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New York

SUMMARY RECORD OF THE 36th MEETING

Chairman: Mr. GUNA-KASEM (Thailand)

later: Mr. ZEHENTNER (Federal Republic
of Germany)

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ORGANIZATION OF WORK

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

AGENDA ITEM 114: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)
(A/34/33, A/34/409, A/34/357, A/34/389 and Corr.1; A/C.6/34/L.8)

1. Mr. MacKAY (New Zealand) said that, after four sessions of the Special Committee, his delegation had hoped for more tangible results. Nevertheless, the Special Committee had fulfilled at least part of its mandate by presenting the list of specific proposals on the peaceful settlement of disputes. The methods of work used in producing the list of proposals would be equally applicable to the other topics. His delegation was in favour of continuing the useful work on the peaceful settlement of disputes. After further reflection by delegations, those proposals should be re-examined and elaborated in terms of the second stage of the Special Committee's mandate. That could perhaps be done with a view to elaborating recommendations for the Sixth Committee and the General Assembly.

2. His delegation supported the view that the Special Committee should now give priority consideration to the maintenance of international peace and security in view of the work already done on the peaceful settlement of disputes. Because of the vital importance of the maintenance of international peace and security and its close relation to the work done on the peaceful settlement of disputes, his delegation favoured early consideration of that topic at the next session of the Special Committee.

3. Mrs. DE LEGA (Colombia) said that Colombia had frequently stressed the need to make certain basic changes in the United Nations Charter in the light of the experience of the past three decades and the great changes that had taken place during that time. The main function of the United Nations, and particularly the Security Council, was the maintenance of international peace and security. The Organization had done well in preventing the outbreak of a major war; yet, during the past three decades hostilities of one kind or another had broken out no less than 135 times, seriously endangering peace and well-being in the world and causing great losses in human life and in resources that could have been put to better use.

4. The prevention and removal of threats to the peace was the main task of the United Nations, as set out in Article 1 of the Charter. The aim was to seek means of preventing threats to the peace and encouraging a peaceful solution to disputes before they flared into armed conflict. Colombia had already expressed its concern over the lack of progress made in the peaceful settlement of disputes, and it supported the suggestion by Austria that a centre for investigation and conciliation might be established, with a flexibility that would contribute to the direct settlement of some future disputes. The idea was that some organs should have the power of investigating certain disputes and making recommendations that the parties could refuse to accept or could appeal against before other bodies of a regional or other appropriate nature. The conclusions of those

(Mrs. De Lega, Colombia)

bodies would be submitted to the parties concerned, and the responsibility of making use of that machinery would lie with States.

5. Colombia also believed that there should be an elaboration of Article 2, paragraph 3, which made it obligatory for Member States to settle their international disputes by peaceful means. The Charter should contain a clearly defined series of purposes and principles that would prevent the ignoring of Charter provisions that frequently occurred in practice; they should relate, for example, to international co-operation for development, collective economic security, and general disarmament under effective control. Colombia also attached special importance to the functioning of the International Court of Justice, which, as things stood at present, was not being used to solve problems. His delegation had confidence in the dispute-settlement procedures of the International Court, and that confidence must be shown by all States if the Court's action was to be effective and to have the proper scope and influence. Colombia would continue to support the compulsory jurisdiction of the Court in disputes which it had proved impossible to settle by means of the voluntary procedures provided for in the Charter.

6. Colombia was a country noted for its respect for human rights and had always supported action in the United Nations to ensure that all countries respected human rights and fundamental freedoms. It was a signatory of the International Covenant on Civil and Political Rights and of its Optional Protocol, and it hoped that the Covenant would be accepted by all States as an essential element in the safeguarding of peace. His delegation proposed that the Trusteeship Council, which had been highly successful in guiding the process of decolonization, should broaden its functions and take over the trusteeship of human rights and the fight against colonialism, apartheid and all forms of racial discrimination. It should then take the title of Council for Human Rights and Trusteeship, and its membership should be enlarged so that it would be truly representative.

7. Lastly, Colombia supported the proposal for an international instrument that would hasten the process of codification of the principles and rules concerning the peaceful settlement of disputes, which should include effective and specific measures for dealing with an resolving disputes between States.

8. He congratulated the Special Committee on its success in carrying out the mandate entrusted to it in General Assembly resolution 33/94; Colombia supported the Soviet draft resolution extending the Committee's mandate.

9. Mr. ARNOUSS (Syrian Arab Republic) said that the factors which prevented the Organization from maintaining international peace and security should be studied. His delegation felt that that failure was primarily due to a misinterpretation of the Charter and of the role of the Security Council and the General Assembly and to the unequal participation of Member States in that field. The fact that some countries enjoyed certain exclusive rights hampered the solution of many international problems. It was the duty of all countries to support the role of the United Nations and enhance its effectiveness in international affairs.

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(Mr. Arnouss, Syrian Arab Republic)

10. His delegation supported the idea of preparing a declaration to be adopted by the General Assembly on the peaceful settlement of disputes. However, the elements of that declaration should be studied and clarified. A clear definition of international conflict, national sovereignty, the right of self-defence as set out in Article 51 of the Charter, and the right of peoples to struggle for independence, repel aggression and liberate their territories was very important. His delegation also supported proposal B (vii) in the report (A/34/33, p. 6) that there should be wider use made of regional arrangements or agencies in the peaceful settlement of disputes pursuant to Article 52 of the Charter. The remaining proposals needed further study and elaboration. The Special Committee should avoid duplication of effort with regard to that topic which had also been considered by the Special Committee on Enhancing the Effectiveness of the Principle of the Non-Use of Force in International Relations and was dealt with by an agenda item of the General Assembly.

11. With regard to the rationalization of existing procedures of the United Nations, some of the recommendations had already been implemented. The Special Committee should continue its consideration of the remaining proposals and try to reach general agreement on them.

12. The maintenance of international peace and security was of vital importance to all members of the international community. International peace could only be ensured if all States strictly respected the Charter of the United Nations and fulfilled their legal and moral obligations. Although the Security Council had the primary responsibility for ensuring the peaceful settlement of international disputes, it was unable to play its role in that regard. The root of the problem was the non-implementation of basic principles contained in the Charter. Continuing aggression and the occupation of the territories of Member States weakened the standing of the Organization.

13. A date should be set for the submission of proposals and observations by Member States on the present topic so as to allow the Special Committee to draft a list of proposals, give them further consideration and submit recommendations to the General Assembly.

14. Mr. DROUSHIOTIS (Cyprus) said that the report of the Special Committee and the introductory statement by its Chairman at the 30th meeting had provided the Sixth Committee with a comprehensive analysis of the work of the Special Committee at its last session. In view of the Special Committee's background and history it was gratifying that at that session it had been able to achieve certain positive results and that it was in a position to achieve more at its next session, when it would be giving priority to the question of the maintenance of international peace and security.

15. His delegation had always considered that studying ways of strengthening the role of the Organization did not necessarily involve revision of the Charter. The fact that unanimous decisions taken by the General Assembly and the Security

(Mr. Droushiotis, Cyprus)

Council still remained unimplemented clearly showed that something more was required than amendment of the Charter. To seek other methods was a practical approach that would yield results, and he referred in that connexion to Article 109 of the Charter. However, Cyprus would not wholly exclude proposals to amend the Charter if that could be shown to be necessary, although it considered that the ineffectiveness of the Organization was the result not of the Charter's provisions but of failure to implement General Assembly and Security Council resolutions.

16. The Special Committee had put forward a list of proposals as a result of its efforts to allocate priorities for its future work on the question of the peaceful settlement of disputes. His delegation wished to draw attention to the proposal that a General Assembly declaration on peaceful settlement of disputes should be prepared and adopted as a first step towards the preparation of a treaty on the subject. It appeared from the report that the proposal was one on which agreement might be possible, and the idea was well worth pursuing. In all, there were approximately 10 proposals on which agreement seemed possible, and his delegation supported them all. At present, there were situations - and Cyprus was suffering from such a situation - where States were flouting General Assembly resolutions and violating mandatory decisions of the Security Council with impunity. In such situations, more effective use should be made of the existing machinery and of the provisions of the Charter, particularly those of Chapter VII, notably Articles 43, 45, 46 and 47. His delegation had made relevant proposals at previous sessions which had appeared in documents A/AC.182/L.7, A/AC.182/L.12/Rev.1 and A/AC.182/WG/20. During the 1979 session of the Special Committee, a number of new and constructive proposals had been made that deserved further consideration. He drew attention to the proposals contained in documents A/AC.182/WG.30 (Sierra Leone), A/AC.182/WG/32 (Yugoslavia) and A/AC.182/WG/35 (Greece). He wished further to draw attention to the working paper submitted by El Salvador and Romania in document A/AC.182/WG/36, which contained a compilation of proposals on the maintenance of international peace and security that would undoubtedly facilitate the work of the Special Committee. The Special Committee had also before it a working paper from the Cypriot delegation which appeared in the report.

17. The Special Committee had also begun substantive work on the question of the rationalization of United Nations procedures, and he was glad to note that the General Assembly had adopted a number of the Special Committee's proposals through the recommendation of the Secretary-General in his report (A/34/320).

18. Cyprus supported the extension of the Special Committee's mandate so as to enable it to carry out its work on the maintenance of international peace and security.

19. Mr. SEALY (Trinidad and Tobago) said that the limited objectives set for the Special Committee by operative paragraph 3 (a), (b) and (c) of General Assembly resolution 33/94 had been either partially or fully achieved. In an age of

(Mr. Sealy, Trinidad and Tobago)

nuclear weapons and sophisticated conventional armaments, the effective functioning of the United Nations was vital to the security and well-being of all States, large or small.

20. His delegation considered that the Special Committee's work on the question of the rationalization of existing procedures of the United Nations should be discontinued or given a low priority. The Special Committee was involving itself with issues already under active consideration in other specialized bodies of the United Nations. He was pleased to note that several of the proposals put forward by the Special Committee on that subject had also formed part of the subject matter of the Secretary-General's report in document A/34/320, but many of the other proposals had already been discussed in the past and could be found in the conclusions of the Special Committee on the Rationalization and Organization of the General Assembly (annex V to the current edition of the rules of procedure).

21. Moreover, the working paper submitted by the Philippines and Romania (A/AC.102/WG.39) collating various proposals on the question revealed a major duplication of effort, and that meant a great waste of resources. Section 3 of that working paper listed proposals relating to the Secretariat that were under active consideration in the Fifth Committee as well as in such subsidiary organs as in the Committee on Conferences and the Committee for Programme and Co-ordination. Many of the other proposals relating to the functioning of the General Assembly and its subsidiary bodies were interesting but impractical. However, should the General Assembly decide to renew that aspect of the Special Committee's mandate, his delegation would not object, although it was convinced that the Special Committee would do well to proceed cautiously in that field or at least maintain effective liaison with the Office of the Under-Secretary-General for Political and General Assembly Affairs.

22. Those criticisms were not directed at any particular State, since they related to proposals made in good faith by the representatives of sovereign Member States with a view to rationalizing the existing procedures. However, his country wanted the Special Committee to devote its energies to the more important and fundamental aspects of its mandate.

23. Turning to the question of the peaceful settlement of disputes, he noted that many useful proposals had been made with a view to strengthening the peace-making functions of the General Assembly, the Secretary-General and the Security Council and encouraging States to abide strictly by the provision in Article 2, paragraph 3, of the Charter enjoining Member States to settle their disputes by peaceful means in such a manner that international peace and security, and justice, were not endangered. He agreed with earlier speakers that the General Assembly should take steps to rationalize the consideration of that subject within the United Nations, since besides its consideration in the Special Committee, it was being examined in the Special Committee on the Enhancing of the

(Mr. Sealy, Trinidad and Tobago)

Effectiveness of the Principle of the Non-Use of Force in International Relations and would also be considered by the First Committee when the Romanian item entitled "Peaceful settlement of disputes" was taken up.

24. However, his country looked forward to tangible progress in that area, since peaceful settlement of disputes was an essential basis for lasting and friendly relations among States founded upon justice and equity. His country would support the preparation of new international legal texts or manuals on the peaceful settlement of disputes but wished to sound a note of caution. The Charter obligation was quite specific and unambiguous, and Chapter VI was also quite clear. Moreover, at the international level there already existed the Revised General Act for the Peaceful Settlement of Disputes and, for the Latin American region, the Pact of Bogota. Few States were parties to those international legal instruments, and it thus appeared that it was not the absence of legal instruments that inhibited resort to peaceful means but unwillingness on the part of States parties to disputes to make the necessary political compromises in order to reach a settlement.

25. One area to which the Special Committee could pay some attention was the use of third-party judicial and arbitral procedures. Although many international and bilateral treaties included a dispute-settlement provision providing for arbitration or appeal to the International Court of Justice, either unilaterally or by common consent of the parties, the International Court had been underutilized. The cost to the United Nations of the International Court for the biennium 1980-1981 would be \$7.8 million, and for that reason at least it appeared that the Special Committee should study ways of making the International Court a more effective and operational part of the settlement by States of their international disputes of a legal nature. Accordingly, his delegation was particularly interested in the proposal that a questionnaire should be circulated and a study made of the reasons why States did not make greater use of the existing mechanisms for settling disputes.

26. As to the question of the maintenance of international peace and security, he noted with regret that that most vital part of the Special Committee's mandate was likely to be obstructed by States which clung to the belief that proposals to amend the Charter would undermine its effectiveness and that of the United Nations as a bastion of peace and justice through law. The United Nations Charter was widely recognized as an international constitution for States and the basis of contemporary international relations. Countries also had their constitutions, but peoples and Governments were free to amend them in order better to reflect the checks and balances between the executive, legislative and judicial branches of government as well as national economic, social and political aspirations. Proposals to amend the Charter should not therefore be regarded as necessarily all bad or all good; each proposal should be considered on its merits in order to see whether it could help to strengthen the role of the United Nations in the maintenance of international peace and security. That goal should be achieved through effective measures to prevent and eliminate threats to the peace, to

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(Mr. Scaly, Trinidad and Tobago)

deal with acts of aggression or other breaches of the peace, and to bring about the peaceful settlement of international disputes or situations which might lead to a breach of the peace. The Security Council had a primary responsibility under the Charter for the maintenance of international peace and security and had played a crucial role in preventing major wars in the age of nuclear weapons and reducing tensions in dangerous situations.

27. However, the collective security machinery at the centre of which the Security Council stood had not secured the confidence of the international community, as was clear from the arms race, which was now consuming some \$425 billion every year, and the system's failure to resolve many issues further undermined its effectiveness. The report of the Secretary-General pursuant to Article 12, paragraph 2, of the Charter (A/34/476) listed a number of disputes which were technically on the Security Council's agenda. Moreover, the Security Council's decisions, which were frequently addressed to States that had committed acts of aggression or other breaches of the peace, remained unimplemented by the very States to which the decisions were addressed despite the clear legal obligation of all Members, under Article 25 of the Charter, to carry out decisions of the Security Council.

28. Perhaps the single most debilitating feature of the collective security machinery was the misuse of the veto conferred by the Charter on the five permanent members of the Security Council. The veto had been used to exculpate States that had repeatedly committed acts of aggression, that had violated the fundamental human rights of their people, and that had denied, through resort to force, the legitimate aspirations of peoples to self-determination and independence in accordance with the Charter and the relevant United Nations resolutions.

29. His delegation had noted with satisfaction the numerous proposals on the maintenance of international peace and security in the Special Committee's report, although some of those proposals seemed to fall outside the Committee's scope and should be referred to the Special Committee on Peace-keeping Operations. His delegation was particularly interested in the proposal that the Special Committee should investigate the reasons for the present inability of the United Nations to maintain international peace when called upon to do so. The Special Committee might ask the Secretary-General to prepare an analytical action-oriented study in consultation with the permanent members of the Security Council, States that had been directly involved in disputes before the Council, other interested States, and Secretariat officials so that, on the basis of experience with the functioning of the Security Council, the Committee could identify the strengths and weaknesses of the collective security mechanism in the Charter and propose means of strengthening the role of the United Nations in the discharge of its major responsibility. His delegation believed that the Special Committee had a critical role to play in helping the United Nations to live up to the expectations of those who had founded the Organization, and it would give the Committee its full support.

30. Mr. Zehentner, (Federal Republic of Germany) took the Chair.

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31. Mr. GYAWALI (Nepal) said that the review of the objectives as well as the implementation of the Charter should be a perpetual process. It seemed anachronistic that Articles 53 and 107 still referred to "enemy States". If there were enemies, they were poverty and disease and the psychological complexes of insecurity, mutual suspicion and hypocrisy as a result of which much-needed valuable resources were wasted in devising efficient ways of eliminating human beings on a larger scale. A just and equitable order required the utilization of resources for raising the standard of living of all people rather than for perfecting armaments. The United Nations must act as a medium for that change. He noted that the report of the Special Committee stated that there had been general agreement on the proposal to encourage States to make greater use of methods contained in Chapter VI of the Charter. It was also encouraging to note that the Secretary-General had decided to set up a committee of Under-Secretaries-General to prepare a list of proposals on ways of improving the procedures of the General Assembly. It was a matter of satisfaction that the General Assembly had already adopted many of the recommendations discussed in the Special Committee. However, the latter had not been able to fulfil its mandate concerning the question of international peace and security because of lack of time.

32. It was imperative to enhance the authority and improve the implementation of resolutions of the General Assembly and the Security Council, to strengthen the peace-keeping capacity of the Security Council by effective application of Chapter VII and to ensure greater recourse to the compulsory jurisdiction of the International Court of Justice. Differences of approach should provide strength rather than weakness in the common quest for universal peace.

33. As the representative of the Netherlands had pointed out at a previous meeting, general agreement might be possible on the proposal to study the reasons why States did not make greater use of the existing mechanisms for the peaceful settlement of disputes. Such a study could provide the basis for taking further steps in that regard.

34. His delegation supported renewal of the mandate of the Special Committee.

35. Mr. MAKAREVICH (Ukrainian Soviet Socialist Republic) said that any serious analysis of the Charter of the United Nations would show that it had played an enormous role in the system of contemporary international relations governed by international law, in maintaining peace and international security and in developing broad international co-operation among States in the interests of the progress of mankind. A second conclusion would be that there remained many underutilized ways of increasing the effectiveness of collective action by States to strengthen peace and security and solve contemporary problems within the framework of the structure established by the Charter.

(Mr. Makarevich Ukrainian SSR)

36. He shared the view of those speakers who had said that the Charter had stood the test of time and had fully preserved its significance for the future. It should be remembered that the Charter of the United Nations and its role, significance and influence were by no means limited to the United Nations itself but extended to the entire system of principles and norms of contemporary international relations and to the entire system of contemporary international law, which had seen extensive development on the basis of the Charter since the founding of the United Nations. It was clear that the Charter was a unique document and one of the most important international instruments of the present day and that it should therefore be treated with the utmost respect. It was a well-balanced instrument and provided the legal basis for machinery to protect international peace and develop co-operation between States. The relaxation of tension which was now the prevailing tendency in international relations was the direct result of the implementation of the principles of the Charter and their embodiment in international agreements. It was clear, of course, that the effectiveness of the United Nations depended on the political will of States and their readiness and determination to act together to achieve the purposes and principles of the Organization and solve urgent international problems. His country's fundamental position with regard to the Charter was based on unswerving adherence to the latter's purposes and principles and a steadfast belief in the special nature, role and significance of the Charter and its continued validity in contemporary international relations.

37. Turning to the report of the Special Committee (A/34/33), he noted that the latter had considered proposals on the peaceful settlement of disputes, the rationalization of existing procedures of the United Nations and the maintenance of international peace and security. With regard to the peaceful settlement of disputes, the Special Committee had considered 21 proposals on the subject, but only nine of them showed any possibility for the achievement of general agreement and not one of the nine affected the Charter. In his delegation's view, procedures and machinery for the peaceful settlement of disputes already existed and the reasons for their ineffectiveness lay in the fact that the parties to disputes lacked political will and a determination to reach a settlement. States should abide by the purposes and principles of the Charter and make use of all the means provided by it. A major step would be the conclusion of a world treaty on the non-use of force in international relations. The Security Council possessed machinery for the peaceful settlement of disputes, and there was no need to create a General Assembly body for that purpose. His delegation was interested in the proposal to prepare a declaration on peaceful settlement of disputes. Such a declaration should take into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and should provide that international disputes must be settled on the basis of the sovereign equality of States.

(Mr. Makarevich, Ukrainian SSR)

38. With regard to the rationalization of existing procedures of the United Nations, his delegation felt that the existing rules of procedure fully met the needs of the General Assembly and that any improvements should be achieved not through changes in those rules but through stricter observance of them. Some of the proposals that had been submitted seemed politically motivated and were designed not to bring about improved procedures but to eliminate the general debate on political questions and erect barriers to the inclusion of items in the agenda at the request of Member States. His delegation could not accept the proposal to provide the General Committee, which had been established to deal with procedural and not substantive matters, with new functions not within its present mandate. His delegation favoured those proposals which would serve to enhance the role of the General Assembly within the framework of the Charter and its political prestige. In that connexion, he cited the proposals concerning the desirability of seeking consensus in the adoption of decisions, the reduction of duplication of work in non-political bodies, the improvement of co-ordination between the many bodies dealing with technical, economic, social and other matters, and the need to increase the effectiveness of the work of the Secretariat and cut back the growth in staff and in the expenses of the Organization.

39. With regard to the maintenance of international peace and security, most of the proposals submitted to the Special Committee involved changes in the Charter which affected, in particular, the composition and powers of the Security Council. His delegation continued to be unconvinced by the arguments submitted in favour of those proposals and felt that such changes would be fraught with serious dangers for the existence of the United Nations and the goal of maintaining international peace and security. While his delegation agreed that the effectiveness of the Organization in maintaining international peace and security should be strengthened, the solution lay again in stricter observance of the purposes and principles laid down in the Charter. The Charter established a system of collective security with the Security Council at its centre. The fault did not lie with the Charter if there continued to be aggression, tension and confrontation in the world.

40. The recent aggression by one of the permanent members of the Security Council against the heroic people of Viet Nam was a blatant violation of the Charter. The leaders of the aggressor State assumed the right to invade countries whose policies did not suit their hegemonistic designs. At the present time, that State was continuing to provoke border clashes and to commit acts of aggression against a number of countries in the region. It was a well-known fact that the policies of that State, which controlled the puppet régime of Pol Pot, had led to an unprecedented case of genocide: the destruction of 3 million Kampucheans. That policy was a flagrant violation of the Charter and of the universally accepted norms of international law.

(Mr. Makarevich, Ukrainian SSR)

41. The report of the Special Committee showed that the principle of the unanimity of the permanent members of the Security Council had come under particularly sharp attack. The entire history of the United Nations showed how realistic and far-sighted the founders of the Organization had been in inserting that principle in the Charter, which reconciled the principle of the sovereign equality of States with the actual capacity of certain States to maintain world peace. Agreement and unity among the great Powers were essential to the preservation of international peace and security. The principle of unanimity was not a privilege granted to the great Powers but a great responsibility imposed upon them.

42. In view of the enduring importance of the Charter and its place in the structure of contemporary international relations and international law, the Special Committee should concentrate its attention on proposals which did not affect the Charter. Only proposals which strengthened the existing principles and provisions of the Charter had any hope of gaining agreement, of providing the basis for generally accepted decisions, of serving the cause of peace and of strengthening the Organization. Furthermore, the Special Committee must work on the basis of consensus, which was now becoming the general practice at the United Nations, at international conferences and in diplomacy. Only in that way was it possible to take into account the views of all sides.

43. Mr. De CEGLIE (Italy) expressed his delegation's disappointment at the lack of significant progress achieved by the Special Committee, particularly on the question of the rationalization of existing United Nations procedures. Although failure to reach agreement on that issue had been attributed to lack of time, there was reason to believe that it might also have been due in some measure to the fact that certain delegations did not have the will to do so.

44. The Special Committee's work on the peaceful settlement of disputes had yielded the best results, and some of the proposals submitted in that connexion deserved careful attention. Italy fully supported the proposal for a General Assembly declaration as a first step towards the preparation of a treaty. An indication of the support for that idea was to be seen in the mandate of the Special Committee on Enhancing the Effectiveness of the Principle of the Non-Use of Force in International Relations and in the General Assembly's decision to include an item on the question in the agenda of its current session. Such a declaration, if adopted, would be comparable in importance to the Declaration on Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, but it was essential to ensure that the right balance was achieved in relation to the mandates of other organs concerned with the same kind of problem and, in particular, with that of the Committee on the Non-Use of Force.

(Mr. De Ceplie, Italy)

45. His delegation regretted that some of the suggestions for improving the system of fact-finding, conciliation and mediation had not met with general support, particularly since the procedures proposed would not infringe the free and sovereign will of States. It was also discouraging to note that there had been little support for the proposals to enhance the role of the International Court of Justice, which Article 92 of the Charter defined as the principal judicial organ of the United Nations. At the Special Committee's previous session, Italy had proposed certain practical measures, which were referred to on pages 6 (proposal B (vi)) and 17 of the Special Committee's report (A/34/33), with a view to enlarging the Court's advisory function. It was not the intent of that proposal to prejudge the decision of the parties to a dispute but rather to help them to find a solution. Some delegations had, however, objected that the Italian proposal would require an amendment to the Charter, and although his own delegation regarded that objection as unfounded, general agreement had not been reached.

46. Although Italy was opposed to any alteration whatsoever in the Charter's fundamental principles and in the basic rules governing the structure and function of the main bodies of the Organization, it believed that stubborn rejection of any improvement in the Charter would be highly counterproductive. At the same time, however, it believed that, at the present stage, opposition between the "revisionists" and the "anti-revisionists" was a sterile exercise, since the level of consensus was still not sufficient to warrant amendments to the Charter. As a way out of the impasse, therefore, emphasis should be placed on those proposals for improving the functioning of the United Nations which would not require any amendment to the Charter. To that end, the revisionists and anti-revisionists should set aside their differences for the time being in an endeavour to find some generally acceptable means whereby the letter of the Charter could be applied, in an innovative way, to the new and more complex needs of the contemporary world.

47. Italy subscribed fully to the proposal that wider use should be made of regional arrangements and agencies, since it was clearly in the interests of peace and progress that international co-operation should be intensified not only at the international level but also among countries having close cultural, economic and ethnic ties.

48. The main purpose of the United Nations, of course, was the maintenance of peace and security, and it was therefore essential that the Special Committee should be requested to concentrate on that issue without further delay. It could not, however, pursue its work on the peaceful settlement of disputes any further, for the time being at least, as it was not empowered under its mandate to proceed to the actual preparation of recommendations. The Special Committee should instead be instructed to start its examination of a number of other important matters, including the final clauses of the Charter, social and humanitarian issues, economic co-operation and decolonization. In that connexion, priority should be accorded, in particular, to the improvement of machinery for the protection of human rights, since much remained to be done if the Organization was to exert a penetrating influence in that sphere.

(Mr. De Ceglie, Italy)

49. Lastly, with regard to the Special Committee's future activities, his delegation considered that it should serve as a permanent body for review of the situation and discussion of innovative proposals. His delegation therefore fully supported the proposal that its mandate should be renewed.

50. Mr. CHEBELEU (Romania) said that Romania had been convinced from the outset that the establishment of the Special Committee would answer a pressing need, and the events of the past five years had confirmed its conviction. During that period, the principle of universality within the United Nations had been greatly enhanced by the admission of a number of new Members which had freed themselves from colonial dependence, and a marked feature of contemporary international relations was the robust affirmation of the will of all peoples to live in freedom and independence and to take an active part in international life. The very nature of the Charter, and of the Organization's composition, meant that the United Nations occupied a unique place in the system of international relations and that it was the natural forum for the consideration of all matters of general interest. In that connexion, he quoted from the words of President Nicolae Ceausescu of Romania, who, after describing the United Nations as the most appropriate institutional framework for the democratic discussion and solution of world problems, had stressed that Romania would be active in the efforts to improve and strengthen the role of the United Nations, to promote détente and to introduce a climate of co-operation throughout the world.

51. The results achieved by the Special Committee were modest but positive. They showed that the Special Committee, the need for whose existence had been questioned until quite recently, had come to occupy a definite place within the structure of the General Assembly and was capable of serving the purpose for which it had been created, provided that there existed a climate of understanding, mutual accommodation and the will to reach joint conclusions. He had in mind, of course, the list of proposals submitted on the peaceful settlement of disputes, in which connexion his delegation was gratified to note that a proposal submitted by Romania had aroused special interest. In its view, the agreement reached on the proposal for a declaration by the General Assembly was the most important result to come out of the Special Committee's latest session, since such a declaration could exert a positive influence on the political climate throughout the world. The declaration should be drawn up by the General Assembly as soon as possible, so that it could make a positive contribution to the prevention and elimination of hotbeds of war and tension.

52. His delegation would have appreciated it had the Special Committee also made, if not recommendations, at least suggestions as to the approach the General Assembly should adopt in regard to the proposals that had awakened interest and on which general agreement appeared to be possible. The Special Committee's discussion had been far more detailed than was apparent from its report, and many suggestions had been made regarding the consideration and implementation

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of those proposals. Certain delegations, however, had insisted that the Special Committee's mandate, which did not expressly require it to submit recommendations to the General Assembly, be interpreted literally, a position that his delegation understood but did not share. One consequence of that interpretation was that the Special Committee had fulfilled its limited mandate in so far as proposals on the peaceful settlement of disputes were concerned. It was therefore incumbent on the General Assembly to study in detail the list of proposals submitted, bearing in mind the extent and complexity of the problems involved in putting those proposals into effect.

53. The inclusion in the General Assembly's agenda of a separate item on the peaceful settlement of disputes would enable the Assembly to consolidate the Special Committee's achievements, but it should be noted, in that connexion, that proposals on the peaceful settlement of disputes represented only 5-10 per cent of the proposals submitted. The majority of the proposals therefore had yet to be considered, and it should not be forgotten that it had taken two years to draw up the list of proposals on the peaceful settlement of disputes.

54. His delegation agreed that the Special Committee should accord priority to the proposals on the maintenance of international peace and security. Experience had proved that respect for the principles of international law, and the wider implementation of those principles, constituted the cornerstone of co-operation, peace and security throughout the world. It was Romania's firm conviction that only by upholding and strictly observing the principles of equality of rights, national independence and sovereignty, non-interference in internal affairs and non-recourse to the use or threat of force would mankind be spared further upheavals and would each State have a full guarantee of security. At a time when the arms race had reached unbelievable dimensions and when the logic of force and of spheres of influence still had its supporters, it was the principles of law which provided the safeguard for the sovereignty and political independence of most countries. Mankind had achieved a degree of civilization which demanded that international relations be established on new and universally agreed bases, with the participation of all the newly independent States created since the war. With that in mind, his Government had submitted a number of proposals for the Special Committee's consideration, including, in particular, a proposal for a universal code of conduct to lay down the fundamental rights and duties of States. The content of those rights and duties required further clarification in keeping with the new conditions that obtained in international life. His Government was therefore thinking in terms of a code which, from the legal point of view, would go beyond the recommendatory character of the declarations and resolutions adopted thus far by the General Assembly in the matter.

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55. Romania had also submitted a number of proposals designed to strengthen the role of the General Assembly, which was the most representative and democratic organ of the United Nations, with a view to enabling it to act more effectively in the maintenance of international peace and security. Many other States had submitted similar proposals which were designed to strengthen the role of the United Nations in the same area. An examination of all those proposals would undoubtedly result in the adoption of political, legal or institutional measures that would enable the United Nations to meet its international responsibilities. It was therefore essential that, at its next session, the Special Committee should examine those proposals as efficiently as possible and draw up conclusions in the light of its deliberations. To that end, the delegations of Romania and El Salvador had prepared a preliminary list of all the proposals submitted on the maintenance of international peace and security (A/AC.182/WG/36) with a view to ensuring that the Special Committee made the best use of the time at its disposal and to providing a working basis for the consideration of each proposal.

56. Referring to the work of the Special Committee in more general terms, he said that it had been greatly assisted in its task by the instructions it had received to consider first the question of the peaceful settlement of disputes and thereafter the two other subjects of its mandate. That, in his view, was one of the main reasons why it had achieved some positive results. It had, however, become clear, particularly at the Special Committee's last session, that its mandate required clarification; although a measure of ambiguity in its terms had perhaps enabled the Sixth Committee to reach a consensus, it had not facilitated the Special Committee's task. Consultations should therefore be held with a view to making certain changes in the Special Committee's mandate so that the best use could be made of the available resources. If, however, the Special Committee prolonged its work indefinitely and failed to assist the General Assembly in the consideration of the proposals submitted, Member States would not wait. Certain questions which the Special Committee should normally have referred back to the General Assembly after consideration, together with recommendations, had already been referred directly to the General Assembly owing to lack of progress and of any prospect of their being considered by the Special Committee. That applied, for example, to the item on the peaceful settlement of disputes included by Romania on the agenda of the General Assembly's current session and also to the item on the review of the composition of United Nations organs which had been included on the initiative of a group of States. Moreover, the Secretary-General had decided to adopt certain measures with a view to rationalizing the General Assembly's procedures without awaiting the outcome of the Special Committee's deliberations, while in the First Committee a group of States were engaged in consultations on a draft declaration on the principle of non-intervention - the subject of one of the proposals included in the list drawn up by the Special Committee. Moves were also afoot to refer directly to the General Assembly matters that should normally have first been considered by the Special Committee. His delegation therefore trusted that the Sixth Committee would consider carefully the results achieved by the Special Committee thus far and the deficiencies in its method of work and that it would adopt the necessary measures to ensure that

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it became a living body, responsive to the proposals of Member States, and would thus be enabled to enhance the presence of the United Nations in international relations. Romania would strive to achieve those ends and his delegation would co-operate in the endeavour to find ways and means of enabling the Special Committee to fulfil its mandate.

57. Mr. KOSTOV (Bulgaria) said that the strengthening of the role of the United Nations could not be achieved by Charter revisions. Some of the proposals put forward seemed to indicate a danger that the fundamental principles of the United Nations as laid down in the Charter might be sacrificed to selfish, short-term interests. The experience of the past three decades clearly showed that the Charter was the most significant legal instrument adopted since the Second World War and was now regarded as one of the basic sources of contemporary international law. Moreover, according to the Vienna Convention on the Law of Treaties, the basic principles of the Charter represented jus cogens norms and were recognized in practice by all countries as the legal foundation of international relations. The years had shown that the Charter had successfully stood the test of time and could ensure further advancement in the progressive codification and development of international law. A dynamic interpretation of its provisions and a creative development of its basic principles had made possible the adoption of such important documents as the Universal Declaration of Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Declaration on the Strengthening of International Security, the Charter of Economic Rights and Duties of States and the Definition of Aggression. The preparation and adoption of a multilateral treaty on the non-use of force in international relations would also promote full implementation of the purposes and principles of the United Nations.

58. The United Nations had not always succeeded in measuring up to its tasks, but that was due to the unwillingness of some countries to act in conformity with the existing Charter rules and to those countries' lack of a political will to respect the purposes and principles of the United Nations. It was not reasonable to believe that, at the present stage of international relations, new, improved, universally acceptable legal machinery could be designed to solve the fundamental problems facing mankind. The various crises through which the Organization had passed had made it clear that when the United Nations began to act in the interests of a certain group or groups of countries, to the detriment of other Member States, the fulfilment of its lofty purposes became impossible.

59. He noted that the Special Committee had achieved some progress in regard to the peaceful settlement of disputes and that the list of proposals which it had drawn up in that connexion identified those proposals which had awakened special interest. Some of the proposals gave reason to hope that general agreement on them would be possible, although a final answer would have to await their detailed examination by Governments. His delegation was very interested in the idea of a declaration by the

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General Assembly but considered that its content would have to be more accurately defined. It also considered that a number of other proposals deserved careful consideration, including the proposals that there should be wider use of regional agreements or agencies, that States should be reminded of the principles contained in Article 2, paragraph 3, of the Charter, that States should be encouraged to make greater use of methods contained in Chapter VI of the Charter and that the Security Council should be encouraged to make wider use of the opportunity provided by Articles 28 and 29 of the Charter. It could not, however, agree to those proposals which would require amendment of the Charter and would involve a substantial change in the existing machinery for the peaceful settlement of international disputes. Such amendments could have a negative effect on the peaceful settlement of disputes and, indeed, on the role of the United Nations as a whole.

60. With regard to the rationalization of existing procedures, while his country welcomed the proposals designed to enhance United Nations efficiency without amending the Charter, it considered that strict compliance with existing procedural rules was essential. For example, convincing arguments had been advanced in support of the proposals that a consensus should be reached in taking decisions, that duplication in the work of certain United Nations organs should be avoided and that the Sixth Committee's role as well as its functions as a codification body should be enlarged. His delegation also viewed with interest the proposal to improve the effectiveness of the United Nations Secretariat. A number of other proposals were, however, unacceptable to his delegation, in particular those whose purpose was, directly or indirectly, to restrict the Organization's role in solving certain major political issues and those which would add to the number of main organs of the United Nations or substantially alter those organs' sphere of competence.

61. Lastly, his Delegation considered that the question of the maintenance of international peace and security could not be solved by any means that were in conflict with the Charter. In particular, it regarded the principle of unanimity among the five permanent members of the Security Council as the cornerstone of the United Nations.

62. Mr. DE PINIES (Spain) noted with concern that on the question of the peaceful settlement of disputes there had been more agreement in the Special Committee on where members disagreed than on where they might ultimately agree. The most innovative proposals had awakened some interest, but for legal or political reasons no general agreement on them had been possible. Only those proposals which interpreted or reaffirmed existing norms or institutions had awakened special interest and seemed to hold out the prospect of general agreement. Nevertheless, his delegation was pleased that general agreement did seem possible on at least one proposal, namely the one pertaining to the preparation of a declaration of the General Assembly on peaceful settlement of disputes.

(Mr. De Pinies, Spain)

63. His Government attached particular importance to the peaceful settlement of disputes within the framework of the maintenance of international peace and security and hoped that the necessary priority would be given to the preparation of the declaration, provided that a solution was found to any possible conflict between the Special Committee's work and that of other organs on similar topics. The Mexican delegation's suggestion that informal consultations should be held on the matter could be useful in that regard.

64. The only visible progress made by the Special Committee had been in the area of the rationalization of procedures, as was evidenced by the faster pace at which it had conducted its work on the matter and by the fact that some of the proposals made by the Secretary-General in his report on the rationalization of procedures and organization of the General Assembly were quite similar to some of those put forth in the Special Committee. In the view of his delegation, work on the question of rationalization should be based on three main elements: the establishment of new provisions in the rules of procedure of the General Assembly, the improvement of existing rules, and strict enforcement of those rules. His delegation wished to stress the importance of strict compliance with the rules of procedure and with annex V to the rules, which embodied the conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly. The Secretariat had been and should continue to be the initiating and co-ordinating centre for work in the area of rationalization, calling for suggestions and comments from other organs and implementing those proposals on which there seemed to be unanimous agreement. The Special Committee on the Charter would thus soon be free to devote itself to more substantive matters.

65. His delegation noted once more that progress on the question of the maintenance of international peace and security had been meagre. In addition to their legal implications, the proposals studied had political implications which, in the view of some delegations, stood in the way of any agreement on the matter. Those delegations were opposed to any revision of the Charter and in favour of its strict implementation. The anti-revision position implied, strictly speaking, revision of the possibility of revision, since the latter was clearly referred to in Articles 108 and 109 of the Charter, which spoke of "amendments", "review" and "alteration". The position favouring strict implementation of the provisions of the Charter implied recognition of the possibility of revision, as set forth in those articles. Thus, whether it was a question of revising the possibility of revision or of revision pure and simple under Articles 108 and 109, there was explicit recognition of the possibility of revising the Charter. His delegation felt that revision was both legally possible and politically advisable. The exercise should, of course, be carried out gradually, and care should be taken in selecting those provisions which were amenable to revision; furthermore, there should be general agreement in each case.

66. One of the subjects on which his delegation felt revision was possible was the role of the General Assembly in peace-keeping operations. The International Court of Justice had taken up that question in 1962, when it had ruled that the

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action referred to in Article 11, paragraph 2, of the Charter was enforcement action and that paragraph therefore empowered the General Assembly to make recommendations to Members or to the Security Council or both and, at the request of or with the consent of the States concerned, to organize peace-keeping operations which were not in the nature of enforcement action. The distinction between enforcement action and preventive action should be further developed and should be carefully studied by the Special Committee.

67. If the mandate of the Special Committee was renewed, his delegation would be prepared to continue co-operating with it.

68. Mr. NIZIGAMA (Burundi) said that the Special Committee on the Charter had a rather overwhelming mandate, namely, to reintroduce order, coherence, co-ordination and effectiveness in the United Nations and put a stop to the growing erosion of world confidence in the Organization. The question was whether the crisis of confidence in the ability of the Organization and its bodies, particularly the Security Council, to ensure the peaceful settlement of disputes was due to defects in the structure of the Organization. In other words, should the Charter as a whole be reviewed or should any amendments be limited to the elimination of certain outdated provisions? Those who opposed any revision of the Charter argued that it had stood the test of time, that it would not be right to make changes merely for the sake of change, that revision of the Charter would not bring about Utopia, and that the United Nations reflected the real world with its contradictions, failures and successes. They argued that it would not be wise to embark on an undertaking whose benefits were not clear and whose risks were evident to all.

