While the latter methods could include elements of a political or legal nature, that was not the case with fact-finding missions, whose only purpose was to throw as much light as possible on the reality of certain facts that were being disputed. Hence, there could be no threat of interference in the internal affairs of any State.

35. His delegation agreed with the delegation of Tunisia, which had questioned the translation of the English term "fact-finding mission" as mission d'enquête in French. In the view of his delegation, the French term mission d'établissement des faits should be used, inasmuch as the word enquête, which was used, for example, in Articles 33 and 34 of the Charter, had a meaning which was not necessarily identical with that intended in the working paper. The term enquête used in those articles corresponded to the English term "enquiry". Consequently, henceforth he intended to speak only of missions d'établissement des faits. That was the translation used by the Secretary-General in his report on fact-finding methods presented to the twentieth and twenty-first sessions of the General Assembly (A/5694 and A/6228).

36. With regard to the time when fact-finding missions should be established (ratione temporis), the working paper allowed for the possibility of that being done at any stage in a dispute, not only during the period immediately preceding

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(Mr. Dereymaeker, Belgium)

the outbreak of a conflict. Thus, its temporal scope was broader than that of the aforementioned Declaration. Clearly, a fact-finding mission would be more effective if it was set up early in the chain of events leading to a conflict.

37. Thirdly, ratione personae, the aim of the six sponsors of the working paper had been, above all, to strengthen the ability of the Organization to obtain accurate, complete and objective information. They had not been concerned with the question of whether a decision to send a fact-finding mission had been taken by the competent organ of the Organization. The proposal was based on the assumption that such a decision would have been a valid one, whether taken by the Security Council, the General Assembly, or the Secretary-General. Hence, it could be said that compliance with the rules of the Charter was taken for granted.

38. Although the proposal did not have any strictly legal implications, that was not the case with regard to the political aspects of the issue, on which the sponsors had made some suggestions on matters of principle. It was in that spirit that they had put forth the view that the undertaking of a fact-finding mission should be entrusted, preferably, to the Secretary-General, and that he should be encouraged to undertake such missions whenever it seemed likely that a dangerous situation might arise.

39. No one was thinking of questioning the Charter, particularly Article 2, paragraph 7, but his delegation could only consider arbitrary refusal by a State to admit United Nations fact-finding missions as not being in keeping with the spirit of international co-operation. There was also the question whether such a refusal could always be considered legitimate. A positive answer to that question would give his delegation very mixed feelings.

40. The proposals made by other delegations concerning fact-finding missions showed the interest that existed in the subject. He was grateful to the delegations of Czechoslovakia and the German Democratic Republic in particular for their efforts. Their approach had thrown a different light on the subject, but differences had appeared which might be less easy to overcome than his delegation would wish. However, if the Special Committee was able to continue its work in the same excellent atmosphere, he hoped that it would be able to finish its consideration of fact-finding missions at its next session. It would then be able to submit a draft declaration on the subject to the General Assembly for adoption.

41. His delegation welcomed the proposals made by the delegations of France and the United Kingdom for rationalizing United Nations procedures as useful and positive. It hoped that the Special Committee would be able to adopt a draft on the subject at its next session.

42. On the subject of the peaceful settlement of disputes, his delegation supported the proposal in paragraph 123 of the Special Committee's report (A/44/33). It also considered that the peaceful settlement of disputes no longer merited a separate agenda item, but should be incorporated in the item on the mandate of the Special Committee. In conclusion, he wished to thank the Legal Counsel, the Codification Division and all those who had worked on the draft

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(Mr. Dereymaeker, Belgium)

handbook on the peaceful settlement of disputes between States. He looked forward to seeing the results of that very useful project.

43. Mr. KOSKENNIEMI (Finland) said that the report of the Secretary-General bore witness to expanding reliance on the United Nations as an impartial third party in conflict situations and the Special Committee's work in both of the areas within its mandate had been encouraging. His delegation was also pleased to note the statement by the President of the International Court of Justice that, for the first time in its history, it could now consider contentious cases from every continent. Binding third-party settlement was clearly receiving support from an increasing number of States.

