



SUMMARY RECORD OF THE 19th MEETING

Chairman: Mr. JESUS (Cape Verde)

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Distr. GENERAL
A/C.6/41/SR.19
22 October 1986

ORIGINAL: ENGLISH

The meeting was called to order at 3 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)
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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)

1. Mr. JATIVA (Ecuador) said that Ecuador had spared no effort to strengthen the machinery for the peaceful settlement of disputes. He noted that, despite the fact that the Special Committee's work had at times been obstructed, some progress had been made. In that context, his delegation welcomed, in particular, Romania's revised working paper on resort to a commission of good offices, mediation or conciliation within the United Nations, which should be studied with a view to determining the relationship between the proposed commission and the principal United Nations organs, giving the commission a more systematic structure, establishing a standard legal terminology and, in particular, setting up innovative procedures to enable the commission to act before or at the outset of conflicts.

2. With regard to the maintenance of international peace and security, his delegation supported the proposals in document A/AC.182/L.38/Rev.2. In view of the advanced stage of the discussion of the document, it would appear appropriate to finalize it as soon as possible. Accordingly, it would not be useful to add other elements, although some were certainly valid, including the proposal introduced in document A/AC.182/L.48. That document should be considered at a later date; otherwise, it would give rise to the traditional confrontation, which could paralyse the Special Committee's work.

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(Mr. Jativa, Ecuador)

3. Any rationalization of United Nations procedures should be most favourably welcomed by Member States, especially at a time of grave financial crisis. However, he noted that the discussion on the working paper concerning rationalization (A/AC.182/L.43/Rev.1) had not made any substantial progress. Moreover, several points contained in the document were already being discussed in other United Nations forums, in particular the General Assembly and the Fifth Committee. It might therefore be advisable to suspend consideration of the matter in the Special Committee, at least until its mandate was better defined in that respect.

4. His delegation welcomed the progress achieved in the preparation of the draft handbook on the peaceful settlement of disputes between States, and trusted that the additional chapters of the draft would be submitted as soon as possible, with a view to their early adoption. Lastly, he stressed the need for the Special Committee's mandate to be drafted in clear and precise terms, in order to avoid equivocal interpretations and sterile debates.

5. Mr. MAKAREVICH (Ukrainian Soviet Socialist Republic) said that while the United Nations played an important role in the solution of all major world problems, the maintenance of peace and security continued to be its central task. The Organization had already done a great deal to shape both thinking and practice in that field. However, the present international situation called for vigorous fresh efforts on the part of States and international organizations, especially the United Nations, towards the establishment of a comprehensive system of international security. In that connection, he referred to the proposal for the establishment of such a system submitted at the present session of the General Assembly by a group of socialist countries (A/41/191). As examples of recent successes of multilateral diplomacy, he cited the results of the Stockholm Conference and the recent special meeting of IAEA, progress achieved at negotiations on the prohibition of chemical weapons and the positive review of the Convention on bacteriological weapons. The United Nations was the world's most representative forum for multilateral diplomacy; it was therefore essential that its potential should be used to the full and its activities revitalized.

6. An important aspect of the Sixth Committee's consideration of the Special Committee's work was that it provided an opportunity to ascertain the views of a much larger number of delegations than were represented in the Special Committee. The report on that Committee's 1986 session (A/41/33) showed that a significant amount of work had been done. In connection with the maintenance of international peace and security, he expressed his delegation's full support for the working paper submitted by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.48), which was very broad in scope. His delegation fully endorsed the sponsors' basic premise that the strengthening of the role of the United Nations in the maintenance of international peace and security could not be separated from the role and conduct of States in fulfilling their obligations under the Charter. Bearing in mind the realities of the present international situation, the Special Committee should prepare a document defining the role - and, consequently, the responsibilities - of Member States in enhancing the effectiveness of the United Nations.

(Mr. Makarevich, Ukrainian SSR)

7. Unanimous adoption of such a document by the General Assembly would be an event of the greatest significance, and would facilitate concerted action by States to consolidate international peace and security and strengthen the role of the United Nations in that field. The Organization's 40-year history demonstrated that the failures and relative ineffectiveness of the United Nations should be viewed not only in the context of the operation of its mechanisms, but also in relation to the vitally important factor of the political will and actions of its Member States. In that connection, he said that the tendency by certain countries to discredit the United Nations and put financial pressure on the Organization as well as political and economic pressure on individual States deserved resolute condemnation as being incompatible with the task of strengthening the role of the Organization.

8. While it was true that the sponsors of working paper A/AC.182/L.48 placed special emphasis on questions relating to the cessation of the nuclear-arms race, it was incorrect to say that they failed to take account of other important issues, such as economic ones. An unprejudiced reading of paragraphs 4 to 8 of section III of the working paper would show that serious attention was given to matters in the economic and humanitarian fields. The importance of strict observance of the fundamental principles of contemporary international law was also emphasized in section I. As for the argument that the working paper covered many issues which lay outside the Special Committee's competence and were being considered by other United Nations bodies, he said it was obvious that the Special Committee was not being asked to consider the substance of such issues. The point of the proposal was that the Special Committee's recommendations on the maintenance of international peace and security in all its aspects should make it clear that agreement on those issues was an essential pre-condition for strengthening the role of the United Nations.

9. On the question of rationalization of United Nations procedures, he said that the recommendations being prepared should not lead to any restriction of the Organization's political activities or any limitation of the sovereign right of States to put forward initiatives or raise questions for consideration by United Nations bodies. His delegation endorsed the proposals for the elimination of duplication of work and the holding of pre-sessional consultations in connection with the election of officers and the organization of work. In conclusion, he welcomed the progress achieved in the preparation of the draft handbook on the peaceful settlement of disputes between States, and stressed that the handbook should, above all, lend itself readily to practical use.

10. Mr. GÜNEY (Turkey) said that there could be no justification for modifying the Charter, directly or indirectly. The delicate balance of powers, functions and responsibilities of the principal organs of the United Nations as established in the Charter must be maintained. The revised version of the Romanian proposal on a commission of good offices, mediation or conciliation (A/AC.132/L.47) had taken into account the concerns and suggestions of several delegations, but the improvements introduced in order to establish the fundamental principle of free choice of means peaceful settlement had not been sufficient to dispel misgivings concerning the proposal. There was no proof that the new procedure was required. The key question raised by the proposal was whether such a commission would be of

(Mr. Güney, Turkey)

any use, since the failure of States to settle their disputes by peaceful means was due more to lack of political will than to any lack of global or regional mechanisms.

11. His delegation welcomed the progress made on the draft handbook on the peaceful settlement of disputes between States. The comprehensive list of existing institutions and means for the peaceful settlement of disputes, in particular meaningful negotiations between the parties directly concerned, indeed provided the basis for the future handbook.

12. With regard to the rationalization of existing procedures of the United Nations, his delegation considered that the Secretariat should undertake a study of developments in other forums in order to bring them to the attention of the Sixth Committee and avoid duplication of work on the topic.

13. The Special Committee's most recent work on the priority question of the maintenance of international peace and security had brought out difficulties and differences of opinion relating to procedure and the interpretation of the Special Committee's mandate. That Committee would have to establish what it could achieve and what went beyond or ran counter to its objectives in that area.

14. Mr. RIVERA (Peru) said that the lack of progress in the work of the Special Committee year after year was detrimental to the United Nations; the adoption of realistic measures could no longer be postponed. His delegation considered that the best way of proceeding was to obtain general agreement on the objective being pursued and then establish in a resolution the working methods and order of priorities of the Special Committee. Otherwise the disorder that had characterized its previous sessions would continue.

15. His delegation had followed with interest the work on the draft handbook on the peaceful settlement of disputes between States, and hoped that all interested delegations would be able to participate in future consultations concerning the handbook.

16. With respect to the rationalization of existing procedures of the United Nations, his delegation supported the recommendations contained in paragraphs 3, 4, 5, 6, 7, 9, 10 and 11 of document A/AC.182/L.43/Rev.1. Since such recommendations were also being considered in other forums, it might be more appropriate for them to consider the proposals in question.

17. His delegation believed that the proposal by Romania concerning a commission of good offices deserved to be considered in depth and clarified. It was essential to avoid duplication of or interference with the work of other organs. Furthermore, the initiation of any procedure such as that suggested in the proposal must meet with the agreement of the parties concerned. The representative of Romania had confirmed in his statement during the current debate that that was how paragraph 3 of the proposal should be interpreted.

18. The proposal contained in document A/AC.182/L.38/Rev.2 on the prevention and removal of disputes was generally constructive in that it concentrated on the preventive phase. His delegation considered that the confidentiality option with

(Mr. Rivera, Peru)

respect to consultations held by the Security Council should be eliminated. It was for the Council to decide on the best approach to take. In any event, strengthening the role of the Council, the General Assembly and the Secretary-General in the prevention of conflicts should not be conceived as interfering with the principle of free choice of means of peaceful settlement. It was important to reaffirm clearly the obligation of States to respect international treaties and to adopt the mechanisms and recommendations provided for therein. Document A/AC.182/L.38/Rev.2 could provide points of agreement which would allow the Special Committee to extend the basis for its work on the maintenance of international peace and security, but that would require an additional effort on the part of the Special Committee. The document should be given due attention in the Sixth Committee's draft resolution.

19. With respect to the working methods of the Special Committee, his delegation considered that it might devote 10 working days to informal consultations and the remaining 5 days to the follow-up to the progress achieved in those consultations.

20. Mr. WANG Houli (China) said that in the current troubled world climate, strengthening the role of the United Nations was very important and relevant. The new proposals regarding the roles of the Security Council, the General Assembly and the Secretary-General in the maintenance of international peace and security (A/AC.182/L.38/Rev.2) deserved serious consideration. Efforts to enable the principal organs of the United Nations to play a better role in preventing conflicts would represent an important contribution to the search for ways of maintaining peace and security.

21. With regard to strengthening the preventive role of the United Nations, two points merited attention. First, the various aspects of the maintenance of international peace and security were interrelated, and when preventive measures were being studied, the other aspects should also be taken into consideration. Secondly, attention should be paid to the importance of applying correctly the provisions of the Charter concerning the roles of the Security Council, the General Assembly and the Secretary-General in conflict-prevention procedures. The working paper correctly emphasized the role of the Secretary-General in that area, but the necessary balance and co-ordination between the various United Nations organs should not be neglected.

22. The working paper submitted by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.38) was a positive contribution to the consideration of the maintenance of international peace and security. An effort should be made to focus the proposals and make them more acceptable. He hoped that the sponsors of the two working papers would revise them after listening to the views and comments of other delegations.

23. The rationalization of existing procedures of the United Nations was important to the overall objective of further tapping the potential of the Organization, particularly at a time when administrative and financial reforms of the United Nations and ways of increasing its efficiency were being discussed. He considered that the Special Committee could make a contribution in that area.

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24. Mr. BRENNAN (Australia) said that as Australia was not a member of the Special Committee, it welcomed the opportunity of commenting on the work of its 1986 session. With respect to the maintenance of international peace and security, his delegation believed that at its next session the Special Committee should focus its attention on the revised version of working paper A/AC.182/L.38/Rev.2, with a view to completing consideration of it and submitting conclusions to the Sixth Committee at the forty-second session of the General Assembly. That methodology should enable the Special Committee to produce some conclusions and thereby restore some credibility to itself and to the Sixth Committee.

25. It appeared to his delegation that many of the issues addressed in working paper A/AC.182/L.48 on the same topic were not relevant to the work of the Special Committee, in particular those dealing with disarmament and nuclear weapons. His delegation did not wish to see work on that document delay progress on document A/AC.182/L.38/Rev.2. It supported the suggestions contained in the latter document to the effect that the various organs of the United Nations should make more use of fact-finding capabilities. It also supported the view that early requests to the International Court of Justice for advisory opinions might be effective in promoting the prevention and peaceful settlement of disputes.

26. Australia firmly supported the principle of, and existing mechanisms for, peaceful settlement of disputes. His delegation wished to associate itself with the view of other delegations that the necessary mechanisms already existed, but that what was lacking was the political will on the part of States to use them. He noted that the report (A/41/33) did not contain a list of the elements on which general agreement might be possible. His delegation had already pointed out that the proposed commission of good offices was likely to duplicate the work of other organs of the United Nations. It was also concerned about the financing of such a commission, particularly at a time when the Organization was experiencing financial difficulties.

27. His delegation would like to see work completed on the current phase of the topic of peaceful settlement of disputes, and work begun on further aspects of the topic, with a view to bringing to the attention of States the possibilities for the peaceful settlement of disputes. The work accomplished by the Asian-African Legal Consultative Committee was instructive in that regard, particularly its organization of a recent colloquium on the International Court of Justice.

28. The draft handbook on the peaceful settlement of disputes was a helpful project so long as it accurately reflected existing mechanisms for the peaceful settlement of disputes and guided States in the utilization of those mechanisms.