69. The democratic decision-making procedure followed in the Organization had been questioned, and scornful references had been made to the "automatic majority". A new concept of majority had been suggested, namely, that of a sufficiently diversified majority which would give decisions a certain moral authority and ensure their implementation. That approach reminded him of certain proposals that had been made in other forums, according to which a voting system might be devised in which each member's vote would be weighted according to population, economic importance or a combination of traditional criteria for determining national power. In exchange for the weighted voting system a reduction in the use of the veto power in the Security Council had been offered, and it had been suggested that the legal force of resolutions adopted according to the weighted voting system would be greater. Such proposals were contrary to Article 2, paragraph 1, of the Charter, which stipulated that the Organization was based on the principle of the sovereign equality of all its Members. Another proposal which his delegation could not accept was that which called for taking abstentions into account when calculating the majority.

70. His delegation appreciated the value of taking decisions by consensus. Nevertheless, consensus also had dangerous implications, as some delegations might use the consensus procedure in order to arrive at compromise texts, dilute the content of resolutions and then, once the resolutions had been adopted, resort to the technique of entering reservations. His delegation also shared the fears

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of those who felt that consensus might, if improperly used, become a disguised veto power. Members should always seek consensus but at the same time should prevent the decision-making process from becoming paralysed because of a dissenting minority.

71. The Charter of the United Nations had great merits and also had its defects and gaps. To consider it rigid and immutable would be just as irresponsible as to advocate drastic changes or its total destruction. His delegation favoured a flexible and cautious approach.

72. The colonial system had collapsed in the three decades since the establishment of the Organization, and the Trusteeship Council would soon be unemployed. New Members had the right to participate in decision-making in the organs of the United Nations. The founding States had a duty to create the necessary conditions for such participation. The Charter should in addition to ensuring the maintenance of international peace and security, spell out other priorities which were still couched in vague and general terms. He was referring to the role of the Organization in matters of co-operation and economic and social development.

73. The Special Committee on the Charter still had a long way to go; his delegation was confident that, when it resumed its work, it would be able to fulfil its mandate in good faith and along the lines laid down for it by the General Assembly.

74. Mr. SAMBA BA (Mauritania) said that his delegation supported the idea of concluding an international instrument under which all States would undertake to settle their differences, of whatever nature, exclusively by peaceful means and which would at the same time facilitate the elimination of areas of tension and create favourable conditions for the adoption of effective disarmament measures. The Special Committee should not be asked to limit itself to preparing a list of proposals that had awakened special interest, because that would detract from its objective, which was to strengthen the role of the Organization.

75. On the question of the rationalization of existing procedures of the United Nations, his delegation was particularly concerned with finding ways to rationalize the methods of work of the Organization, which had changed so much in the 30 years of its existence. His delegation was in favour of ensuring a more equitable distribution of posts between developed and developing countries, particularly in the case of senior staff in the Secretariat. There should also be a more equitable geographical distribution in the headquarters of United Nations agencies, provided that the concern for equity did not stand in the way of the essential criterion of competence.

76. The question of the maintenance of international peace and security was a delicate one, from the standpoint both of its present implications and of the close link between it and the question of the peaceful settlement of disputes. Member States should not cause the Organization to become ineffective by opposing the democratization of its mechanisms. His delegation also felt that the Charter had stood the test of time and that it should be improved in order to ensure the more efficient functioning of the Organization.

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(Mr. Samba Ba, Mauritania)

77. His delegation was in favour of extending the mandate of the Special Committee.

78. Mr. THOMAS (Guyana) said that the serious problems confronting the United Nations must be solved if it was not to degenerate into a worthless monument to the self-interest of States and the frailties of mankind. The report of the Special Committee revealed that much work had been done during its last session, although the order of priority given to the items discussed as well as the time allotted to some of them was far from satisfactory.

79. On the question of the peaceful settlement of disputes, his delegation had no hesitation in supporting the proposal that the Security Council should be encouraged to establish a standing body on fact-finding, conciliation and mediation primarily composed of, but not limited to, former Presidents of the General Assembly. It was not clear, however, what would be the status of the findings of such a body. Would the Security Council, for example, regard them as conclusive? In establishing such a body, care should be exercised not to set up another organ which would merely duplicate the functions of existing bodies. His delegation found merit in the idea of resorting to regional arrangements or agencies where it was desirable in the search for the peaceful settlement of disputes and also in the idea of expanding the number of parties that would have access to the International Court of Justice.

80. On the question of the rationalization of existing procedures of the United Nations, his delegation supported the view that in the Main Committees the Chairman should take the initiative in grouping similar items together and holding a single general debate on them. Not only would such an undertaking avoid repetition of some of the basic positions of States on different items but it would provide each delegation with more time to express its views fully on a variety of other questions. His delegation was not unhappy to see that there had been little support for the proposal calling for the presiding officer to close the list of speakers at an earlier stage of the discussion on a particular item than had been customary. Any such decision would place an undue hardship on the developing countries, whose scarce human resources had to be widely utilized within the various committees and other bodies of the Organization.

81. His delegation shared the view that much more work could have been done on the question of maintaining international peace and security had the Special Committee allocated more time to that important question at its last session. Items of lesser importance had been given priority on the agenda, but the developing countries had not lost sight of the significance of that question. His delegation was of the opinion that the great majority of States desired peace and that the inability of the Security Council to carry out its obligations effectively was inherent in the decision-making process of the Council itself. In a number of instances, efforts to arrive at decisions in the Council on substantive matters had been frustrated through the use of the veto. While that had amplified the power of the permanent members, it had simultaneously exposed the helplessness of the non-permanent members. His delegation was unaware of any instance where the veto had been used for the express purpose of maintaining international peace

(Mr. Thomas, Guyana)

and security. It could list many instances, however, where the veto had been used to frustrate attempts by the Security Council to maintain international peace and security.

82. In the light of the foregoing, his delegation called for a review of the use of the veto. It also supported in principle the view that the role and responsibility of the General Assembly should be strengthened in such a way as to permit it to act energetically by holding urgent special sessions when the Security Council fell into inaction or failed to fulfil its responsibilities quickly enough in cases of threats to the peace, breaches of the peace or acts of aggression.

83. His delegation supported the call for a renewal of the mandate of the Special Committee.

ORGANIZATION OF WORK

84. The CHAIRMAN said that, in the light of the consensus reached during informal consultations held on the Committee's schedule of meetings, he would suggest that the meeting scheduled for that evening, 8 November 1979, should be cancelled.

85. It was so decided.

The meeting rose at 5.55 p.m.