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New York

SUMMARY RECORD OF THE 3rd MEETING

Chairman:

Mr. AFONSO

(Mozambique)

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The meeting was called to order at 10.20 a.m.

ORGANIZATION OF WORK (A/C.6/46/L.1 and A/C.6/46/1)

1. The CHAIRMAN drew the Committee's attention to the note by the Secretariat on the organization of work (A/C.6/46/L.1), which contained a suggestion regarding the order of consideration of agenda items and the dates of their consideration. If the Committee accepted the suggested timetable and implemented it, as was customary, with a reasonable measure of flexibility, the Committee would have a good chance of successfully fulfilling its mandate. If there were no objections, he would take it that the Committee wished to approve the suggested timetable.
2. It was so decided.
3. With regard to the establishment of subcommittees or working groups and the holding of consultations for the purpose of facilitating the work of the Committee, he suggested that all the subsidiary organs should complete their work before 28 October, the day on which the Committee would begin its consideration of the report of the International Law Commission. Since the Commission had presented three sets of draft articles on such important items as jurisdictional immunities of States and their property, the law of the non-navigational uses of international watercourses and a draft Code of crimes against the peace and security of mankind, the consideration of the Commission's report might take more time than usual, and he doubted whether the subsidiary organs would be able to meet during that period.
4. In accordance with General Assembly resolution 171 B of 9 December 1988, the Subcommittee on Good-Neighbourliness had been given the task of elaborating a document on the development and strengthening of good-neighbourliness between States, and he suggested that the Subcommittee should begin its work on 1 October. He had asked Mr. Sandoval, the Vice-Chairman of the Committee, to coordinate consultations on that issue. He also suggested that consultations on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier should begin around 8 October, and he would ask Mr. Mikulka to coordinate those consultations.
5. The Committee would be able to take a decision regarding a working group on the United Nations Decade of International Law, as well as the date for the start of its work, as soon as the Secretary-General's report on the subject became available.
6. The consultations that he had held on the question of where to consider the Secretary-General's report on the rules of the conciliation of disputes between States had brought to light differences of opinion among delegations on whether the report should be considered under the agenda item entitled "United Nations Decade of International Law" or the agenda item entitled "Report of the Special Committee on the Charter of the United Nations and on

(The Chairman)

the Strengthening of the Role of the Organization". However, since the consideration of the latter item should require relatively less time owing to the fact that the Special Committee had almost completed its mandate, he strongly suggested that the Committee should take a decision on where to discuss the Secretary-General's report on the rules of conciliation when it took up its consideration of the report of the Special Committee on the Charter. That would not prevent any delegation from commenting, if it so wished, on the substance of the rules of conciliation during the Committee's consideration of the item dealing with the United Nations Decade of International Law, which included the question of the peaceful settlement of disputes.

7. It was so decided.

8. Mr. ROSENSTOCK (United States of America) said that, since the Committee would be considering the development and strengthening of good-neighbourliness between States on 19 November, he was not convinced that the Committee's decision that the Subcommittee on Good-Neighbourliness should begin its work on 1 October would help the Subcommittee achieve results that would be acceptable to all. The Committee should therefore wait a little before deciding on the date on which the Subcommittee would start its work.

9. Mrs. SILVERA (Cuba) said that the Subcommittee should begin its work on the appointed date, since the question of good-neighbourly relations had already been on the Committee's agenda for a long time and a conclusion on the substance of that question should be reached as soon as possible.

10. Mr. WOOD (United Kingdom) said that there was good reason to question the usefulness of convening the Subcommittee on Good-Neighbourliness and to reconsider the date on which it should begin its work. He therefore proposed that the Chairman should solicit the views of the members of the Committee for another day or two on that procedural aspect of the consideration of the matter.

11. The CHAIRMAN said that consultations were already in progress and he was convinced that the Vice-Chairman would take account of the views that had just been expressed, and that a conclusion on the best way to proceed would be taken before the end of the week. He therefore encouraged the Vice-Chairman to continue his consultations.