29. Rationalization of existing procedures of the United Nations continued to be an important topic, but the work of the Special Committee on the Charter duplicated to some extent work carried out in the plenary Assembly as a result of the report of the Group of 18. His delegation, while supporting much of the content of document A/AC.182/L.43/Rev.1, did not wish to see further duplication of effort. One way in which such duplication could be avoided to some extent would be for the Special Committee to examine rationalization of the procedures of the Sixth Committee. For example, the item on the peaceful settlement of disputes could be deleted as a separate agenda item and included under the item on the report of the Special Committee on the Charter.

(Mr. Brennan, Australia)

30. His delegation agreed with the suggestion that the mandate of the Special Committee should be adjusted to include the item on good-neighbourliness between States. That would implement a recommendation made by the Working Group of the Asian-African Legal Consultative Committee. Resolutions on the reports of the Sixth Committee should be drafted in accordance with the recommendations of the Consultative Committee. In such ways the Sixth Committee could set an example with respect to the rationalization of existing procedures which could be followed by other Committees.

31. His delegation supported the proposal that the Special Committee on the Charter should meet for three weeks only in 1987.

32. Mr. KIKUCHI (Japan) said that, in formulating its policy on the United Nations, his Government had always been conscious of the need to strengthen the Organization's role and functions. Japan had made the United Nations a central pillar of its foreign policy, and believed that the international community must not shrink from the task of continually reviewing and improving the functions of the United Nations in order to maximize its effectiveness. It was Japan that had proposed the establishment of a group of eminent persons to study ways of improving the Organization's efficiency, particularly in the administrative and financial areas. His Government had also stressed the need to strengthen the peace-keeping functions of the United Nations, and had called for serious efforts to revitalize the Security Council, appealing, in particular, to its permanent members to join together in strengthening its functions and fulfilling the grave responsibilities that went with their privileges. Japan had also called on the Security Council, the General Assembly and the Secretary-General to play a more active role by making greater use of their fact-finding capabilities, informal contacts and good offices. It had also expressed the view that adoption by the General Assembly at its current session of the working paper on the prevention of conflicts (A/AC.182/L.38/Rev.2) submitted by Japan and five other members of the Special Committee would help to promote full use of the peace-keeping functions of the United Nations as a whole.

33. Over the past year, progress had been made in revitalizing the United Nations and improving its functioning in the administrative and financial areas. It was gratifying that the Japanese initiative had led to the establishment of the Group of High-level Intergovernmental Experts, which had submitted a remarkable report to the General Assembly.

34. In the area of the peaceful settlement of disputes, in the past year the Secretary-General had pursued with added vigour his efforts to find solutions to various regional conflicts. Particular mention should be made in that connection of the Secretary-General's recent mediation in the settlement of a dispute involving two Member States, one of which was a permanent Member of the Security Council. Furthermore, a number of Member States, including Japan, working within the framework of the Asian-African Legal Consultative Committee, had prepared and submitted to the General Assembly a series of useful recommendations for rationalizing General Assembly procedures and improving the efficiency of the Assembly's work.

(Mr. Kikuchi, Japan)

35. On the other hand, no significant progress had been made in the past year with respect to efforts to strengthen the peace-keeping functions of the United Nations. Regrettably, there had even been certain negative developments. He was referring to the technical move by some members of the Special Committee that had resulted in a standstill in the work on the paper on the prevention of conflicts, which the Special Committee had been about to finalize after two years of careful consideration. The recommendations in the paper were aimed at fully utilizing the capacities of United Nations organs to prevent and remove threats to peace and situations that might lead to friction or a dispute. They had been drafted so as to be in strict compliance with the provisions of the Charter, and care had been taken not to upset the balance between the competences of the various United Nations organs. The working paper had been prepared and revised in close consultation with the members of the Special Committee, and took into account various useful comments made in the Sixth Committee. The substance of the paper had been discussed exhaustively at the Special Committee's 1984 and 1985 sessions.

36. However, at the Special Committee's 1986 session, a group of Eastern European countries had suddenly submitted a working paper (A/AC.182/L.48) based on an entirely new catch-all approach, which was contrary to that followed by the Special Committee at its previous session. The sponsors of that paper had insisted that it should be given a status equal to that of the earlier working paper. They had even maintained that the earlier paper should constitute no more than a part of their working paper and should therefore not be finalized prior to the completion of consideration of their working paper. It must be concluded that the new working paper was nothing but a procedural device designed to block the finalization of the earlier paper. Japan wondered whether the group of countries in question feared the adoption of that paper, whose central theme reflected the views and appeals of the Secretary-General himself. If they did in fact fear adoption of that paper, they were acting in a manner that was contradictory to their almost daily utterances in support of world peace, which stressed the roles of the Security Council and supported the Secretary-General's activities. If those countries pursued that negative approach, the question would be whether such conduct was at variance with their obligations under the Charter.

