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SIXTH COMMITTEE, 1281st MEETING

Monday, 15 November 1971, at 3.25 p.m.

NEW YORK

Chairman: Mr. Zenon ROSSIDES (Cyprus).

AGENDA ITEM 89

Report of the Special Committee on the Question of Defining Aggression *(concluded) (A/8419, A/C.6/L.827, A/C.6/L.828)**

1. Mr. GONZALEZ GALVEZ (Mexico), introducing draft resolution A/C.6/L.827 on behalf of its sponsors, said that the text, identical in its general outline with that of earlier years, had been drawn up in a spirit of unanimity.

2. With regard to the place and date of the next session of the Special Committee on the Question of Defining Aggression, he drew attention to the note by the Secretary-General on the administrative and financial implications of the draft resolution (A/C.6/L.828). However, he would like the representative of the Secretary-General to give a more detailed explanation as to the reasons why the session could not be held at any time other than the two dates indicated in that statement. Those dates did not seem very practical, one falling just before the General Assembly and the other just after.

3. The CHAIRMAN announced that Guinea, Guyana, Madagascar and Pakistan had joined in sponsoring the draft resolution.

4. Mr. EL REEDY (Egypt), noting that his country was one of the sponsors of the draft resolution, recalled that at the 1269th meeting, on 27 October 1971, he had expressed the hope that the People's Republic of China could participate in the work of the Special Committee. That statement had been endorsed by several delegations. As members were aware, consultations were being held between the Chinese delegations, the President of the General Assembly and the Secretary-General concerning China's participation in the work of various United Nations bodies. If China wished to be a member of the Special Committee, Egypt, for its part, would welcome its participation. His delegation therefore felt that the report of the Sixth Committee to the General Assembly should make it clear that if the Chinese delegation wished to be a member of the Special Committee, that request should be acceded to, either by a general decision of the General Assembly on the representation of China in the various bodies or by a specific decision concerning the Special Committee.

5. Mr. STEEL (United Kingdom) endorsed the Mexican representative's observations concerning the dates proposed for the next session of the Special Committee and associated himself with that speaker's request for information. He wondered if the Secretariat's suggested first date—31 January-3 March 1972— had been prompted by the words "as early as possible in 1972" in operative paragraph 1 of the draft resolution.

6. Mr. JACOVIDES (Cyprus), noting that his delegation was also a sponsor of the draft resolution, said that he hoped it would be adopted unanimously.

7. Mr. CAPOTORTI (Italy) said that his delegation would vote in favour of the draft resolution, which reflected the wishes of the Special Committee itself. He too wished to associate himself with the Mexican representative's observations.

8. With regard to the place of the next session of the Special Committee, he recalled that the 1971 session had been held in New York and the 1970 session at Geneva. His delegation would like the Special Committee at its 1972 session to meet again at Geneva, having regard both to the tacit principle of alternation which had been followed thus far and the satisfactory results of the 1970 session.

9. The CHAIRMAN noted that as the first of the proposed dates covered the period 31 January-3 March, the Special Committee would actually not begin its work until February.

10. Mr. NOSEK (Under-Secretary-General for Conference Services) said that the dates proposed by the Secretary-General had been chosen on the basis of the information available to the Secretariat, including the words "as early as possible in 1972" in the draft resolution. The Secretary-General had also had in mind the fact that the previous session of the Special Committee had been held from 1 February to 5 March.

11. It would be difficult to hold the Special Committee's session later because the programme of meetings at Headquarters was particularly heavy for the weeks following the proposed date. Seven meetings a day were anticipated for the week beginning 6 March, which would occupy the seven available teams of interpreters. Moreover, the need to service bodies whose meetings could not be anticipated, such as the Security Council, made it necessary to keep three interpreters in reserve. If the Special Committee could not meet from 31 January to 3 March, it would be necessary to recruit additional interpreters, which would cost $4,000 a week. The calendar of meetings was even heavier for the week beginning 13 March, and the situation would be no better in the follwing week. However, it might be possible to service the Special Committee without additional financial implications from 26 June to 28 July.

* Resumed from the 1276th meeting.

12. As far as the services at Geneva were concerned, a cable had been received indicating that the only date which would be possible for them would be 28 August-29 September, since their calendar too was extremely heavy.

13. He requested the Mexican, United Kingdom and Italian delegations to state what dates would be acceptable to them, so that the Secretariat could reconsider the situation. It should also be borne in mind that several meeting rooms would not be available in 1972 because they were to be remodelled.

14. Mr. STEEL (United Kingdom) said that he would be content that the matter should be pursued in informal discussions on the basis of the explanations given by the Under-Secretary-General for Conference Services and in the light of further enquiries to be made by the Under-Secretary-General and that the Committee should in the meantime proceed to adopt the draft resolution, provided that it was understood that the Secretariat would not consider itself bound by the words "as early as possible in 1972" to choose dates that were earlier than would otherwise be desirable. If the sponsors of the draft resolution accepted that interpretation, his delegation would not be opposed to the adoption of the draft resolution with those words retained in the text.

15. The CHAIRMAN remarked that the very fact that an alternative date was specified showed that the words "as early as possible in 1972" were not to be interpreted in a restrictive sense.

16. Mr. BREWER (Liberia), explaining the vote which his delegation would cast, said that while his Government was still in favour of defining aggression, it could not recommend that the Special Committee's mandate should be extended. There were a number of political reasons why it would be impossible for the time being to reach any general agreement on a definition. That was why his delegation had proposed during the twenty-fifth session of the General Assembly, at the 1203rd meeting of the Sixth Committee, that the Special Committee should suspend its work until 1973 and that in the meantime Member States should be invited to submit their observations and proposals. That suggestion had not been accepted.

17. Furthermore, the draft resolution had certain deficiencies. In particular, the third preambular paragraph, unlike the text submitted the previous year, made no mention of the new drafts of which the Special Committee had been seized and the consideration of which it had been unable to complete, notably with regard to priority and aggressive intent. His delegation was not convinced of either the progress of which note was taken in the second preambular paragraph or the urgency referred to in the fifth preambular paragraph. It would accordingly abstain if the draft resolution was put to the vote in its present form.

The draft resolution (A/C.6/L.827) was adopted by 85 votes to none, with 3 abstentions.

18. Mr. STEEL (United Kingdom) said that as the draft resolution which had just been adopted was practically the same as that of the preceding session, his delegation's position was likewise unchanged: it had voted in favour in order to preserve unanimity and despite its reservations on certain points in the text.

19. In particular, the fifth preambular paragraph seemed regrettable to his delegation because of the emphasis which it placed on the urgency of the work of the Special Committee. His delegation wished to make clear that it did not interpret that provision as recommending such a degree of haste as might jeopardize the success of the work of the Special Committee. It likewise did not interpret it as recommending the formulation of any definition irrespective of its merits: a definition of aggression, if it was to be useful, must be one which would genuinely assist the Security Council and which had wide support, particularly the support of the permanent members of the Security Council. Similarly, it seemed to him, apart from what had already been said, that the words "as early as possible in 1972" in operative paragraph 1 implied an undue haste; that implication was all the less justified in that the resolution adopted by the Special Committee itself (see A/8419, para. 66) did not include such an expression.

20. Mr. ENGO (Cameroon) said his delegation had abstained in order to indicate its disappointment at the meagre progress that had been made. Some countries, which apparently did not much care whether or not the Special Committee was successful in its work, had clearly been reluctant to move ahead. The situation could perhaps have been rectified if the likely political impact of the entry of the People's Republic of China into the United Nations had been taken into account. Unfortunately, it had not been deemed advisable to undertake the informal consultations which might have been useful in finding a solution.

21. It appeared from the slow progress made by the Special Committee, whose report became scantier each year, that a political body would have better prospects of arriving at a definition of aggression.

22. Mr. BENNETT (United States of America) said that his delegation had voted in favour of the draft resolution, but that by its vote the United States did not interpret the text as implying an over-emphasis on the urgency of the definition since that could result in sacrificing cogency and thoroughness to haste.

23. He stated that a generally accepted definition could be a useful addition to the work of the United Nations but reiterated his Government's view that in urgent situations when collective security action was vital it might be unwise for the Security Council to focus on this difficult contentious consideration of determining the aggressor rather than the more neutral determination of a threat to the peace or breach of the peace.

24. Mr. DEBERGH (Belgium) said his delegation's position was the same as in 1970, and it regretted that the Special Committee had not taken certain points, such as the political role assigned to the Security Council under the Charter, into consideration. It also regretted that the Special Committee either avoided considering the concept of culpability or merely equated it with the concept of priority or with responsibility *per se*. His delegation was not convinced that the Special Committee had made progress or that its work was urgent. Its vote was a vote of resignation.

25. Mr. KLAFKOWSKI (Poland), Rapporteur, reminded the Committee that its report to the General Assembly on the question of defining aggression, like its report on the United Nations Commission on International Trade Law, usually contained an analytical summary of the main trends of opinion which had emerged during the debates. If there was no objection, he intended to follow the same procedure as in the past. The cost would amount to $3,750.

It was so decided.

AGENDA ITEM 90

Review of the role of the International Court of Justice *(continued)* (A/8382 and Add.1-4, A/C.6/407)

26. Mr. SANDBERG (Sweden) pointed out that too few States had as yet replied to the Secretary-General's questionnaire on the role of the International Court of Justice. The report on the subject (A/8382 and Add.1-4) did not, therefore, at present give a complete picture of the attitudes of States towards the Court, although it was interesting and was valuable as a starting-point for work on the question.

27. All the governmental views set out in section B, heading I, subheading 1, of the report entitled "The place of the Court and of the judicial settlement of disputes in the system established by the Charter of the United Nations", reflected–with some shades of difference–the importance attached by States to the role of the Court and of judicial settlement of international disputes. However, serious differences emerged under subheading 2 *(b)*, "The insufficient extent of the role played by the Court" and subheading 3 *(a)*, "The international climate and the disinclination of States to resort to the Court".

28. His delegation was struck by the contrast revealed in the report. On the one hand there was praise for the role of the Court and of judicial settlement, and on the other hand it was pointed out that the Court was insufficiently used and that States were disinclined to resort to it. That paradox seemed to give strong support to the view that the question was not so much to improve the Court itself as to improve the attitude of States towards the Court. What was needed at present was not so much a perfect Court as one which was used. Consideration should therefore be given to the question what measures would change the present attitude of States and encourage them to resort to the Court more frequently. The replies from Governments contained various suggestions which should be properly examined.

29. His delegation wished to emphasize that, by virtue of Article 26, paragraph 2, of the Statute, it was for the parties to a dispute to request that a special chamber should be formed to deal with their case. The number of judges to constitute such a chamber was to be determined by the Court with the approval of the parties. On the other hand, the parties were without influence with respect to the election of the individual judges who would compose the chamber. According to article 24, paragraph 2, of the Rules of Court, the president of the chamber as well as its members were to be elected by the Court, by secret ballot, and by an absolute majority of votes. No States had ever made use of that procedure. However, there had been some discussions in the past few years as to the possibility of regional chambers of the parties' choice. His Government felt that the procedure contemplated in Article 26, paragraph 2, of the Statute would be more attractive if the Rules of Court were amended so that election of the individual judges of a chamber could be based on a consensus between the Court and the parties.

30. His delegation also felt that it would be appropriate to explore the possibility of extending the competence of the Court in accordance with the various suggestions that had been made, as long as it was clearly understood that the Court's primary role would continue to be the adjudication of disputes.

31. His delegation was in favour of establishing an *ad hoc* committee to study the question of the role of the Court on the basis of observations by States and by the organs concerned. It considered that such a committee should be composed of Government representatives, rather than of experts, since its primary purpose would be to find ways of convincing Governments that they should make better use of the Court.

Mr. Pollard (Guyana), Vice-Chairman, took the Chair.

32. Mr. KOLESNIK (Union of Soviet Socialist Republics) said it was significant that so few States had replied to the Secretary-General's questionnaire. The large majority which had not replied seemed to feel that a review of the role of the Court was not a burning issue. Moreover, they appeared to be sceptical of the proposals made by those favouring a reform of the Court. Not all the States which had replied wanted the review to continue, and it should be noted that the Court itself, according to the letter addressed by its President to the Secretary-General (*ibid.*, para. 393), did "not consider that it could at this stage usefully state its views on the questions involved". The USSR had stated in its reply (*ibid.*, para. 88) that the role of the Court depended primarily on the extent to which its decisions conformed to the fundamental task of the United Nations, the maintenance of international peace and security.

33. A study of the replies from Governments showed, first of all, that several referred to the various means provided by the Charter for the peaceful settlement of disputes. Under the Charter, recourse to the Court was only one of several alternatives, and indeed Article 95 specified that nothing in the Charter should prevent Members of the United Nations from entrusting the solution of their differences to other tribunals. That same principle was reflected in various decisions taken by the General Assembly, in particular the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, contained in resolution 2625 (XXV).

34. In trying to identify the reasons for the disinclination of States to resort to the Court, several Governments had not criticized the Statute or expressed a wish to amend it but had, rather, been of the view that the Statute provided adequately for the effective operation of the Court. The President of the Court himself indicated in his letter to the

Secretary-General that reference of cases to it was basically a matter for States. It would therefore be naïve to think that confidence in the Court could be artificially revived through a revision of its Statute and consequently of the Charter; on the contrary, that would have grave consequences for international peace and security.

35. It had also been argued that, in its decisions, the Court had not been able to live up to its high calling, and reference had been made in that connexion to the unsatisfactory state of international law. However, it should be noted that the role of the Court was not itself to change the law but, on the contrary, to follow the new legal trends—a course which, by introducing new progressive rules, could not but help to enhance the position of the Court, which would then be rendering more objective and sounder decisions.

36. As far as the compulsory jurisdiction of the Court was concerned, only a few States had accepted it—and had done so with substantial reservations. They saw that fact as one of the major obstacles to the effective functioning of the Court. In his delegation's view, however, in the present state of international relations, when resort to judicial settlement depended primarily on the free consent of States, it was unrealistic to regard the extension of the Court's compulsory jurisdiction as an infallible remedy.

37. A proposal had been made to establish regional chambers of the Court, but it should be remembered that such a possibility was already contemplated in the Statute, which stated that chambers formed by the Court could sit elsewhere than at The Hague. His delegation, however, considered that recourse to regional tribunals would seriously jeopardize the progressive development and codification of international law.

38. Some Governments recommended allowing international organizations to have access to the Court's contentious jurisdiction. His delegation believed that that would be a violation of the Charter. Moreover, the French Government had very rightly stated in its reply to the questionnaire (*ibid.*, paras. 220 and 221) that it would be difficult to grant such access to all international organizations without granting it to the United Nations itself, and that to subject the United Nations to the jurisdiction of one of its own organs would amount to upsetting the distribution of powers within the Organization.

39. Other reform proposals went still further, in seeking to open the Court to corporations and even private individuals. That showed a complete disregard for contemporary international norms and would represent serious interference in the affairs of States.

40. With regard to the possibility of extending the advisory jurisdiction of the Court, the General Assembly and the Security Council were not the only parties entitled to request an advisory opinion from the Court. Under Article 96, paragraph 2, of the Charter, other organs of the United Nations and specialized agencies could do likewise, if so authorized by the General Assembly. For that reason, efforts should be made to take advantage of the possibilities offered by the Charter before considering amending the Statute.

41. As far as improvements in the Court's functioning were concerned, in particular by shortening proceedings and reducing their cost, the question could be dealt with by the Court itself. The only reasonable course was to wait until the Court had completed the revision of its Rules.

42. His delegation saw no ground for reviewing the role of the Court and none whatever for establishing an *ad hoc* review committee, which would entail unnecessary expense.

43. Mr. FARUKI (Pakistan) said it was paradoxical that in the first 25 years of the existence of the United Nations, during which considerable work had been done in codifying international law, there had also been a steady decrease in the activity of the International Court of Justice, despite the fact that no one had questioned its importance.

44. The question arose why that should be so. Several replies to the Secretary-General's questionnaire indicated that the reason was not so much the structure or methods of operation of the Court as the reluctance of States to refer their disputes to it and that, unless the attitude of States could be altered, no improvement would be possible by simply modifying the structure of the Court. That was only partly correct, for changes in an institution could sometimes affect the attitude of States towards it.

45. Some of the suggested changes would require the amendment of the Statute of the Court or even of the Charter itself, which made them difficult to entertain at the present stage in the evolution of international relations.

46. Other changes seemed feasible, however, although his delegation thought that, before any were considered, the replies of Governments should be studied and views sought from those States which had not yet replied to the questionnaire. His delegation favoured the establishment for that purpose of an *ad hoc* committee, which as far as possible should be fully representative of Member States and the different regions and legal systems of the world and should include the States parties to the Statute.

47. Some of the newer States might have failed to reply to the questionnaire more because of a sense of venturing on to unknown ground than from any distrust or indifference with regard to adjudication. In the long run, however, they would come to realize the advantages of resorting to it for the settlement of international disputes. One reason was that the law was becoming more and more up to date and the States of the third world had growing justification for regarding the Court and the law it applied as a vehicle for liberal thinking. In addition, the great advantage of judicial settlement over the other means contemplated in Article 33 of the Charter was that it dealt essentially with rules of law, whereas negotiation, inquiry, mediation, conciliation and arbitration often involved a compromise in which the physical or economic pressures exerted by one of the parties might predominate. Yet another reason was that the other means referred to in Article 33 were often purely temporary expedients, whereas a judicial settlement should normally produce a lasting solution, precisely because it was based on law and justice.

48. A sense of satisfaction when the United Nations prevented a breach of the peace was not enough, for that

was a purely negative achievement. The Organization's true objective should be to create a permanent and firm basis for peace. If peace was endangered, the dispute involved should receive a permanent solution, and the best means of achieving that was judicial settlement. Peaceful coexistence between States with different systems should be not a merely temporary, tactical phase in international relations but the prelude to a more permanent state of world peace.

49. Since independence, his Government had attached the utmost importance to the strengthening of all international procedures for preventing a breach of the peace, in accordance with Article 2, paragraph 3, and Article 36, paragraph 3, of the Charter. To that end, it had accepted the compulsory jurisdiction of the Court under Article 36, paragraph 2, of the Statute and was gradually trying to reduce the extent of the reservations that had accompanied its acceptance.

50. His Government reserved the right to state its views at a later stage on the various opinions that had been expressed with regard to specific points. It wished, however, to observe at present that, although Article 2, paragraph 3, of the Charter obliged all States to settle their disputes by peaceful means, the manner in which they should do so differed, according as Article 33, paragraph 1, or Article 36, paragraph 3, of the Charter was considered. The strict obligation imposed by Article 2, paragraph 3, would be greatly strengthened by the wider acceptance of compulsory procedures for the settlement of disputes, and in that connexion Pakistan, in addition to its acceptance of the compulsory jurisdiction of the Court, had at the United Nations Conference on the Law of Treaties pronounced itself in favour of a procedure for compulsory settlement, by reference to the Court, of disputes relating to the invalidity, termination and suspension of treaties. Moreover, his delegation considered that, in order to expand the role of the Court, States should be permitted to seek a non-binding advisory opinion on any legal question involving another State. Such an opinion would assist States which were parties to a dispute to reach a settlement, whichever of the methods indicated in Article 33 of the Charter was followed.

51. Mr. KOSTOV (Bulgaria) said that the report under consideration reflected the extremely divergent opinions of States on issues relating to the Court. The diversity of views generated some confusion as to what steps should be taken to enhance the effectiveness of the Court. His delegation did not think that the question of strengthening the Court should be confused with the question of the role of the Court and its place in the United Nations system. The provisions of the Charter with regard to the judicial settlement of disputes were perfectly clear and it would be pointless to try, through a biased reading of them, to seek any modification of the delicate balance of powers as distributed among the principal organs of the United Nations. The Charter certainly imposed an obligation on States to settle their disputes by peaceful means, but it gave them complete freedom to choose their method of doing so. It was clear, however, that, since the International Court of Justice was the principal judicial organ and one of the principal organs of the United Nations, it occupied the highest rank among judicial institutions, but that did not give adjudication any privileged status by comparison with the other means of peaceful settlement of disputes stipulated in Article 33 of the Charter. On the contrary, Article 36, paragraph 3, of the Charter, which provided that "legal disputes should as a general rule be referred by the parties to the International Court of Justice", was worded very cautiously, and indeed restrictively.

52. His delegation regretted that certain delegations wanted to change the role and place of the Court in the United Nations system. Some would like to make it a supranational court of appeals through a revision of the Charter; others, recommending judicial reform, were seeking the adoption of measures that could encourage States to place their trust in the Court. The proponents of both ideas, however, seemed to forget that contemporary international society consisted of sovereign States having different political, economic and legal systems and was in no way comparable to national societies, in which law was one of the elements of a homogeneous State structure. For that reason his delegation was convinced that the question of the Court's role should be considered solely in the light of the provisions of the Charter. It recognized that States today were somewhat reluctant to bring a case before the Court, but it believed that the problem, which was due to the heterogeneous nature of international society and the political climate of today, could be solved only by the codification of international law, the development of friendly relations between States and the improvement of the international political climate. Undoubtedly, however, the Court could make itself more popular with States by being more objective and impartial and making sure that it took every system of law into consideration in its work.

53. Some improvements in Court procedure could be made, but that was a matter for the Court alone to decide, and his delegation therefore saw little use in establishing an *ad hoc* committee to study the problems of the Court. As the French representative had observed at the 1278th meeting, only States themselves, by developing friendly relations and co-operation and by continuing to draw up universally acceptable international legislation, could restore to the Court the leading role it should enjoy. For these reasons, the Court should be allowed to complete the revision of its Rules and should, if it wished, be provided with the relevant summary records of the Sixth Committee.

54. Mr. BEJASA (Philippines) recalled, first of all, that at the United Nations Conference on International Organization, held at San Francisco, the Philippine delegation had proposed adopting the principle that the Court should have compulsory jurisdiction, while giving States the right to contract out from that principle by special declaration. His Government had accepted the compulsory jurisdiction of the Court as early as 1947 and consequently had proposed to submit to the Court a territorial dispute with another State Member of the United Nations; the latter State, however, had not accepted the Court's jurisdiction and the case had not yet been settled.

55. His delegation had always advocated that multilateral conventions or treaties should provide for referring disputes to the Court.

56. In undertaking a review of the role of the Court, the General Assembly obviously had no intention of impairing

the Court's authority. On the contrary, in their replies to the Secretary-General's questionnaire all States had seemed desirous of strengthening the Court and regretted its relative inactivity.

57. His delegation believed that the time had come for analysing the views and suggestions of States concerning the role of the Court. It fully supported the establishment of an *ad hoc* committee to that end and believed that several questions deserved that committee's particular attention. Firstly, it should endeavour to encourage States to accept the compulsory jurisdiction of the Court, in accordance with Article 36 of its Statute, without expressing any reservations that would deprive such acceptance of any real meaning; secondly, in view of the growing number and importance of international organizations, they should also be authorized to appear before the Court in contentious cases; lastly, it would also be wise to explore the possibility of giving States and international organizations, whether universal or regional, the right to ask the Court for advisory opinions.

58. His delegation believed that the Court was the most appropriate body to consider any possible change in its Rules with a view to making it more effective. The Court should be encouraged in that undertaking, in particular by making available to it, on request, the replies of Governments to the Secretary-General's questionnaire and the views expressed on the matter in the Sixth Committee.

59. Mr. MTANGO (United Republic of Tanzania) said that three basic ideas were discernible in the replies of States to the Secretary-General's questionnaire on the role of the Court: firstly, the Court, as the principal judicial organ of the United Nations, had a very vital role to play; secondly, it was urgent to enhance its effectiveness; thirdly, more frequent resort to it by States for ruling or advisory opinion depended primarily on the political will of the States.

60. The distrust of the Court on the part of States was attributable to the fact that in recent years the Court had rendered decisions—most recently in the matter of South West Africa—that had been sharply criticized. While recognizing that the Court's Advisory Opinion on the question of Namibia had been much more favourably received, his delegation considered it useless for a United Nations body to ask the Court for an advisory opinion if that opinion was thereafter criticized and rejected by Members of the Organization. It also deplored the fact that judges who were nationals of permanent members of the Security Council were defending in the Court the views expressed by their countries in other United Nations bodies. That was the reason for the Court's unpopularity; if it died, the fault would lie with certain States Members of the United Nations. His delegation believed that the membership of the Court could not reflect the structure of the Council without also reflecting its impotence. The independence of judges of the Court should be reinforced, in conformity with Article 2 of its Statute and without prejudice to the provisions of Article 9. To that end, more equitable representation should be given to certain regions, perhaps by adopting the relevant recommendations of various interested institutions. Consideration might also be given to fixing a maximum age limit for candidates for judgeship and a mandatory retirement age.

61. The various problems relating to the functioning of the Court had been thoroughly analysed both during the debate on the question and in the replies of States and various interested organizations to the Secretary-General's questionnaire. His delegation hoped that special attention would be given to proposals designed to change the attitude of States, particularly the great Powers, to reinforce the independence and sense of responsibility of the judges of the Court and to ensure better co-operation between Governments, the Court and the peoples of all countries.

62. Mr. TUTU (Ghana) observed that the provisions of Chapter I and of Articles 93, paragraph 1, and 94 of the Charter showed that the Court had been established to assist the Security Council through the rule of law in maintaining international peace and security. From the very inception of the United Nations, however, some members of the Council, while accepting the compulsory jurisdiction of the Court, had expressed reservations which in fact made their acceptances meaningless. