



General Assembly

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GENERAL

A/37/384

29 September 1982

ENGLISH

ORIGINAL: ARABIC/ENGLISH

Thirty-seventh session
Agenda item 127

REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Report of the Secretary-General

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I. INTRODUCTION

1. On 11 December 1981, the General Assembly adopted resolution 36/122, entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization", paragraphs 2, 4, 5, 6 and 10 of which read as follows:

"The General Assembly,

...

"2. Decides that the Special Committee should continue its work in pursuance of the following tasks with which it is entrusted:

(a) To list the proposals which have been made or will be made in the Committee and to identify those which have awakened special interest;

(b) To examine proposals which have been made or will be made in the Committee with a view to according priority to the consideration of those on which agreement seems possible and to make recommendations thereon;

...

4. Requests the Special Committee at its next session: 1/

(a) To accord priority to its work on the proposals regarding the question of the maintenance of international peace and security, including those relating to the functioning of the Security Council, with a view to continuing its examination of the compilation of proposals contained in its report on the work of the session it held in 1980 2/ and to considering the recommendations and proposals submitted during its session in 1981 or thereafter;

(b) To consider proposals made by Member States on the question of rationalization of existing procedures of the United Nations and, subsequently, any proposals under other topics;

5. Also requests the Special Committee to finalize the draft Manila declaration on the peaceful settlement of international disputes with a view to its consideration and adoption by the General Assembly, and to submit it to the Assembly at its thirty-seventh session;

6. Further requests the Special Committee, in the light of the progress it has achieved concerning the question of the peaceful settlement of disputes, to continue its work on this question by considering the remaining

proposals contained in the list prepared by the Committee in accordance with General Assembly resolution 33/94;

...

10. Invites Governments to submit or to bring up to date, if they deem it necessary, their observations and proposals in accordance with General Assembly resolution 3499 (XXX);"

2. Pursuant to paragraph 10 of resolution 36/122, the Secretary-General, by a note dated 6 January 1982, invited Member States to communicate the observations and proposals referred to in that paragraph.

3. As at 29 September 1982, observations and proposals had been received from the Government of Egypt. They are reproduced below. Any further observations and proposals will be issued in an addendum to the present report.

II. OBSERVATIONS AND PROPOSALS RECEIVED FROM GOVERNMENTS

EGYPT

[Original: Arabic]

[26 March 1982]

1. The Arab Republic of Egypt stresses the importance of the work being done by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization with a view to strengthening the role of the Organization so that it may assume the tasks entrusted to it under the Charter, particularly with regard to the maintenance of international peace and security and peaceful settlement of disputes.

2. The Arab Republic of Egypt has striven, since it became a member of the Special Committee, to play a positive and active role by submitting numerous practical proposals and co-sponsoring working papers, both those relating to the maintenance of international peace and security and those relating to peaceful settlement of disputes (draft Manila declaration). Its comments will, therefore, be confined to the proposals submitted.

3. Proposals relating to the maintenance of international peace and security:

(a) Both working paper A/AC.182/WG/33 3/ submitted by the United States of America and working paper A/AC.182/WG/37 4/ submitted by the United Kingdom reflect the provisions of the Charter as they stand, without any attempt to improve upon them substantively, since they represent merely a codification of customary practice or a reaffirmation of what is set forth in the Charter or in other instruments issued by the United Nations.

...

(b) The Government of the Arab Republic of Egypt welcomes the addition submitted by Indonesia for insertion after paragraph 3 of the working paper submitted by the United Kingdom, to the effect that the Secretary-General shall include matters threatening international peace and security in his annual report to the General Assembly and that he shall exercise his right to include in the provisional agenda of the Assembly all items which he deems necessary to put before that body.

(c) The Government of the Arab Republic of Egypt considers that the working paper submitted by Japan A/AC.182/WG/44/Rev.1 5/ contains many constructive proposals, in particular, the provision in paragraph 2(1) concerning the question of the establishment of fact-finding missions and their dispatch and proposing that this be regarded as a question of procedure.

(d) The delegation of Egypt is a sponsor of working paper A/AC.182/WG/46/Rev.2. The purpose of the proposals submitted in this working paper is to make the fullest possible use of the possibilities provided in the Charter for the strengthening of the maintenance of international peace and security and their democratization, without making any amendments to the Charter. The first part of these proposals, which consists of a code of conduct, undertakes to define the rights and duties of States with a view to the strengthening of the rule of law in international relations and the strengthening of the role of the United Nations in the maintenance of international peace and security. The second part contains practical proposals relating to the functions of the Security Council, the General Assembly and the Secretary-General. These proposals do not, in any way, infringe upon the Charter or require its amendment but provide for limitation of the use of the veto by means of some amendments to the rules of procedure of the Security Council. In this connexion, attention should be drawn to General Assembly resolution 267 (III) of 14 April 1949, wherein the Assembly recommended to the members of the Security Council that the decisions set forth in the annex to the resolution should be deemed procedural and that the members of the Security Council should conduct their business accordingly.