37. The so-called comprehensive approach to the maintenance of international peace and security taken in the working paper submitted by the group of Eastern European countries was one that had already been discussed at length and abandoned. The sponsors of the General Assembly resolution on the item under consideration had therefore decided to define the limited area of conflict prevention as the new focus of the Special Committee's work. A consensus had once again been achieved on the Special Committee's mandate, and the earlier working paper had gained the overwhelming support of both the Special Committee and the Sixth Committee.

38. A critical juncture had now been reached. The Special Committee could respond positively to the wishes of the majority in the General Assembly by submitting to it in the near future the first tangible results of its efforts in the area of the maintenance of international peace and security; or it could succumb to the pressure of a small minority. The choice between those two alternatives lay with the members of the Sixth Committee. The international community expected the

(Mr. Kikuchi, Japan)

Special Committee to produce without delay concrete results on the topic of the maintenance of international peace and security. The credibility of both the Special Committee and the Sixth Committee was now at stake. The Special Committee must be kept active and productive, particularly at a time when efforts to review and revitalize United Nations activities were being stepped up. The relevant resolution adopted by the Assembly at the current session should clearly instruct the Special Committee to complete its consideration of working paper A/AC.182/L.38/Rev.2, so that it could submit recommendations thereon to the General Assembly in 1987.

39. Mr. HENG VONG (Democratic Kampuchea) said that he wished to pay a tribute to the many States for which the safeguarding of peace and the elimination by peaceful means of all sources of international tension were major concerns. It was as a result of the perseverance of such States, particularly Romania, that the General Assembly had been able to adopt the Manila Declaration, whose fourth preambular paragraph was of particular importance to the Kampuchean people. Although it would be unrealistic to expect the Manila Declaration to bring a swift end to the conflict between Democratic Kampuchea and its insatiable neighbour, Viet Nam, it would be reasonable to expect the Declaration to convince Viet Nam that the very idea of using force and violating the territorial integrity of another State was to be condemned. Such hopes were in vain, since there were 200,000 Vietnamese soldiers and 700,000 Vietnamese settlers in Kampuchea, and Viet Nam was looting Kampuchean resources and bringing death and ruin to the country. If a so-called "special" friendship treaty signed by a handful of puppets was sufficient to change acts of aggression into a "rescue operation", as Viet Nam liked to put it, his delegation wondered what the fate of the Manila Declaration would be, especially as Viet Nam continued to prefer a military solution to a negotiated political solution. The Coalition Government of Democratic Kampuchea had consistently proclaimed its desire to enter into negotiations with Viet Nam. In that connection, he wished to draw attention to the eight-point peace plan referred to by His Royal Highness Samdech Norodom Sihanouk in his address before the General Assembly in September 1986 (A/41/PV.16). The only reason why Viet Nam should reject that plan, as it indeed had, was that it wished to swallow up Democratic Kampuchea and incorporate it in its "Indo-Chinese Federation".

40. Viet Nam's conduct must not discourage the Sixth Committee in its efforts to implement both the letter and the spirit of the Manila Declaration. His delegation welcomed the fact that the Special Committee was close to a consensus on the question of a commission of good offices, and on the draft handbook on the peaceful settlement of disputes. With such new instruments for the promotion of the peaceful settlement of international disputes, it remained to be seen whether Viet Nam would display the necessary good faith and political will.

41. He wished to inform the members of the Committee that, as a matter of convenience and in order to avoid the disruptions in the conference room that had been occurring when delegations wished to obtain copies of texts, he had made available the text of his delegation's statement, together with the text of the proposal put forward by the Coalition Government of Democratic Kampuchea for a political settlement of the problem of Kampuchea, for distribution by the Secretariat - as had been done in the Third Committee without any difficulty. However, the Secretariat had raised incomprehensible objections. He had therefore decided to distribute the texts himself.

42. The CHAIRMAN said that, in dealing with the texts prepared by the delegation of Democratic Kampuchea, the Secretariat had acted in accordance with the normal practice of both the Sixth Committee and the General Assembly.

