



SUMMARY RECORD OF THE 21st MEETING

Chairman: Mr. FRANCIS (Jamaica)

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ORGANIZATION OF WORK

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

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

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(A/41/57-S/17690, A/41/64-S/17697, A/41/70-S/17708, A/41/76-S/17716, A/41/78-S/17721, A/41/79-S/17722, A/41/89-S/17737, A/41/90-S/17738, A/41/95-S/17751, A/41/122-S/17771, A/41/133-S/17786, A/41/134-S/17789, A/41/160-S/17820, A/41/162-S/17825, A/41/165-S/17832, A/41/166-S/17842, A/41/171-S/17844 and Corr.1, A/41/176, A/41/182-S/17868, A/41/205-S/17905, A/41/206-S/17909, A/41/211-S/17912, A/41/214-S/17915, A/41/217-S/17920, A/41/221-S/17924, A/41/225-S/17927, A/41/227-S/17933, A/41/239-S/17953, A/41/253-S/17956, A/41/258-S/17962, A/41/263-S/17970, A/41/265-S/17971, A/41/267-S/17973, A/41/281-S/17988, A/41/284-S/17995, A/41/294-S/18010, A/41/298-S/18014, A/41/300-S/18017, A/41/307-S/18027, A/41/309-S/18029, A/41/311-S/18034, A/41/312-S/18038, A/41/313-S/18039, A/41/321-S/18045 and Corr.1, A/41/331-S/18054, A/41/336-S/18059, A/41/347-S/18068, A/41/354, A/41/357-S/18078, A/41/387-S/18119, A/41/390-S/18125, A/41/400-S/18137, A/41/418-S/18167, A/41/419-S/18169, A/41/429-S/18183, A/41/436-S/18186, A/41/442-S/18200, A/41/446-S/18207, A/41/451-S/18213, A/41/487-S/18242, A/41/488-S/18245 and Corr.1, A/41/489-S/18247, A/41/497-S/18255, A/41/524-S/18286, A/41/533-S/18291, A/41/539-S/18293, A/41/540-S/18294, A/41/557-S/18304, A/41/574-S/18310, A/41/575-S/18311, A/41/576-S/18312, A/41/587-S/18328, A/41/589-S/18329, A/41/590-S/18330, A/41/597-S/18336, A/41/604-S/18339, A/41/625-S/18351, A/41/634, A/41/651-S/18365, A/41/657-S/18367, A/41/659-S/18369, A/41/684-S/18385, A/41/693-S/18388, A/41/711-S/18402, A/41/718-S/18408)

1. Mrs. GOMEZ (Guinea-Bissau) conveyed her delegation's condolences to the Mozambican delegation on the death of President Samora Machel.
2. The principle of peaceful settlement of disputes between States was embodied in the Constitution of the Republic of Guinea-Bissau, which never failed to apply it in its relations of co-operation with other States. It had applied the principle in connection with disputes regarding its maritime boundaries.
3. The proposal in working paper A/AC.182/L.47 on resort to a commission of good offices, mediation or conciliation within the United Nations was supported by her delegation, which believed that such a procedure would effectively contribute to the application of the principle of peaceful settlement of disputes between States. In addition, the proposal was consistent with the provisions of the Charter, including those relating to the free choice of means by the parties, and clearly defined the relationship between the proposed commission, the Security Council, the General Assembly and the Secretary-General. Her delegation hoped that the work on the handbook on the peaceful settlement of disputes between States would be completed as soon as possible so that the text could be submitted to all Member States for their approval.

(Mrs. Gomez, Guinea-Bissau)

4. The Working Group should continue considering the rationalization of existing procedures of the United Nations, with a view to improving, on the basis of the proposals submitted by various delegations, the text of working paper A/AC.182/L.43/Rev.1. The main problem lay in paragraph 4 of that paper, which mentioned the possibility of grouping or merging related items and removing items if discussion on them had been postponed on several successive occasions. That paragraph should be deleted.
5. The question of the maintenance of international peace and security could not be divorced from the obligations of States under the Charter or from the principles of contemporary international law. In that connection, her delegation believed that both working paper A/AC.182/L.38/Rev.2 and working paper A/AC.182/L.48 contained important elements for the elaboration of a document on that subject.
6. Mr. BASSIROU BA (Mali) said that his delegation supported the Romanian proposal submitted to the Special Committee in working paper A/AC.182/L.47 on resort to a commission of good offices, mediation or conciliation within the United Nations, since it called for genuine political will on the part of States in conflict to reach a peaceful negotiated settlement. That would be a simple procedure permanently at the disposal of the Security Council, the General Assembly and the States concerned. The commission would be constituted only with the prior agreement of the parties involved. It would in no way affect the exercise by the Security Council or the General Assembly of the powers vested in them by the Charter; nor would it affect the obligations of the parties or their right to resort to other means of peaceful settlement within a bilateral, regional or multilateral framework in accordance with the principle of free choice of means. The settlements proposed by the commission would not be binding. Viewed in those terms, the commission of good offices, mediation or conciliation would be a valuable auxiliary mechanism for the Security Council and the General Assembly. Its sole objective would be to strengthen the role of the United Nations system in the peaceful settlement of disputes between States.
7. The Secretary-General's progress report on the draft handbook on the peaceful settlement of disputes between States (A/AC.182/L.46) had been discussed only briefly by the Special Committee. The preparation of the handbook was a particularly valuable exercise; the handbook could be very useful to all States, provided it was essentially practical in nature and contained an analysis of all the procedures proposed in international law for the peaceful settlement of disputes. The handbook should underline the advantages and disadvantages of each procedure proposed and indicate how often it was applied in practice. Among other things, the handbook should refer in an annex to all the instruments relating to the peaceful settlement of disputes.
8. Working paper A/AC.182/L.43/Rev.1 on the rationalization of existing United Nations procedures, submitted by France and the United Kingdom, represented a constructive contribution to the work of the Sixth Committee, although the emphasis was on the procedures of the General Assembly and the Main Committees rather than on the main issue. It should also be borne in mind that a body had been established specifically to deal with the administrative and financial situation of

(Mr. Bassirou Ba, Mali)

the United Nations. In that regard, the Malian Minister for Foreign Affairs and International Co-operation had pointed out that the report of the Group of 18 would be useful in enhancing the effectiveness of the United Nations, provided that the economy measures did not stifle activity and the Organization did not stray from its responsibilities and basic objectives.