44. Several States had withdrawn their reservations concerning the jurisdiction of the International Court of Justice in disputes arising out of particular treaties. In addition, a proposal to enhance the jurisdiction of the Court was being discussed by the permanent members of the Security Council. Finland welcomed those developments. Because it believed that the sovereign equality of States could best be protected by general acceptance of compulsory and impartial third-party dispute settlement, it urged all States to make the declaration envisaged by Article 36, paragraph 2, of the Statute of the International Court of Justice.

45. On the subject of the peaceful settlement of disputes, his delegation endorsed both the Special Committee's recommendation that a proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations should be annexed to a decision of the Assembly at the current session and the statement in paragraph 122 of the Special Committee's report. It also wished to thank the Legal Counsel and Secretariat for their work on the draft handbook on the peaceful settlement of disputes between States, which could be helpful once there was political will to avoid confrontation.

46. On the subject of maintaining international peace and security, positive progress had been made. The two working papers on enhancing the United Nations fact-finding functions showed the willingness of members of the Special Committee to make a constructive contribution. Those papers complemented one another and it would not be difficult to convert them into a consolidated working paper during future discussions. But in view of one issue which had arisen, he wished to state his delegation's view that the kind of fact-finding activities envisaged in the two working papers should not be perceived as intervention by United Nations organs in the domestic jurisdiction of Member States. Such fact-finding missions acted within the clearly defined limits of the competence of the United Nations. Both working papers stated clearly that the entry of a fact-finding mission into a State's territory required that State's consent. It was quite appropriate to appeal to States not to deny consent if competent United Nations organs felt that a fact-finding mission was necessary, but that did not mean that a State was legally bound to comply. It was difficult to see why a State should refuse its consent if the decision to dispatch such a mission was properly taken.

(Mr. Koskenniemi, Finland)

47. How soon it would be possible to start discussion on the future of the item on the maintenance of international peace and security, once the Special Committee had finished its work on fact-finding, remained an open question. But it might then be useful to exchange views on those functions of United Nations organs that bore a resemblance to fact-finding but went further towards more active involvement in the search for positive solutions.

48. Mr. ROSENSTOCK (United States of America) said that the two items before the Committee were among the more important items on the General Assembly's agenda and the Special Committee was uniquely placed to become increasingly important in revitalizing the United Nations. Unfortunately, the Special Committee had not received the recognition that it deserved. Interesting ideas had been presented elsewhere that could well be considered by the Special Committee; there would then be less cause for concern that they might shift authority within the United Nations and destabilize its constitutional structure rather than enhance the collective security régime of the Charter. There was no plausible reason why the so-called conceptual aspects of some proposals should be addressed in the First Committee.

49. The two proposals on fact-finding before the Committee revealed substantial areas of agreement that would not have seemed possible until recently. Some problems still remained but none seemed insurmountable and the Special Committee appeared to be on the verge of making another notable contribution to preventive diplomacy.

50. His delegation welcomed the suggestions that had been made about additional areas for exploration in the context of preventive diplomacy. The Special Committee was the most appropriate forum to examine such suggestions in a positive spirit. His delegation therefore hoped that the proponent of those ideas would place them before the Committee and not suggest that they be further explored in the context of the First Committee.

51. Another important area where the Special Committee could make significant contributions was that of rationalizing the work of the United Nations. More work needed to be undertaken in an open-minded spirit. One question to be approached in such a spirit was that of consensus. It was unfortunate that some had responded with a reflex rejection to the Soviet suggestion to enhance the effectiveness of United Nations actions by increasing the use of consensus. It would be tragic if ideas were rejected because of their origin. It was time to examine all ideas on their merit, although it would not be easy to break with the habits of the past.

52. His country had opposed introducing the unanimity rule into the General Assembly all along, but was puzzled by objections raised on the grounds that it violated the principle of sovereign equality. Consensus building gave no more to the large than to the small and the Committee's most significant products had for the most part emerged from the consensus process. Working by consensus was not the enemy of results but lent weight to those results. The issue was whether a self-denying decision to work by consensus in as many areas as practicable did not serve the interests of all. In the case of the United Nations Conference on the

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(Mr. Rosenstock, United States)

Law of Treaties between States and International Organizations, or between International Organizations, all substantive aspects had been accepted by consensus after hard bargaining and significant compromises by all concerned. That was unique in the history of codification exercises and the consensus approach had proved enormously useful.