4. The Government of the Arab Republic of Egypt is pleased to be also a sponsor of working paper A/C.6/35/L.5 concerning peaceful settlement of disputes (draft Manila declaration) and is gratified by the tangible progress which has been made so far, either in the course of the work of the Special Committee on the Charter at its meetings in Manila and New York or in the course of the work of the Working Group established to study these proposals at the thirty-fifth and thirty-sixth sessions of the General Assembly. In this regard, we wish to make the following comments:

(a) The Government of the Arab Republic of Egypt considers it necessary to amend paragraph 3 (b) of section II of the working paper concerning the role of the United Nations so as to provide for the fullest possible utilization of the General Assembly in the peaceful settlement of disputes, including the possibility of the establishment of subsidiary organs or any other machinery which might be required, instead of the provision for the utilization of machinery established under the Charter for the peaceful settlement of disputes. This is because paragraph 3, of which subparagraph (b) is a part, deals, strictly speaking, with the role of the

Assembly only. Let us not overlook, in this regard, the mention of the idea of establishing machinery to serve the General Assembly and the Security Council in the peaceful settlement of disputes.

(b) The Government of the Arab Republic of Egypt supports, in particular, subparagraphs 4 (d) and 4 (e) of section II of the working paper, which relates to consideration of greater utilization of the fact-finding capacity of the Security Council in accordance with the Charter and encouraging the Security Council to make increased use of observer missions in areas of tension, dispute or conflict as a means to promote pacific settlement of disputes. It supports also the provision of paragraph 6 of the same section concerning the importance of the role of the Secretary-General and the activation of all his powers, in accordance with the role entrusted to him under Article 99 of the Charter with regard to bringing to the attention of the Security Council any conflict which in his opinion may threaten international peace and security. To that end, the Secretary-General may take steps to acquire information and ascertain facts and may, for this purpose, arrange visits to any State with its consent. Reports on measures thus taken should be submitted, when appropriate, to the Security Council or the General Assembly.

5. The crystallization of proposals effected by the group of non-aligned States members of the Special Committee in document A/AC.182/L.29 7/ accords with the purpose of the work of the Special Committee as set forth in paragraph 3 (b) of resolution 35/164, wherein the General Assembly requested the Committee to submit recommendations to the Assembly.

6. The Government of the Arab Republic of Egypt considers that the sponsors of the working paper mentioned in the preceding paragraph have maintained flexibility and realism. This is clear from paragraphs 3 and 4, because the instances mentioned in paragraph 3 of the limitation of the use of the veto are given by way of example and not as an exhaustive list. This is an expression of the flexibility shown in the submission of these general proposals. Similarly, paragraph 4 states that "the Special Committee recommends that the General Assembly draw the attention of the Security Council to the aforementioned matters". In the opinion of the Government of the Arab Republic of Egypt, the whole secret of the proposal lies in the meaning of this paragraph, because it takes into account the following points:

(a) The task of the Committee under resolution 35/164, whereby the Committee is obligated to submit a recommendation to the General Assembly.

(b) Proceeding in the light of the San Francisco Conference and dealing with the matter at the level of the rules of procedures of the Security Council, including the introduction of amendments to those rules, which have already been amended four times and have, moreover, not yet assumed their final form. This position accords fully with the provisions of Article 30 of the Charter, which allows the Security Council freedom in the drawing up and amendment of its rules of procedure and, consequently, the right to determine the areas covered by the veto.

(c) This paragraph is consistent with the practice of according the General Assembly the right to submit recommendations to the Security Council, as reflected in many Assembly resolutions, the most important being resolution 290 (IV) of 1949,

entitled "Essentials of peace", which is addressed to the five permanent members of the Security Council and calls upon them to exercise restraint in the use of the veto.

For all these reasons, the Government of the Arab Republic of Egypt has sponsored the above-mentioned working paper and considers that it should form the basis of the future work of the Committee, in view of the arguments which we have stated above. It is essential also to finalize the draft Manila declaration on peaceful settlement of disputes, so that the General Assembly can adopt and promulgate it.

Notes

- 1/ The session was held at Geneva from 22 February to 19 March 1982.
- 2/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 33 (A/35/33 and Corr.1), sect. II.A.
- 3/ Ibid., Thirty-fourth Session, Supplement No. 33 (A/34/33), p. 84, sect. III.C, para. 51.
- 4/ Ibid., p. 88, sect. III.C, para. 60.
- 5/ Ibid., Thirty-fifth Session, Supplement No. 33 (A/35/33 and Corr.1), para. 74.
- 6/ Ibid., para. 136.
- 7/ Ibid., Thirty-sixth Session, Supplement No. 33 (A/36/33), para. 269.