12. Mr. CALERO-RODRIGUES (Brazil) said that he was not convinced of the correctness of the Chairman's remark that, since the International Law Commission had completed the preparation of three sets of draft articles, the consideration of its report should take more time than usual. While the draft articles on jurisdictional immunity adopted by the Commission during the second reading would certainly have to be considered in detail, the draft articles on international watercourses and on the draft Code of crimes had been adopted during the first reading and the text of those draft articles had

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been sent to Governments, which had been invited to submit their observations in writing before the end of 1992. The Commission was still awaiting those written observations, and it did not seem useful for the Committee to hold a long debate on those two sets of draft articles at its current session. On the other hand, the question of international liability for injurious consequences arising out of acts not prohibited by international law called for detailed consideration by the Committee, from which the Commission expected guidelines on issues on which there were still differences of opinion, particularly the scope of the subject.

13. The CHAIRMAN said that the views of the representative of Brazil would be taken into consideration in the conduct of the Committee's work.

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14. The CHAIRMAN recalled that in the two most recent resolutions which it had adopted on the subject (43/162 and 44/30), the General Assembly had recommended that the Sixth Committee should make a final decision on the question of the appropriate forum within its framework which would undertake the task of completing the elaboration of the process of codification and progressive development of the principles and norms of international law relating to the new international economic order. He invited the Committee to bear that recommendation in mind and expressed the hope that the Committee could either make a final decision on that item or defer its consideration until such a decision could be taken.

15. Mr. MBURI (United Republic of Tanzania) observed that for a very long time the developing countries had been calling for a new international economic arrangement, since the existing international instruments had failed to foster international economic cooperation and to bridge the gap between developed and developing countries, which had continued to widen. Lack of political will on the part of the major Western Powers lay behind the failure of persistent attempts to change the current order. The call for a new international economic order was no more than a call for democratization of international economic relations which those Powers had been urging upon the developing countries.

16. The analytical study submitted by the United Nations Institute for Training and Research (UNITAR) offered a valuable source of material for tackling the subject. Failure to make a final decision on how to deal with the subject had not been due to a lack of ideas.

17. His delegation had previously stated that an open-ended working group or some other kind of forum within the Sixth Committee would be the appropriate forum to undertake the task of completing the elaboration of the process of codification and progressive development of the principles and norms of

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of Tanzania)

international law relating to the new international economic order. It rejected the argument advanced in the past that the time was not yet ripe to complete such an elaboration. On the contrary, it was time for the Sixth Committee to take a decision on the matter or to look for an alternative way, since it could not get rid of the item altogether through postponements. Moreover, in view of the rationalization of the procedures of the Organization, the Committee could not keep an item on the agenda of the General Assembly and attempt to make it disappear through reforms or lack of political will by States to discuss it. The Committee should therefore take a final decision at the current session.

18. There were two additional reasons why the item should be considered. Firstly, the time was past when the diversity of political systems made it difficult to draw up a strategy for seeking ways in which international law could contribute to the establishment of the new international economic order. Secondly, the Committee could not wait for better rules to evolve by themselves, because State practice had itself shown that it was not possible to proceed in that way.

19. The Committee should start with the principles already accepted as law and then attempt to clarify the norms that were still unclear. There was good ground to begin forthwith on the accepted premise that economic imbalances existed and that broad principles had already been identified by UNITAR. The Committee should also encourage cooperation between the forum which would deal with the subject in the Committee and any other legal body that was dealing with similar projects.

20. Mr. CALERO-RODRIGUES (Brazil) said that the item on the progressive development of the principles and norms of international law relating to the new international economic order, which had been on the Committee's agenda since 1976, was one of those items that seemed to be ill-fated. What remained to be done, however, was simply to decide which would be the appropriate forum within the framework of the Sixth Committee to complete the elaboration of the process of codification and progressive development of the principles and norms in question. It did not seem to be a transcendental question. Two possibilities existed: either to create a subsidiary body to work intersessionally, or to entrust the task to a working group of the Sixth Committee. An intersessional body would be the ideal choice, but on account of the financial implications the Committee should probably content itself with a working group, which could start meeting at the following session.

21. The task would not be easy: while it was recognized that the current international economic order was far from satisfactory, it was still not clear what the new order should be. It would be an impossible task to try to cover in a single document all the different aspects of a new, fairer and more equitable order. Nevertheless, there were general principles that could already guide the work to be undertaken sectorally. That was a reasonable

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undertaking, within the capabilities of a working group, the more so when the UNITAR study provided a solid basis for the work. His delegation urged the Committee not to delay any further the process of codification and progressive development, which might make a significant contribution to the United Nations Decade of International Law.

The meeting rose at 11 a.m.