53. Another issue which needed to be examined was the efficiency of the United Nations system as a whole. His delegation believed that there was considerable waste resulting from duplication when issues became topical or States raised their concerns in every available forum. But his delegation was not sure that the Special Committee was the best place to pursue that concern. However, the matter needed to be considered and the Special Committee was one forum that might usefully highlight the need and perhaps recommend the optimum forum to pursue it. As the representative of Canada had said, it was important to rationalize the operations of United Nations functions and to set priorities.

54. On the question of the peaceful settlement of disputes, his delegation welcomed the more positive attitudes towards the International Court of Justice announced recently by some of those who had been most hesitant to agree with the United States item on enhancing the effectiveness of the International Court of Justice introduced in the 1970s. His delegation believed that progress was being made in the discussions with the Soviet Union concerning the International Court of Justice to which reference had already been made. Widening recognition of the role of the Court and of third party dispute settlement in general was a welcome development. The recommendation from the Special Committee concerning good offices, mediation and conciliation showed the increased willingness of States to recognize the role that could be played by third parties in resolving problems.

55. The peaceful settlement of disputes was intimately connected with preventive diplomacy. His delegation saw no justification for the continuation of a separate item on the peaceful settlement of disputes, but the Special Committee had to continue dealing with the issues, being singularly well placed to co-ordinate proposals relating to the settlement of disputes and the role of international law.

56. His delegation took a positive view both of the Soviet suggestion that the Special Committee should look into the important role that had to be played by international law and of various suggestions by non-aligned countries, including one for a possible decade of international law. However, it would be necessary to have much more detail about the content of such proposed endeavours before responding to them. As the representative of the United Kingdom had said, if the decade was really to mean something and to produce significant results, it was essential that there be general agreement among States on both substance and procedure.

57. Mr. MOLNAR (Hungary) said his delegation had made every effort to ensure that the Special Committee achieved positive results in the fulfilment of its mandate. In order to increase the effectiveness of its role in the maintenance of peace and security the United Nations must have impartial and detailed knowledge of all the facts relevant to situations which might threaten international peace. His delegation therefore supported the suggestion that States should not refuse to admit United Nations fact-finding missions into their territory, and that they should co-operate with them in every way possible. Such co-operation would not undermine the sovereignty of States and would not constitute intervention in their domestic jurisdiction.

58. Both the working papers submitted on the subject of fact-finding contained useful elements and they were complementary. They provided the Committee with a useful basis for further discussion, from which, it was to be hoped a substantive document would emerge.

59. With regard to section IV of the Special Committee's report, his delegation shared the view that any rationalization of existing United Nations procedures should be carried out in strict compliance with the Charter and fully in keeping with the interests of Member States. It also hoped that the revised version of the working paper would serve as a basis for reaching agreement at the next session of the Special Committee, and that work on the topic could be completed at that session.

60. His delegation was strongly in favour of any constructive step that might contribute to the strengthening both of the principle that disputes between States must be settled peacefully and of the methods available to States for that purpose. His delegation supported the efforts of the international community aimed at enhancing the effectiveness of the International Court of Justice as the principal judicial organ of the United Nations. The Court had an important role to play in the settlement of international disputes. His country was currently considering the practicability of withdrawing its reservations regarding the jurisdiction of the Court. His delegation welcomed the drafting by the Secretariat of the handbook on the peaceful settlement of disputes between States, and hoped that the Special Committee would be in a position to complete its consideration of the handbook in the near future.

61. With regard to the proposal on resort to a commission of good offices, mediation or conciliation within the United Nations, his delegation maintained its view that what was required was to utilize the many well-established existing procedures for settling international disputes, since the obstacles to peaceful settlement of disputes were created largely by lack of the necessary political will. However, his country accepted the compromise recommendation reached in the Special Committee, according to which the General Assembly would bring the proposal to the attention of States by annexing it to a decision to be adopted at the current session, so that the Special Committee could concentrate on more useful and promising ideas and proposals.

62. Mr. MIRZAEI (Islamic Republic of Iran) said that, in order to achieve the goals embodied in the Charter of the United Nations, some significant principles had been incorporated in that instrument in the hope that they would govern the relations between States. In particular, special mechanisms had been formulated in the Charter in order to preserve international peace and security. It was therefore regrettable to note that, 45 years after the drafting of the Charter, wars of aggression and the illegal occupation of territory were continuing. The goals of the Charter were thus still far from realization, and its principles had yet to be respected fully by all States.

63. The mechanisms intended to preserve international peace and security constituted the raison d'être of the Special Committee on the Charter, which had provided Member States with a useful opportunity to express their views in respect of the functioning, achievements and weaknesses of the Organization, and to put forward valuable proposals regarding the improvement of its activities. It was to be hoped that the Special Committee would continue its work constructively in the more favourable atmosphere created by the relaxation of tensions at both the global and the regional level.

64. At its most recent session, the Special Committee had successfully completed consideration of the topic of resort to a commission of good offices, mediation or conciliation within the United Nations, and there was no doubt that the adoption by the Sixth Committee, and finally by the General Assembly, of the proposal submitted by Romania would be a further step towards the strengthening of the machinery for the peaceful settlement of disputes.

65. It should be stressed, however, that all States in the international community must fulfil their obligations under international law if principles of the Charter were to be upheld. In that connection, it should be pointed out that it was the most powerful States which were most likely to violate the principles of international law. It was to be hoped that in the coming decade the major Powers, with the assistance of the United Nations, would reassess their conduct in international relations, thus laying the groundwork for the rule of law.

66. The two valuable working papers presented on the question of fact-finding by the United Nations would make it possible for the Special Committee to hold a constructive debate on that topic. His delegation shared the view of the Chairman of the Special Committee that the two papers were complementary, and that their sponsors should be encouraged to consult among themselves in order to find common ground. The need to utilize fact-finding missions in the field of peaceful settlement of disputes had long been recognized, and the subject had been discussed in the Sixth Committee as long ago as the 1960s. In his delegation's opinion, the terms "fact-finding" and "enquiry" were synonymous and interchangeable. It should be stressed that fact-finding was aimed at resolving disputes at an early stage and was a preventive measure which fell within the scope of Chapter VI of the Charter, which dealt with the pacific settlement of disputes. Although the use of such a mechanism would contribute considerably to the maintenance of international peace and security, such activities should in no way be linked to Chapter VII of the

(Mr. Mirzaee, Islamic  
Republic of Iran)

Charter, which dealt with action with respect to threats to the peace, breaches of the peace, and acts of aggression. By giving a mandate to the Special Committee to elaborate an instrument on fact-finding by the United Nations, Member States had expressed their general willingness to co-operate with fact-finding missions, a willingness which should be strengthened by every available means. At the same time, the sovereign rights of receiving States must be fully respected, and their prior consent must be sought for any kind of fact-finding activity.

67. With regard to the rationalization of existing United Nations procedures, his delegation had stated at previous sessions that it was important for the smooth functioning of the Organization to keep its procedures under continuous review, while bearing in mind the need to refrain from placing any extra burdens on the Organization.

68. In conclusion, he expressed his delegation's appreciation to the Office of the Legal Counsel for its tireless efforts in preparing a draft handbook on the peaceful settlement of disputes. Completion of that project would be a practical and significant contribution to the strengthening of the principle of peaceful settlement of disputes.

69. Mr. DELON (France) observed that at its most recent session the Special Committee had had before it two working papers dealing with the fact-finding activities of the United Nations. Although the two papers reflected two different approaches they were clearly complementary and should be given detailed consideration. In that connection, it would be useful to review the opportunities provided by the Charter, and in particular its Article 34.

70. His delegation noted with satisfaction the progress made in the preparation of a draft handbook on the peaceful settlement of disputes and hoped that work on the handbook could be pursued at a more rapid pace.

71. The Special Committee had completed its consideration of the Romanian proposal concerning a commission of good offices, mediation or conciliation within the United Nations. It had decided to recommend that the General Assembly bring a revised proposal to the attention of States by annexing it to a decision to be adopted at the current session. His delegation supported the Special Committee's opinion that States could consider the revised proposal as useful guidance.

72. Significant progress had been achieved with regard to the rationalization of procedures. The Special Committee had had before it a revised working paper submitted by France and the United Kingdom which contained wording already adopted provisionally and which reaffirmed a number of suggestions made during the discussions at the forty-third session of the General Assembly. After a first reading of the new paper, his delegation and that of the United Kingdom had submitted a new version (A/AC.182/L.43/Rev.4) which took into account the comments made during that first reading. Accordingly, it had been possible to adopt some of

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(Mr. Delon, France)

the paragraphs of the new text on a provisional basis. Other suggestions had also been submitted, in particular by the Soviet Union. The two delegations intended to submit a revised version of the working paper at the next session of the Special Committee. While some of the concerns expressed in the working papers might seem somewhat pedestrian, it was none the less evident that the rational organization of the work of the United Nations determined the effectiveness of its actions to a considerable extent. All efforts, however modest, which could be made to that end deserved attention.

73. The year 1989 had confirmed the continuing vitality of the United Nations, which was on the way to achieving a major success in Namibia. There were new hopes for peace in Central America, and the positive results of the action taken by the United Nations were evident in other regions of the world. All those developments confirmed the relevance of the Charter, which had enabled the Organization to adapt to an evolving world and play an increasing role in efforts to come to grips with major international issues.

74. His delegation was also pleased to note the revival of interest in international law. A number of speakers had stressed that international relations must be based on respect for law, and his delegation welcomed the proposal of the non-aligned countries for a decade of international law. That was only one of a number of ideas which merited serious and careful consideration by the Special Committee. His delegation would be happy to discuss with other delegations the choice of topics to be considered.

75. Mr. NYAMDOR (Mongolia) said that new perspectives were opening up for the United Nations in its role as a peace-keeping organization. The Secretary-General's report on the work of the Organization indicated that new demands were being made on its capacities in that regard, and that the international community had high expectations that the United Nations would avail itself of its existing procedures and machinery, and if necessary create new safeguards, in order to prevent infringements of international law.

76. His country considered that the primacy of law in international relations was the decisive factor in ensuring the collective security of all peoples. It noted with interest the proposal of the delegation of the Maldives regarding the defence and protection of small States. It fully agreed with the main thrust of the proposal, which was that the interests of small States, and their security in particular, were best guaranteed by international law. It was also evident from the discussions at the current session of the General Assembly that States were according increasing importance both to the role of international law and to the need for its democratization and humanization. In that connection, his delegation supported the proposal to proclaim the 1990s as the decade of international law.

77. His delegation also supported the proposals made by the Soviet Union in document A/44/602 on the enhancement of the role of international law. Those proposals merited close scrutiny, and opened up new perspectives for the future work of the Special Committee. In recent years the Special Committee had achieved



(Mr. Nyandoo, Mongolia)

significant progress in drafting international legal instruments aimed at eliminating the use of force in international relations. One result of its endeavours in that regard had been the adoption, without a vote, of 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.

78. His delegation welcomed the successful conclusion of the discussion of the Romanian proposal regarding resort to a commission of good offices, mediation or conciliation within the United Nations. The recommendations made would undoubtedly be of great assistance in the effective utilization of the machinery for peaceful settlement of disputes and conflicts, and his delegation hoped that a consensus decision could be reached on the issue at the current session of the General Assembly.

79. At its most recent session the Special Committee had considered the question of fact-finding missions. His delegation attached great importance to the drafting of an international document explaining the significance of such missions in settling disputes which might threaten international peace and security. The discussions in the Special Committee had been constructive and business-like, and the two working papers before it (A/AC.182/L.60 and L.62) would provide a sound basis for further work on the question. His delegation shared the view that care must be taken in defining the objectives of such missions, which should not be confined to an information-gathering function; they should additionally aim at seeking ways to prevent disputes and conflict situations, thus enhancing the effectiveness of any action subsequently taken by the United Nations. The effectiveness of fact-finding missions was to a large degree dependent on co-operation from the receiving State, and on strict observance of the sovereign rights of that State. At the same time, the receiving State must guarantee the unhindered functioning of the fact-finding missions. It was also important to strengthen the role of the Secretary-General, as envisaged in the Charter, and particularly in Articles 98 and 99. An important part in fact-finding could be played by the United Nations Information Centres and by advisory groups which could be set up in order to study situations involving the settlement of disputes and conflicts.

80. The United Nations, which had been active in trying to find solutions to conflicts in a number of regions, had accumulated substantial practical experience in that regard. His delegation was giving consideration to the idea of establishing an advisory group on regional issues to assist the Secretary-General in matters relating to disputes and conflicts and their peaceful settlement.

81. Mr. VAN DE VELDE (Netherlands) said that the fundamental question in the field of fact-finding was how to make the United Nations more responsive to increasingly complex global problems and better able to face unknown challenges in future decades. Fact-finding would be instrumental in order to gather essential information. In anticipating a crisis, the United Nations must be alert to all developments and serve as an intermediary for contacts between Governments. In

(Mr. van de Velde, Netherlands)

order to carry out his responsibilities successfully, the Secretary-General must be able to obtain all relevant information and indicate the most appropriate means of preventive diplomacy in situations of tension or potential conflict. An appropriate procedure for impartial fact-finding would contribute substantially to improving the maintenance of international peace and security.

82. With regard to the peaceful settlement of disputes between States, his delegation welcomed the successful completion of the consideration of the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations. He supported the recommendation by the Special Committee that the General Assembly should bring the proposal to the attention of States by annexing it to a decision to be adopted at the current session. He noted with interest the Secretary-General's progress report on the draft handbook on the peaceful settlement of disputes between States (A/AC.182/L.61) and welcomed the renewed interest in international law as basis for settling disputes. It was encouraging to learn that the International Court of Justice was having one of the most fruitful sessions in its history. In that regard, he stressed that acceptance by more States of the compulsory jurisdiction of the Court was long overdue. Of the 160 States parties to the Statute of the Court, only 48 had accepted its compulsory jurisdiction. Nevertheless, the growing number of States which had accepted its jurisdiction represented a positive trend

83. In recent months there had been various initiatives aimed at the promotion of international law. His Government was looking forward to a general consideration and further elaboration of the proposals put forward by the Soviet Union in that regard. It welcomed proposals to promote the use of peaceful methods for the settlement of disputes between States, particularly through the compulsory jurisdiction of the International Court of Justice. In considering the new proposals, it should be asked whether it was feasible to improve the existing mechanisms for the settlement of conflicts. The ultimate question was whether improved mechanisms would bring about the desired results in view of the fact that existing procedures were not used to their full extent. Governments too often preferred to settle conflicts by other means or not to settle them at all, rather than to submit disputes to adjudication and ultimate decision by a third party. New initiatives required serious preparation and reflection. It was premature to decide on important procedural and substantive initiatives such as the convening of a world conference and the adoption of new international instruments on the peaceful settlement of disputes without substantive information on and discussion of such initiatives.

84. Mr. SERVY (Cote d'Ivoire) said that the role played by the United Nations and the Secretary-General was now openly considered by all to be valuable and indeed indispensable. The link between the peaceful settlement of disputes between States and the strengthening of the role of the Organization had rightly been stressed. In order to carry out its role fully, the United Nations should make its structures and decision-making procedures more flexible. In that connection, he expressed satisfaction that the working paper submitted by France and the United Kingdom on rationalization of existing United Nations procedures (A/AC.182/L.43/Rev.3) had

(Mr. Sery, Cote d'Ivoire)

been favourably received by the members of the Special Committee. His delegation was in favour of rationalization which increased the flexibility and effectiveness of the Organization and shared the view that great care should be taken in establishing subsidiary organs of the General Assembly. It should first of all be determined whether existing organs, once they were rationalized, could carry out the tasks in question before new ones were set up.

85. The peaceful settlement of disputes in the current international economic and political situation was essential since peace, however fragile it might be, was a prerequisite for all harmonious development. His delegation noted with satisfaction the completion by the Special Committee of its consideration of the proposal contained in the working paper submitted by Romania (A/AC.182/L.52/Rev.2). Although it was gratifying to note the increased confidence placed in the International Court of Justice, much remained to be done in order to induce States to resort to legal means in settling their disputes.

86. Information would play a fundamental role in promoting the peaceful settlement of disputes. For that reason, his delegation greatly appreciated the work carried out on the draft handbook on the peaceful settlement of disputes between States. A simple and concise handbook on that subject would be valuable for States and promote international peace. He expressed satisfaction that the Secretary-General had established a special voluntary trust fund to assist developing countries that lacked the necessary means for recourse to the International Court of Justice.