43. Mr. JOSHI (Nepal) said that his delegation attached great importance to the Special Committee's mandate and did not doubt that that Committee would be able to reach agreement on all the relevant issues.

44. The founders of the United Nations had given careful consideration to the question of the maintenance of international peace and security, and had made adequate provision for the prevention of international conflicts and the maintenance of global peace, which had been upheld and developed in such instruments as the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Declaration on the Strengthening of International Security, and the Manila Declaration on the Peaceful Settlement of International Disputes.

45. However, not all Member States had honoured their commitment to observe the principles of the United Nations; peace had often been breached and international security had frequently been threatened. His delegation therefore strongly believed that the major organs of the United Nations should be revitalized and equipped with some additional tools, so that they could function smoothly and effectively in maintaining international peace and security.

46. His delegation wished to make the following comments in connection with the statement by the Rapporteur on the topic of the maintenance of international peace and security: the Security Council should play a positive and active role in determining the existence of a major threat to international peace; the role of fact-finding missions should be strengthened; machinery for an early-warning system to guard against unforeseen conflicts should be developed; and the role of peace-keeping operations should be enhanced, with due consideration being given to the installation of peace-keeping forces before the eruption of armed conflict. Fewer and fewer cases were being brought to the Security Council's attention, in spite of the vast increase in tension and the breaches of peace in various parts of the world. The process of maintaining global peace and security and removing political threats to peace was a complicated one and must be viewed in the broad perspective of nuclear disarmament and the growing need to bridge the gap between the developed and developing countries.

47. His delegation noted that countries were increasingly resorting to force of arms in order to settle their disputes with other States. It therefore welcomed the draft handbook on the peaceful settlement of disputes, and hoped that it would provide guidelines for settling international conflicts and a useful frame of reference for the solution of all kinds of disputes between States. The International Court of Justice had a major role to play in the peaceful settlement of disputes. Unfortunately, however, the Court's role had shrunk considerably, while the number of conflicts and the incidence of violence had increased considerably. Countries must be encouraged to take their disputes to the Court.

(Mr. Joshi, Nepal)

48. The Asian-African Legal Consultative Committee had given careful consideration to the question of the rationalization of existing United Nations procedures, and had put forward a number of very useful recommendations in document A/41/437.

49. Mr. MARTINEZ GONDRA (Argentina) said that the exacerbation of the differences in approach which were adversely affecting the work of the Special Committee should be avoided. His delegation continued to share the view of many delegations that the Special Committee was in a position to make specific recommendations to the General Assembly which would lead to effective strengthening of the Organization.

50. With regard to the peaceful settlement of disputes, although the Manila Declaration on the Peaceful Settlement of International Disputes had already been adopted, his delegation felt that the item should be retained on the agenda. Argentina welcomed the Romanian proposal on resort to a commission of good offices, and supported the view expressed in paragraph 29 of the Special Committee's report (A/41/33) concerning progress made on the proposal. His delegation was grateful to the Secretariat for its work on the draft handbook on the peaceful settlement of disputes between States. Having participated in the meeting of the Consultative Group which had studied the first parts of the draft, his delegation felt that the handbook should be essentially descriptive and practical in order to become a useful guide.

51. His delegation felt that it was not useful to continue considering the rationalization of existing United Nations procedures, to the detriment of other more important issues, in view of the fact that many of the Special Committee's recommendations overlapped with existing practice, while other, more ambitious issues did not have the necessary support. Moreover, the issue was being discussed in many other forums and had received renewed attention because of the financial crisis.

52. With regard to the maintenance of international peace and security, his delegation's well-known position was that the issue should be considered in an open and constructive frame of mind; essential aspects of the topic, such as the functioning of the Security Council, must not be ignored. However, in response to the reservations of some delegations, it had been agreed that, for the time being, non-controversial aspects of the topic should be tackled. His delegation therefore supported the working paper on prevention and removal of disputes, the revised version of which (A/AC.182/L.38/Rev.2) was modest in scope but realistic, and had taken into account the comments made during two sessions of the Special Committee and of the Sixth Committee. The finalization of that document should not be delayed by the other, more ambitious document, on which debate had only recently begun and on which there were fewer possibilities for an immediate agreement. Working paper A/AC.182/L.48 contained valuable elements, but it went beyond the agreed framework and would undoubtedly delay the adoption of recommendations considerably.

53. His delegation supported the proposal made by Tunisia at the 17th meeting of the Sixth Committee concerning the reporting obligations of the three sub-committees.