9. The international situation was still marked by tension and political, economic or social problems, which undoubtedly had a direct bearing on the maintenance of international peace and security. In that connection, his delegation believed that working papers A/AC.182/L.38/Rev.2 and A/AC.182/L.48 should be regarded as being complementary. The former focused on preventive measures to be taken by the United Nations; the latter, which was more exhaustive, emphasized the need for genuine political will on the part of States and gave prominence to the major concerns of third-world countries. For those reasons, his delegation, in a spirit of compromise, hoped that the Special Committee on the Charter would have tangible results to show when its future work was completed.

10. Mrs. BOUM (Cameroon) stressed that her country had always called for the strengthening of the role of the United Nations, and remained convinced that a stronger United Nations was essential to peace and security. It was useful to recall in that connection her country's disarmament proposals.

11. The Special Committee's work on the maintenance of peace and security had been dominated by a discussion on procedural issues and on the interpretation of the Committee's mandate when working papers A/AC.182/L.38/Rev.2 and A/AC.182/L.48 had been submitted. The question was whether the latter working paper was compatible with the Special Committee's mandate. Her delegation believed that there was nothing in the mandate, as laid down in General Assembly resolution 40/78, to prevent the Special Committee from considering elements of working paper A/AC.182/L.48 which would complement the other working paper.

12. Her delegation had maintained that the question of the rationalization of existing procedures of the United Nations was also compatible with the Special Committee's mandate. It believed, however, that the Committee's work on that topic should not duplicate the work of other United Nations organs. Instead of dealing with the procedures of the General Assembly alone, the Special Committee should also concentrate on the other principal organs of the United Nations, particularly the Security Council. Her delegation endorsed the conclusions in paragraph 1 of working paper A/AC.182/L.43/Rev.1, concerning the adoption of General Assembly resolutions and decisions by consensus. However, it was of the highest importance to stress that consensus called for genuine concessions and a commitment to implement the resolutions thus adopted.

13. Her delegation welcomed the clarifications made by the sponsors of the draft on the establishment of a commission for good offices, mediation or conciliation and also welcomed the fact that the proposed commission was no longer being viewed as an institution but as another procedure available to States for the peaceful settlement of disputes. In addition, the relationship between the commission, on the one hand, and the Security Council and the General Assembly, on the other, was

(Mrs. Boum, Cameroon)

clearly defined. Some uncertainty did remain, however, as to financing, the specific functions of the chairman and the composition of such a commission. Her delegation continued to believe that the use of force in international relations was due not to the inadequacy of existing means, but to a lack of political will on the part of States; nevertheless, her delegation would not be opposed to the development of an additional procedure if it was in the interest of peace.

14. Mr. SCHRICKE (France) said that, with regard to the peaceful settlement of disputes, the sponsor of the working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.47) had sought to accommodate the often critical observations that had been directed at it in the past. The modifications and clarifications made by Romania had allowed the consideration of the text to move forward and pointed to the existence of certain elements on which general agreement might be possible. However, there were still obstacles to a general agreement on the proposal, and it could not rightly be claimed that things were progressing rapidly.

15. Work on the draft handbook on the peaceful settlement of disputes was not progressing as swiftly as his delegation would have liked because of the current financial constraints; however, the draft ought to be completed without undue delay.

16. With regard to the rationalization of United Nations procedures, the Committee had been prevented by a lack of time from completing its consideration of the working paper submitted by the United Kingdom and France (A/AC.182/L.43/Rev.1). In that connection, his delegation regretted certain delegations' reluctance to retain the rationalization of procedures on the Committee's agenda. It had been claimed that the subject had already been dealt with elsewhere, and it was true that extremely interesting contributions had come from various sources, notably from the Asian-African Legal Consultative Committee (A/40/726). However, those proposals had not led to a genuine debate in the General Committee of the General Assembly or in the Assembly itself. It thus seemed indispensable that the reflection and harmonization of views which had been begun in the Special Committee on the Charter should be continued. His delegation also regretted the delay in the implementation of General Assembly resolution 36/123, which had requested the Secretary-General to give high priority to the updating of the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs, and would be grateful for any information which the Secretariat might provide on that subject.

17. With regard to the question of the maintenance of international peace and security, the sponsors of document A/AC.182/L.38, on the prevention of conflicts, had submitted a new version, revised in the light of the observations made on that topic at the preceding session of the Special Committee and by the Sixth Committee at the fortieth session of the General Assembly. His delegation welcomed the imagination and realism which the new version reflected and encouraged the sponsors to eliminate the remaining ambiguities, particularly with regard to the consistency of certain provisions with the Charter. The Special Committee had also had before it document A/AC.182/L.48, the introduction of which had given rise to attacks usually reserved for other forums. The sponsors had laid themselves open to such a response by including in the text matters which were obviously not of the Special

(Mr. Schricke, France)

Committee's competence and on which a consensus could hardly be reached. The document merited consideration none the less, particularly those of its aspects which related to the subject discussed in document A/AC.182/L.38.

18. The Special Committee could not carry out its mission unless its mandate was based on the general agreement of Member States, as had been the case during the past three years. It would therefore be desirable to re-establish that mandate on the same grounds so that the Special Committee might continue its work in the constructive spirit which had prevailed during the three preceding sessions.