87. The prevention of conflicts between States was one of the functions of the Organization under the Charter in maintaining international peace and security. Accordingly, the United Nations must be given the necessary means to obtain reliable information on conflict situations in order to act effectively. Such information would enable the Secretary-General to gain an in-depth understanding of such situations in order to take the necessary decisions. Member States, for their part, should accept the obligation to receive fact-finding missions without any infringement of their sovereignty. The United Nations should define clearly the nature of fact-finding missions so that they did not perform the work of other United Nations bodies or give rise to distrust among States.

88. Mr. GARCIA (Philippines) noted with gratification the new spirit of co-operation being demonstrated by Member States in international relations. Developing countries had a vital stake in the success of the United Nations as the guardian of peace and security. The Philippines had an abiding commitment to the Organization's principles and had steadfastly advocated the strengthening of its role. His delegation shared the view that more systematic recommendations covering all aspects of fact-finding in the maintenance of international peace and security were essential. He therefore commended the sponsors of the working papers contained in documents A/AC.182/L.60 and L.62 for their useful proposals. The difference between the two papers lay in the basic approach to the subject, rather than in a question of principle. The issue of the consent of a receiving State was a sensitive matter for most delegations. Utmost care should be taken so as not to upset the balance between the sovereign rights of States, on the one hand, and

(Mr. Garcia, Philippines)

an obligation to receive fact-finding missions on the other. The need for strict adherence to the principle of non-interference in the domestic affairs of Member States was essential. It was hoped that the two papers could be combined into an appropriate instrument to be recommended to the General Assembly for adoption.

89. With regard to the rationalization of existing United Nations procedures, his delegation had reservations concerning the introduction of the notion of consensus in the adoption of resolutions and decisions by the General Assembly. While the use of consensus was effective, its misuse could lead to serious drawbacks. The proposal to rationalize the agenda of the General Assembly by grouping or merging, to the extent possible, related items was acceptable to his delegation. In that context, the Philippines agreed that the President of the General Assembly should undertake consultations with interested delegations to achieve agreement in that regard. Setting an interval of two or more years for the discussion of certain items, however, would be too rigid. It would not be advisable to impose a specific minimum period after which items might be considered, particularly when it might not even be feasible to identify such items at the outset.

90. His delegation noted with satisfaction the completion of the consideration of the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations. The Philippines had consistently supported that proposal and commended the delegations concerned for the spirit of co-operation which had led to general agreement.

91. Mr. NAGAI (Japan) said that the adoption of 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 marked a milestone in the history of United Nations peace-making efforts, focusing on measures to prevent conflict and enhance the role of the Organization in that regard. In order to ensure the implementation of the declaration, it was urgently necessary to strengthen the fact-finding capability of the United Nations, particularly that of the Secretary-General, since his office had the staff to collect the necessary information and a wealth of experience in the use of investigative missions. That might also avoid any temptation to establish new mechanisms entailing additional budgetary allocations.

92. His Government, which fully supported the Secretary-General's peace-making initiatives and was willing to extend as much financial support as possible to United Nations peace-keeping activities, attached importance to promoting the maintenance of international peace and security, the primary objective of the Organization.

93. Working paper A/AC.182/L.60, of which Japan was a sponsor, would serve as a good basis for further deliberations and drafting a resolution on strengthening the fact-finding capability of the United Nations. Although the paper focused primarily on strengthening the fact-finding capability of the Secretary-General, it did not neglect the need to strengthen the fact-finding capabilities of the Security Council and the General Assembly or ignore the issue of the willingness of

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(Mr. Nagai, Japan)

States to receive fact-finding missions. The elements in working paper A/AC.182/L.62 pertaining to the strengthening of the fact-finding capability of the Secretary-General should be given careful consideration.

94. The working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.2) required further consideration in order to determine what practical results could be achieved on the basis of that paper. Furthermore, the usefulness of arbitration, judicial settlement and other means of peacefully settling disputes between States should also be taken into account. Lastly, Japan appreciated very much the efforts made in the work on the draft handbook on the peaceful settlement of disputes between States and hoped that that task would be completed speedily so that the handbook could serve as a practical guide in resolving disputes.

The meeting rose at 1.05 p.m.