54. Mr. ROUKOUNAS (Greece) said, with regard to the maintenance of international peace and security, that it was necessary not only for the General Assembly to adopt a resolution by consensus but also for that resolution to specify as clearly as possible the Special Committee's mandate. Even if the mandate were perfectly clear, however, the very nature of the question would lend itself to divergent views. The Special Committee's report (A/41/33) once again drew attention to the old dilemma - which in essence was a false dilemma - between the limited approach and the broad approach to the problems in question.

55. As to the limited approach, based on preventive measures, his delegation welcomed the emphasis placed, in document A/AC.182/L.38/Rev.2, on the role and possibilities of the International Court of Justice, a trend which had been confirmed by the recent conference organized by the Asian-African Legal Consultative Committee. His delegation also felt that the systematic supervision of preventive activities by United Nations organs, as well as the preventive capabilities of the Secretary-General under the Charter, should be strengthened. The draft contained in document A/AC.182/L.38/Rev.2 had to some extent taken account of those concerns.

56. However, since the Special Committee's mandate under General Assembly resolution 40/78 extended to the question of the maintenance of international peace and security "in all its aspects", it was important for the Special Committee also to consider the problem of respect for the decisions of competent United Nations organs. Moreover, the question of the obligations of United Nations organs and States under international law in cases of threats to the peace and acts of aggression must urgently be addressed.

57. Document A/AC.182/L.48, which took a broader approach, contained elements concerning prevention which might help to affirm its need and effectiveness. Moreover, the text attempted to clarify once again the obligations of States under international law, the importance of which could not be over-emphasized. His delegation was prepared to do its utmost to contribute to efforts to seek compromise solutions or to take concerted, effective action in the Special Committee based on the two series of proposals before it.

58. As to the peaceful settlement of disputes, the new version of the proposal on the establishment of a commission of good offices, mediation or conciliation (A/AC.182/L.47) took into account some of the reactions of a number of delegations. His delegation felt that it was important to stress the role of international law in the settlement of conflict. It was the Special Committee's responsibility, however, to consider more closely the structure and elements which would enable that initiative to go forward.

59. With regard to the suggestion to explore the possibility of mandatory conciliation, which might first be used in minor disputes and then gradually be extended to other categories, his delegation felt that any initiative which might strengthen the principle of the peaceful settlement of international disputes or offer new ideas in that regard deserved to be encouraged.

(Mr. Roukounas, Greece)

60. Lastly, his delegation could see only advantages in a draft handbook on the peaceful settlement of disputes between States, including a description of existing procedures for all kinds of disputes, irrespective of their gravity or nature. Such a handbook would be invaluable if it also contained basic texts and indicated the frequency of application of each type of settlement in practice.

61. Ms. HIGGIE (New Zealand) said that the strength of the United Nations rested squarely upon the commitment of Member States to the Charter, the most authoritative of all international treaties. Although there might be questions about whether some of its organizational provisions had stood the test of time, its basic principles were clear and remained valid.

62. In 1986, New Zealand had had direct experience with the problem-solving capabilities of the United Nations in the resolution of the Rainbow Warrior affair. Her delegation paid tribute to the good offices of the Secretary-General and expressed the hope that his principled ruling would encourage other countries to seek similar solutions to their disputes. Accordingly, her delegation endorsed the suggestion that the Secretary-General's involvement in the settlement of disputes was one of a number of possibilities which the Special Committee could usefully consider. However, the Secretary-General's role in the resolution of the Rainbow Warrior affair had raised the question of the practical worth of the proposal to establish a commission of good offices, mediation or conciliation. It was not a lack of existing mechanisms which prevented the peaceful settlement of disputes, but rather a lack of political will.

63. With regard to the rationalization of existing United Nations procedures, her delegation felt that it would be wrong for the Special Committee to see itself in anything but an advisory role, and perhaps as a forum for considering the legal implications and impact on the Charter of reforms currently being proposed in other forums.

64. Some of the specific proposals submitted by the United Kingdom and France, such as those relating to the distribution of agenda items, the meetings of inter-sessional bodies and the number of resolutions, had her delegation's unqualified support. Other proposals, such as the one contained in paragraph 8 of document A/AC.182/L.43/Rev.1, caused her delegation some problems.

65. As to the maintenance of international peace and security, New Zealand had hoped that the Special Committee would have finalized its work on the working paper on conflict prevention and resolution contained in document A/AC.182/L.38/Rev.2. However, a new working paper (A/AC.182/L.48) had been introduced which attempted to change the focus of the Special Committee's consideration. Although her delegation was aware that the role of States was intimately connected with the functioning of the Organization, it could not accept that the elaboration of a comprehensive code of conduct for States in such diverse fields as disarmament, human rights and economic and social development would improve that functioning. Her delegation's disappointment with the approach taken in that working paper was compounded by the partisan nature of its proposals, which could only hinder the adoption by consensus of concrete recommendations.

66. Mr. CICANOVIC (Yugoslavia) recalled that, when speaking on the item at the preceding session of the General Assembly, his delegation had pointed out the difficulties faced by the United Nations as well as the reasons for them, and had made suggestions aimed at strengthening the Organization's effectiveness and role. At the same time it had stressed the role of the Special Committee and the constructive efforts made within it. Neither the situation nor the reasons behind it had changed in the mean time. In considering the matter at their recent summit meeting in Harare, the non-aligned countries had also voiced their strong support for the United Nations and the Charter.

67. Reviewing the Special Committee's achievements at its latest session, he recalled the developments leading to the adoption by consensus of the proposal that, in considering the question of the maintenance of international peace and security, the Special Committee should first take up the issue of preventive activities of United Nations organs. His delegation had supported the proposal on the understanding that the Special Committee should continue to work on all aspects of the question.

68. Until the Special Committee's latest session, the working paper on preventive activities (A/AC.182/L.38), twice revised in the light of discussion, had been the only basis for work in the field of maintenance of peace and security. During the session, however, the delegations of Czechoslovakia, the German Democratic Republic and Poland had submitted a new proposal (A/AC.182/L.48) which was considerably broader than the earlier one since, in addition to prevention, it also dealt with other aspects of the issue.

69. His delegation would have wished the working paper to be considered in the Special Committee in greater detail but, unfortunately, there had not been time for a longer discussion. His delegation had therefore suggested that the Special Committee should continue to focus its attention on the issue of preventive activities of United Nations organs and should aim at finalizing a document on that subject at an early date. In addition to the proposals from working paper A/AC.182/L.38, the document - which should be adopted by consensus - should also include certain parts of the proposal in document A/AC.182/L.48, particularly those relating to the conduct of States.

70. The Sixth Committee should make a special effort to reach agreement on a clear mandate for the Special Committee so as to facilitate the finalization of a document on preventive activities at the Special Committee's next session. In the mean time, however, the exchange of views on other aspects of the question of maintenance of peace and security should be continued. Any new ideas or proposals put forward would guide the Special Committee in its further work on the subject once the document on preventive activities was completed.

71. Turning to the consideration of the Romanian proposal on resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.47), he said that his delegation endorsed the positive conclusion in paragraph 29 of the Special Committee's report (A/41/33). With regard to the working paper on rationalization of existing United Nations procedures (A/AC.182/L.43/Rev.1) he said that work on that question should be continued, attention being also given to the working paper on the same subject prepared by the

(Mr. Cicanović, Yugoslavia)

Asian-African Legal Consultative Committee (A/41/437). As for the preparation of the draft handbook on the peaceful settlement of disputes between States, he noted that work was proceeding well, as witness the exhaustive discussion at the meeting of the Consultative Group on the Handbook referred to in paragraph 30 of the report.

72. Remarking that the Special Committee's work in 1986 could not be regarded as wholly satisfactory, he said that the first pre-condition for the achievement of results was that the mandate of the Special Committee should continue to be based on the broadest possible agreement. At the Special Committee's next session, attention should be concentrated on the question of the maintenance of international peace and security and, more particularly, on completing work on the document on preventive activities of United Nations organs. Consideration should, of course, also be given to other items on the agenda.

73. As for the suggestion that new questions might be included in the Special Committee's agenda, his delegation was in principle prepared to participate in consultations on that subject. However, the idea of introducing some new questions in the agenda for the next session did not appear to be acceptable as it would unnecessarily burden the Special Committee and interfere with the finalization of work on preventive activities. In order to forestall possible misunderstandings, it was particularly important to reach consensus on a resolution which would clearly determine the Special Committee's mandate. Lastly, the suggestion that informal consultations should be held several days before the Special Committee's 1987 session in order to dispose of organizational and procedural matters before the opening of the session was, in his view, useful and consonant with the need for rationalization of procedures.

The meeting rose at 5.20 p.m.