19. Mr. SCHARIOTH (Federal Republic of Germany) said that the proposal submitted by France and the United Kingdom on the rationalization of procedures (A/AC.182/L.43/Rev.1) contained useful suggestions, although some were already contained in the annexes to the rules of procedure of the General Assembly and did not need to be adopted again. He fully supported the suggestions regarding the future organization of work made the week before by the representative of Tunisia and congratulated the Asian-African Legal Consultative Committee for its valuable contribution. As the subject of rationalization had largely become the responsibility of the Group of 18, the Sixth Committee ought to limit its consideration to the legal implications of reform proposals, especially their effects on the Charter and on practice based on that instrument, as the representative of Italy had proposed.

20. With regard to the peaceful settlement of disputes, the new Romanian proposal on the resort to a commission of good offices, mediation or conciliation (A/AC.182/L.47) had eliminated some of the criticism levelled against it; however, some doubt remained as to the need for a new mechanism. A stronger argument could be made for directing all efforts towards a broader application of Chapter VI of the Charter and the practical implementation of the Manila Declaration. The handbook on the peaceful settlement of disputes should be presented by the Secretary-General to the Special Committee as soon as possible for formal approval without any further detailed analysis. Finally, noting the role which the Secretary-General, at the request of both parties had played, in the settlement of the Rainbow Warrior case between France and New Zealand, he expressed agreement with the view that the Secretary-General's involvement in the settlement of disputes should be considered by the Special Committee on the Charter under agenda item 124.

21. With regard to the prevention of international conflicts, his delegation had joined those of Belgium, Italy, Japan and Spain in submitting working paper A/AC.182/L.38, which had subsequently been extensively revised. In response to continued criticisms of the working paper, the document intentionally dealt with only one aspect of the question of the maintenance of international peace and security, and the sponsors were fully aware of its limited scope. They had deliberately chosen a modest approach because they were convinced that that was the only way to elicit a constructive debate and obtain concrete results within a reasonable period of time. Past experience showed that ambitious endeavours had not succeeded in accomplishing that. That was why his delegation feared that working paper A/AC.182/L.48 might be a blind alley leading only to a sterile

(Mr. Scharioth, Federal Republic of Germany)

exchange of overly divergent views. Various speakers, including the representative of Austria, had maintained that the Special Committee on the Charter could not reasonably be expected to draft a comprehensive declaration like the one envisaged in working paper A/AC.182/L.48 in the foreseeable future. That document also contained many elements that were not of the Special Committee's competence, and there was no reason to believe that the Special Committee would be able to succeed where even more competent bodies had failed in the past.

22. His delegation was among those calling for a more clearly defined mandate for the Special Committee. The report reflected the major differences of opinion on the exact meaning of resolution 40/78, paragraph 3 (a). It was essential to achieve a lasting consensus on the Special Committee's priorities. The Special Committee should first of all finalize its work on document A/AC.182/L.38, and its mandate should reflect that goal explicitly. His delegation endorsed the proposal by Egypt that the Sixth Committee should negotiate the Special Committee's mandate while simultaneously addressing the impasse in the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations. The Federal Republic of Germany was willing to participate in any informal consultations that would legitimize the Special Committee's existence through the achievement of real results.

23. Mr. LOULICHKI (Morocco) said that, although the matter under consideration was also being dealt with in other forums, the setting provided by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was as conducive as any to calm and methodical consideration of ways and means of strengthening the Organization's impact on international relations; the fact that in the Special Committee's title reference was made both to the instrument and to the institution showed clearly what the original goals had been and what the real limits of the Special Committee's mandate were.

24. As a result of the Special Committee's work, the General Assembly had in 1982 adopted the Manila Declaration on the Peaceful Settlement of International Disputes and subsequently decided to insert a number of modest recommendations into its rules of procedure. However, the fact remained that since the Special Committee had first taken up its work no recommendation had been made and no conclusion had been reached on the main aspect of the Special Committee's mandate, which was the question of the maintenance of international peace and security. His delegation shared the feeling of frustration described by most delegations about the lack of progress that had once again been a feature of the Special Committee's session.

25. On the subject of the Special Committee's organization of work, his delegation had already suggested, in the Sixth Committee, that consultations should be held on the appointment of the members of the Bureau and organization of work just before the beginning of the Special Committee's session and that the experience gained in previous years should be used to maximum advantage. If the Special Committee followed such a course of action it would be able to devote more time to substantive work.

(Mr. Loulichki, Morocco)

26. His delegation had noted with satisfaction the progress made by the Secretariat in its work on the draft handbook on the peaceful settlement of disputes between States, which was referred to in the chapter of the Special Committee's report (A/41/33) on the peaceful settlement of disputes. With its expertise and precision, the Secretariat would be able to produce a comprehensive and easily consulted handbook.

27. Morocco commended the Romanian delegation for the improvements made in its proposal on resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.47). However, since doubts were still being voiced about paragraph 16 of the Special Committee's report (A/41/33), it wished to urge the Romanian delegation to take account of them in preparing the following version. His delegation wished to make the following comments: the option of defining the commission in question as a procedure was still not clear; the order in which the good offices, mediation and conciliation procedures were to take place should be clarified, with due account being taken of the necessary nuances in the status of each of the three forms of settlement of disputes; provision should be made for the possibility of expanding the commission's membership in cases where a dispute involved more than two parties; the Romanian proposal should give consideration to cases where disputes arose either between a State Member of the United Nations and a non-member State or between two non-member States; and the wording of the third subparagraph of paragraph 10 of document A/AC.182/L.47 seemed to suggest that only the parties to a dispute had an obligation to refrain from aggravating tensions and conflicts and that appeals for observance of that fundamental rule governing the conduct of relations between States would be left to the commission's discretion - whereas strict observance of the rule in question should be obligatory in any event.

28. The Special Committee had before it a new proposal on the question of the maintenance of peace put forward by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.48), which contained a number of positive elements but went far beyond the area of prevention, to which it had been decided that the current stage of consideration of the issue in question should be confined. The emphasis that the document placed on the role of States Members of the United Nations was an essential component of any system for preventing or eliminating threats to international peace and security. That was a point to which his delegation had always attached great importance, since it reflected the political will of States to respect the primacy of law in their relations with each other and to observe the fundamental principles laid down in the Charter. Morocco had drawn the attention of the drafters of document A/AC.182/L.38 to precisely that point, requesting them to take it duly into account in the second revision of their proposal. The efforts made by the six Western delegations in question to increase the acceptability of the content of document A/AC.182/L.38/Rev.2, which was extremely balanced in other respects, should enable the Special Committee to finalize the document in 1987, taking into account the relevant parts of document A/AC.182/L.48.

29. On the subject of the rationalization of existing United Nations procedures, in view of the adoption in 1984 of the recommendations that now formed part of annex VII to the Assembly's rules of procedure, the Special Committee should

(Mr. Loulichki, Morocco)

concentrate on the issue of the maintenance of peace. The fact that a great number of rationalization proposals had been put forward, that the proposals were being considered by the Assembly at the highest level and that there was now a general awareness of the need to contribute to that common endeavour should have an influence on the priorities to be set for the Special Committee with a view to enabling it to carry out the task assigned to it.

30. Mr. ALI (Democratic Yemen) said that the Charter of the United Nations indicated how important it was for Member States to settle disputes between them by peaceful means without resorting to the threat or use of force. Many proposals seeking new ways of strengthening the principle in question had been put forward. The latest such proposal was the one submitted by Romania, whose goal was the establishment of a commission of good offices, mediation or conciliation. The idea was attractive, but the Charter had already dealt with that issue adequately by making provision for such bodies as the Security Council and the General Assembly to carry out the task in question. Today, the fact that the principle under consideration was violated did not mean that the existing bodies were no longer useful and that others should be established but, rather, merely that the political will on the part of States to undertake to respect the means of peaceful settlement of disputes laid down in the Charter was lacking. Without the necessary political will, the organization could not strengthen international peace and security as was incumbent on it. The Special Committee must therefore be given the support that it needed in order to achieve real results in fulfilling its mandate. At its 1987 session the Special Committee should give high priority to the issue in question.

31. His delegation wished to reaffirm the importance of rationalizing the existing procedures of the United Nations. It believed that the Special Committee was giving very serious consideration to that question. The problem should be addressed in a comprehensive manner, with a view to bringing about a rationalization of the activities of the Organization and enhancing its effectiveness in accordance with the demands of the international situation.

32. His country believed that the proposals to enlarge the mandate of the Special Committee were not acceptable because it was already very slow in fulfilling tasks under its current mandate. Positive results would be possible only if States displayed a will to work together.

33. Mr. AKA (Côte d'Ivoire) said that "to save succeeding generations from the scourge of war" continued to be one of the essential objectives of the United Nations. His country was working untiringly towards the attainment of that objective, and thus it could not but support all initiatives to maintain international peace and security, to resolve crises and to settle disputes peacefully. In that connection, the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, within the framework of which such initiatives were conceived had always been of particular significance for his delegation. However, it could not disguise its disappointment at seeing its hopes to some extent compromised by the deadlock produced in the Committee as a result of difficulties emerging from consideration of the high-priority question of the maintenance of international peace and

(Mr. Aka, Côte d'Ivoire)

security. Those difficulties, as was well known, were attributable to the cryptic wording of paragraph 3 of General Assembly resolution 40/78. The juxtaposition in that paragraph of two approaches, both the broad examination of the question of the maintenance of international peace and security in all its aspects and the narrow examination of prevention measures, could not but give rise to difficulties. In order to overcome those difficulties, the Sixth Committee would, during the current session, have to redefine the mandate of the Special Committee in a clear, precise and unequivocal manner.

34. His delegation, for its part, believed that the documents before the Special Committee relating to the question of the maintenance of international peace and security were both worthy of interest and detailed consideration. However, in view of the decision taken by common agreement in 1983 to initiate the formulation of a specific recommendation on the preventive role of the United Nations organs, and because work on the document prepared pursuant to that decision (A/AC.182/L.38/Rev.2) was well advanced it would be desirable to adopt an approach which contributed to the rapid progress of the work of the Committee. Only a stage-by-stage approach would be beneficial and better suited to the current situation, whereas a broad approach would involve not only several unknown factors, but also the risk of dispersing the efforts of the Committee. It was for that reason that consideration of document A/AC.182/L.48 should take place only after consideration of document A/AC.182/L.38/Rev.2, which would benefit from pertinent elements contained in document A/AC.182/L.48. Any progress, however slight, made in the Special Committee on any aspect of the question of the maintenance of international peace and security would help considerably to restore the credibility of that organ.

35. On the question of the peaceful settlement of disputes, his delegation was grateful to the delegation of Romania for having submitted a revised version of the working paper on resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.47). It would support any proposals which, while avoiding duplication of effort, would improve the existing mechanisms relating to the peaceful settlement of disputes. It was also pleased by the extent to which work had progressed on the draft handbook on the peaceful settlement of disputes between States, and was grateful to the Secretary-General for his efforts to complete the elaboration of that draft, which was of great interest to a number of delegations.

36. The strengthening of the role of the Organization, which required rationalization of the manner in which it functioned, depended on the political will of Member States. The efforts undertaken in the Special Committee on the question of rationalization of procedures should be dovetailed with those of the Group of High-level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations. Despite the fact that its hopes were very often disappointed, the Special Committee should persevere in its quest for measures to enhance the effectiveness of the Organization in the realization of its objectives.

37. Mr. JAMA (Somalia) said that the United Nations, after 40 years of existence, remained an indispensable instrument for the prevention of war and the promotion of peace and co-operation among States. However, the fundamental shortcoming of the Organization lay in the structure of the Charter, which on the one hand recognized the sovereign equality of States in the General Assembly, and on the other hand established their inequality in the Security Council. If the Organization was to be made a viable instrument for the maintenance of international peace and security, it would have to be restructured in order that it might cope with the realities of the 1980s and meet the increasing needs of its Member States.

38. In his address at the forty-first session of the General Assembly, the Somali Minister for Foreign Affairs had stated, inter alia, that it was tragic that many States were prepared to uphold the principles of the Charter in situations in which they were not directly involved, but ignored those principles when they found it convenient to do so. What was lacking was the political will of Member States to strengthen the role of the Organization and to promote respect for the principles of the Charter. A collective spirit based on mutual compromise was required in order to create a consensus which would help to break the deadlock currently holding up the work of the Special Committee. His delegation would support every effort made in that direction.

39. Any attempt at a viable restructuring of the United Nations required a change in the attitudes and perceptions of Member States, rather than a change in the Organization itself. It was, indeed, vital to reconcile the idealistic concept of sovereign equality of Member States, as derived from the general principles of international law, with the realistic concept of power, based on the relative inequality of States. It was the view of his delegation that the role of the Security Council should be revitalized and strengthened, in order that it might become an organ capable of dealing with the increasing threats to peace and security and the need to settle disputes by peaceful means. The role of the Secretary-General should also be included in that process of revitalization.

40. His delegation supported the continuation of the work of the Special Committee.

41. Mr. ARCE-ROJAS (Colombia) said that the three topics dealt with in the report of the Special Committee (A/41/33) - the peaceful settlement of disputes between States, the rationalization of existing procedures of the United Nations and the maintenance of international peace and security - should remain on the Special Committee's agenda in view of the interest they held for delegations and international opinion.

42. The challenge facing the United Nations was to clarify the existing law and seek to broaden the law applicable to new situations in a world in a constant state of effervescence. Faced with that challenge, the General Assembly, in 1975, had established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. At its recommendation, the Assembly, in 1982, had unanimously adopted the Manila Declaration, one of the noteworthy results of the Special Committee's work.

(Mr. Arce-Rojas, Colombia)

43. With regard to the rationalization of existing procedures of the United Nations, the initial impetus had been lost for various reasons, one of which was the precarious financial situation of the Organization. Nevertheless, the Special Committee, taking into account a proposal by the Asian-African Legal Consultative Committee, had submitted a recommendation concerning the simplification of related items on the General Assembly's agenda by distributing or consolidating them in such a way as to adapt them to working methods and the adoption of resolutions; that applied equally to the Committees in their periodic reviews of the progress of their work.

44. The Special Committee had considered the proposal on resort to a commission of good offices, mediation or conciliation. That proposal which had caught the attention of his delegation, was not incompatible with the Charter or with the objectives of the Manila Declaration; the procedure would be an optional one that could be incorporated in the existing mechanism in view of the close relationship that would exist between it and other organs of the United Nations.

45. Colombia had good reasons to support an initiative in favour of peace and reconciliation; they were the reasons that had motivated the development of the legal position his country had taken at the international level. For example, Colombia was participating in the Contadora Group's efforts to mediate and use its good offices. Both at the United Nations and at the Organization of American States, it had reiterated its faith in the principles of coexistence regulated by law, and it was concerned at the deterioration of the situation with regard to peaceful coexistence in Central America.

46. The prevention of conflicts was only one aspect of the maintenance of international peace and security. To be truly effective, the prevention of conflicts should be backed by the political will of States. The Security Council, as the principal organ responsible for the maintenance of peace and security, should play a more active role in the prevention of conflicts. For its part, the General Assembly, in view of the number of countries represented in it, should also play a major role in the prevention of conflicts. The agreement among members of the Special Committee, that the Secretary-General should organize regular consultations among a representative group of members of permanent missions, as a contribution to the work on a draft handbook on the peaceful settlement of disputes, had been a step in the right direction.

47. His delegation had supported and would continue to support the efforts undertaken by the Secretary-General in the area of the prevention of conflicts, in accordance with the provisions of the Charter, and with the authorization of the Security Council. Strengthening the role of the Secretary-General would be a contribution towards strengthening the conflict-prevention functions of the United Nations. Confidence placed by States in the Secretary-General was confidence placed in the Security Council and the General Assembly, since the Secretary-General was an integral part of the Organization.

48. It was to be hoped that the Special Committee, after going through short periods of misgivings, slow progress, criticism and searching, would be capable of adapting to the situation and to the new requirements, and would finally succeed in completing the substantive task assigned to it.

49. Mr. GAUDREAU (Canada) said that the issue of the peaceful settlement of disputes was the subject of an important Chapter of the Charter. It was therefore appropriate that a major portion of the work of the Special Committee at its latest session should have been devoted to it. His delegation was grateful to the Romanian delegation for its tireless efforts to sensitize the international community to the question. It approved of the notion of elaborating a handbook on the peaceful settlement of disputes between States, and hoped that it would be published as soon as possible and distributed to States and to international organizations.

50. With respect to the means of settling disputes, several States expressed their support for the procedure outlined in Article 26 of the Statute of the International Court of Justice concerning the creation of chambers of the Court. Canada and the United States had used that procedure, and the Court had recently had before it two cases which would be dealt with by chambers. His delegation expressed its appreciation to the Asian-African Legal Consultative Committee for having taken the initiative of organizing at the current session, a colloquium on the International Court of Justice to discuss the enhancement of the role of the Court in the peaceful settlement of disputes. It was worth holding such events on a regular basis, perhaps even annually, and particular attention should be given to the dates of such meetings to ensure the greatest possible participation at a high level. His delegation also believed that the existence of the Permanent Court of Arbitration should become better known so that Governments might be encouraged to make use of its services. In that connection, it would be useful if the Secretariat could make available annually to the members of the Sixth Committee the report of that Court and the list of arbitrators.

51. The Romanian proposal (A/AC.182/L.47 or A/41/33, para. 14) related essentially to traditional procedures for settling disputes. That proposal required some clarification on the general question of institutionalizing the process in the manner proposed, particularly in terms of its relationship to other mechanisms and bodies for the settlement of disputes.

52. The proposal in document A/AC.182/L.38/Rev.2 (see also A/41/33, para. 44) took a pragmatic approach to the issue of maintenance of international peace and security and offered useful suggestions consistent with the Charter, which, if implemented, would undoubtedly increase the effectiveness of the Organization, albeit initially only on a modest scale. His delegation was surprised by the controversy which that relatively modest proposal had generated. In its view, the proposal did not in any way alter or undermine the functions of the principal organs of the United Nations, as had been suggested. On the contrary, it sought essentially to enhance the respective roles of the General Assembly, the Security Council and the Secretary-General so that their functions might complement and reinforce each other. That was not, strictly speaking, a "review" of the Charter but rather an effort to ensure that its provisions were implemented in a constructive manner. In that sense, the proposal's ultimate objective was the same as that of the proponents of the original Charter review initiative. His delegation hoped that the Special Committee would complete its work on document A/AC.182/L.38/Rev.2 during its 1987 session.

(Mr. Gaudreau, Canada)

53. In contrast to the proposal in document A/AC.182/L.38/Rev.2, that in document A/AC.182/L.48 (see A/41/33, para. 45) was too broad and ambitious in scope and lacked a real focus which could serve as the basis for constructive discussion. Moreover, it emphasized certain areas at the expense of others and duplicated work being done elsewhere in the United Nations system. His delegation saw no point, for example, in introducing into the Special Committee's deliberations complicated questions related to disarmament or decolonization and human rights. The Special Committee should avoid rhetorical discussions and should confine itself to the consideration of practical proposals. It was important to consider the various suggestions raised in a co-ordinated fashion and to avoid fragmentation of effort. In that connection, he agreed with the suggestion made by some other delegations that the question of peaceful settlement of disputes should simply be incorporated in the work programme of the Special Committee.

54. Although the modest practical proposals which had been considered might at first sight appear to be far removed from the noble statements of principle in the Charter, that was not so. The various proposals complemented each other, and the fact that the Special Committee had tended to focus on the peace and security aspects of the responsibilities of United Nations bodies did not mean that measures to enhance effectiveness in other areas were irrelevant to it. The effectiveness of all aspects of the Organization's work was inextricably linked to the maintenance of international peace and security.

55. Mr. IGLESIAS CORTES (Chile) said that the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, whose general tone was optimistic, showed that progress had been made, particularly on the topics of maintenance of international peace and security and peaceful settlement of disputes.

56. The working paper on resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.47) submitted by Romania undoubtedly represented an important contribution. While supporting the Romanian initiative, his delegation, considered, taking into account the numerous procedures of that kind already provided for both in the Charter of the United Nations and in other international legal instruments, that what really mattered was the political will of States to settle their disputes by resorting to one of those procedures. Despite the failure of similar initiatives in the past, Chile believed that if States acted in good faith and genuinely wanted to settle their disputes by means of the mechanisms whose establishment was being proposed, and provided that the procedure did not infringe the principle of free choice of means, a new body of that type could contribute greatly to the maintenance of international peace and security.

57. With regard to the working paper entitled "Rationalization of existing United Nations procedures" (A/AC.182/L.43/Rev.1) submitted at the previous session by France and the United Kingdom, his delegation shared the view that efforts to rationalize United Nations procedures should be guided by three main considerations: strict conformity with the Charter, the unacceptability of proposals that would reduce or distort the political activity of United Nations

(Mr. Iglesias Cortes, Chile)

organs, and full respect for the rights of sovereign States to bring matters before those organs. His delegation also agreed, in that context, with the idea of consensus arising from general agreement, on condition, however, that it was accompanied by the political will of States to commit themselves at the international level.

58. Chile attached particular importance to the question of maintenance of international peace and security, and considered that States, being the principal subjects of international law and bearing the primary responsibility for the maintenance of peace and security and for the prevention of conflicts, should regulate their conduct in conformity with the purposes and principles of the Charter of the United Nations. Many recent conflicts and acts of aggression constituted flagrant violations of the Charter and other international instruments, and it therefore seemed necessary to specify that the principle of peaceful settlement of disputes was a principle of jus cogens and that its violation was an internationally wrongful act giving rise to international responsibility. In case of conflict, the parties had to resort to one of the means placed at their disposal by Article 13 of the Charter; such recourse was voluntary, but the solution in which it resulted had to be respected wholly and in good faith.

59. Among the means provided for in Article 33 of the Charter, his delegation wished to draw special attention to mediation, arbitration and judicial settlement, which involved the participation of impartial third parties. For example, the mediation of Pope John Paul II had made it possible to reach a definitive settlement of the conflict between Chile and Argentina by means of the recently concluded Treaty of Peace and Friendship between the two countries. His delegation recognized the value of arbitration and judicial settlement whereby third parties, acting as judges, took decisions on the basis of law. It was thus important to strengthen the role of the International Court of Justice, to increase its efficiency and to enhance its prestige. When there was a sincere determination to settle a conflict by peaceful means, other measures provided for in the Charter could also be taken in order to achieve the results sought. But, regardless of the solutions adopted, they must be consistent with the principles and rules of international law.

60. His delegation looked forward to the emergence of a consensus on the fundamental role of the United Nations with regard to the maintenance of international peace and security, the role of States in that regard and their political will to apply fully contemporary international law, taking into account a gradual evolution and an updated interpretation of the Charter of the United Nations.

61. Mr. KAMAL (Bangladesh) said that his delegation commended the Romanian proposal on resort to a commission of good offices, mediation or conciliation and agreed with the views expressed in paragraph 15 of the report, without prejudice to the range of choices prescribed in Article 33 of the Charter for the pacific settlement of disputes. He noted with satisfaction that, according to the Special Committee, the discussion of that proposal had revealed the existence of some elements on which general agreement might well be possible. In the same vein,

(Mr. Kamal, Bangladesh)

he commended the initiative taken by the Asian-African Legal Consultative Committee, in organizing its recent colloquium on the use of existing institutions, such as the International Court of Justice, since that constituted one of the safest channels for the peaceful settlement of disputes. It was to be hoped that the Secretariat would soon be able to complete the preparation of the draft handbook on that question.

62. On the issue of the rationalization of existing United Nations procedures, it would be better, for the time being, to allow the General Assembly and the Fifth Committee to discuss the item in the context of the consideration of the report by the Group of 18.

63. Documents A/AC.182/L.38/Rev.2, which contained specific recommendations on the preventive role of the United Nations with regard to the maintenance of international peace and security, and A/AC.182/L.48, which gave a broad view of the legal content of the issue of international peace and security, were very both useful and consistent with the mandate of the Special Committee, as defined in resolution 40/78. He urged their proponents to combine them in a single document, on which general agreement could be reached, making sure to incorporate in that document the proposal relating to the conduct of States contained in document A/AC.182/L.48. The credibility of the Organization depended not only on concrete rules that were immediately applicable, such as those recommended in document A/AC.182/L.38/Rev.2, but also on the elaboration of general legal principles from which they flowed, such as those envisaged in document A/AC.182/L.48.

64. His delegation hoped that, in the future, Member States would exercise the political will required to enable the Special Committee to make progress and therefore welcomed the extension of its mandate.

65. M. DROUSHIOTIS (Cyprus) said that, since the main task of the Special Committee lay in the field of the maintenance of international peace and security, it was regrettable that it had been unable to achieve any results in that field. The Organization's shortcomings in that regard took their heaviest toll on the weakest developing countries. Moreover, United Nations resolutions particularly those of the Security Council, were often openly flouted, which had a debilitating effect on the Organization.

66. Much more could be done within the existing framework of the Charter to strengthen the role of the Organization, in particular with regard to the maintenance of international peace and security. His delegation had therefore welcomed document A/AC.182/L.38 and hoped that the Special Committee would soon complete its examination of the document so as to move on to other urgent subjects relating to the maintenance of international peace and security: collective security, the reactivation of Article 4 of the Charter and the implementation of United Nations resolutions. In considering document A/AC.182/L.38/Rev.2, as well as any other relevant proposals, it was important to be mindful of situations of aggression and occupation where, more often than not, the victim was called upon by the aggressor to make all the concessions. On occasion, the offending State used

(Mr. Droushiotis, Cyprus)

initiatives originating from decisions of the Security Council and the General Assembly as a facade to consolidate the illegal gains of aggression and to avoid its obligations under the Charter.

67. His delegation also welcomed working paper A/AC.182/L.48 and earnestly hoped that, at its 1987 session, the Special Committee would be in a position to deal effectively with it and to complete its work on document A/AC.182/L.38/Rev.2.

68. His delegation noted the progress made by the Special Committee on the item relating to a commission of good offices, mediation or conciliation and on the draft handbook on the peaceful settlement of disputes between States.

69. Although the Special Committee had made valuable contributions to the rationalization of the Organization's procedures, other forums were in a better position to consider that question. However, his delegation did not object to its being kept under review by the Special Committee.

70. Lastly, his delegation supported the renewal of the Special Committee's mandate, in particular with regard to its work on the question of the maintenance of international peace and security in all its aspects.

71. Mr. RIACHE (Algeria) said that it was difficult to reach consensus on the question of the maintenance of international peace and security mainly because of attitudes and policies which stirred up hotbeds of tension and incited aggression. Moreover, the affluent countries, motivated by selfishness, were going against the current making for renewal and equality set in motion by the nations newly emerging on the international scene.

72. For that reason, the work of restructuring and democratizing international relations and refurbishing legal norms suffered and, accordingly, all measures aimed at reinforcing the basic principles of the Charter were considered useless. The untouchability of the Charter had become a dogma and the right of veto and the powers of the Security Council had become taboo subjects, while responsibility for the maintenance of international peace and security still seemed to belong to a bygone era of exclusive areas of competence. It was therefore not surprising that the frail consensus reached in the Committee had not been maintained in the Special Committee.

73. His delegation supported the sectoral approach adopted since the agreement reached in 1983. While the formula of documents of a declaratory character was not devoid of interest, it did not add any legal force to a consensus that was already difficult to achieve. The procedure followed by the Special Committee, that of submitting even partial recommendations to the General Assembly on sectoral aspects of the question, was preferable.

74. It was to be regretted that the entire eleventh session of the Special Committee had been dominated by procedural debates. The United Nations was, in the first instance, a forum in which the aspirations of peoples to a better world found expression and, at a time when the Organization was subject to insidious attacks, the Special Committee must be able to complete its task in the shortest possible time.

75. Mr. VENKATARAMIAH (India), commenting on working paper A/AC.182/L.47, said that it was not the lack or inadequacy of mechanisms which inhibited parties to an international dispute in their search for a genuine solution. Indeed, the Presidents of the General Assembly and the Security Council and the Secretary-General could offer their good offices; Member States could also do so, as the Contadora Group had recently shown. The proposal submitted by Romania, which sought to combine three methods of peaceful settlement that differed significantly, would result in a rigid formalization of procedures which had functioned very well in an informal atmosphere. It was doubtful that there was a need for a new procedure in the light of the under-utilization of existing mechanisms. The real problem was the lack of political will.

76. His delegation noted with appreciation the progress made by the Secretariat in its work on the draft handbook on the peaceful settlement of disputes between States. The Secretariat should endeavour to make the handbook as practical a guide as possible.

77. The rationalization of the existing procedures of the United Nations was a basic problem which had been dealt with by various forums in the United Nations as well as by other bodies. The Asian-African Legal Consultative Committee had made a few valuable suggestions in document A/41/437. There was no longer any need for the Sixth Committee to continue its consideration of the question.

78. As regards the maintenance of international peace and security, the co-sponsors of working paper A/AC.182/L.38/Rev.2 had made commendable efforts in revising their earlier paper by incorporating the suggestions made in the Sixth Committee at the fortieth session. A number of general points made in the paper were valuable. There was no need to re-emphasize the virtue of quiet diplomacy or the need to collect accurate and authentic information while handling delicate problems of threats to peace and security.

79. The real cause of the ineffectiveness of the United Nations lay not in the Charter system, which was basically sound, but in the lack of common interest and political will, particularly among the more powerful and wealthy States.

80. His delegation commended the efforts of the co-sponsors of working paper A/AC.182/L.48. It would require three to four full sessions of the Special Committee to discuss and reach agreement on the paper. There was an urgent need for specific recommendations on the maintenance of international peace and security. The Special Committee could begin to finalize its work on the preventive role of the United Nations organs by first drafting a document based on working paper A/AC.182/L.38/Rev.2 and the relevant parts of working paper A/AC.182/L.48, and then devoting itself to the consideration of the remaining parts of working paper A/AC.182/L.48.

81. Mr. BROMS (Finland) said that working paper A/AC.182/L.47 made it clear that the establishment of the commission in question would take place in accordance with the provisions of the Charter. It was to be hoped that, on the basis of that paper, the Special Committee could devote itself to the work of drafting at its 1987 session and that the co-sponsors would be able to gauge whether there would be a consensus.

(Mr. Broms, Finland)

82. As regards the draft handbook on the peaceful settlement of disputes between States, it was regrettable, given the urgency of the task, that the Secretariat was unable to work more quickly.

83. The proposals for the rationalization of existing United Nations procedures contained in the working paper submitted by France and the United Kingdom (A/AC.182/L.43/Rev.1) were reasonable and most of them should be adopted by consensus. There was no reason to prolong debate on proposals on which the Special Committee would reach a decision at its 1987 session.

84. The maintenance of international peace and security was an extremely delicate issue. The six co-sponsors of working paper A/AC.182/L.38/Rev.2 should be commended for their efforts and the way in which they had taken account of the amendments proposed by many members of the Special Committee and the Sixth Committee. His delegation considered that the co-sponsors of that working paper had been correct in dealing only with preventive activities in the field of the maintenance of international peace and security. Finland supported the revised text of the working paper, which should be adopted with the necessary amendments.

85. Because of its comprehensive nature, working paper A/AC.182/L.48 would require a very long debate. Too much time had already been lost in discussing the internal relationship between working paper A/AC.182/L.48 and working paper A/AC.182/L.38/Rev.2, and the number of meetings to be allocated to each. Working paper A/AC.182/L.48 could no doubt form the basis of a prolonged future debate in the Special Committee and the Sixth Committee. For the time being, the Special Committee should concentrate on putting working paper A/AC.182/L.38/Rev.2 into final form in order to end competition between the two groups of sponsors which, in the final analysis, was damaging to the Organization.

86. His delegation believed that it was high time that the members of the Special Committee realized that endless debates were of no use to the Organization, and hoped that, at the next session, there would be a consensus on the way important agenda items should be dealt with.

ORGANIZATION OF WORK

87. The CHAIRMAN said that the programme of work (A/C.6/41/2) which the Sixth Committee had adopted at the beginning of its session had indicated that the Committee would conclude its work on 5 December. However, it had been noted that that programme should be applied in a flexible manner and in the light of the decision which the General Assembly would take regarding the closure of its session. In the mean time, it had been decided that the Committee should conclude its work by 28 November and the consideration of the items in its programme of work by 26 November. With regard to item 135, which had originally been scheduled for 2 December, he suggested that the chairmen of the regional groups should hold consultations. The chairman of the Committee on Relations with the Host Country had informed him that item 131 could be taken up on 26 November. Moreover, it should be possible to save the two days originally scheduled for items 138 and 135 by using the time remaining in the period allocated to item 129, and the first

(The Chairman)

meetings allocated to items 130 and 125, to consider those items. There remained the question of organizing the debate on items 130 and 125, for which he advocated maximum flexibility and proposed that the list of speakers should be opened on Thursday.

88. Mr. ROSENSTOCK (United States of America) said that, as had been the practice in the past, specific days should be set aside for the consideration of individual chapters of the report of the International Law Commission, on the understanding that delegations which wished to make a statement on the report as a whole could do so towards the end of the debate.

89. Mr. ABDEL-RAHMAN (Sudan) said he had no objection to the consideration of items 135 and 138 during the time which might become available in the period allocated to item 129, but only if that was not at the expense of item 129.

90. Mr. ABDEL-KHALIK (Egypt) said that, with regard to the report of the International Law Commission, the chapters on the status of the diplomatic courier and the jurisdictional immunities of States should be considered first. On the other hand, some time should be set aside for the draft code of offences. The consideration of item 135 should be postponed until the next session.

91. The CHAIRMAN, without dismissing the suggestions of the representatives of the United States of America and of Egypt regarding items 130 and 125, said that certain members of the International Law Commission might wish to make statements on the report as a whole at the beginning of the debate. However, he did not think that it would be necessary to become locked into a rigid timetable even if it had proven useful during longer sessions.

92. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics) suggested that the representatives of the regional groups should hold informal consultations on ways to reduce the number of meetings. On matters of substance, the Committee would proceed as the Chairman had suggested.

93. Mr. ROSENSTOCK (United States of America) said that he could not agree to the opening of the list of speakers on items 130 and 125 until the issue of how the debates on those items would be organized had been settled.

94. Mr. ABDEL-RAHMAN (Sudan), supported by Mr. LACLETA (Spain), suggested that the Committee should begin with the consideration of the two subjects on which the International Law Commission had completed its first reading and then proceed to the four other subjects.

95. The CHAIRMAN hoped that the consultations proposed by the representative of the USSR would be held.

The meeting rose at 6.35 p.m.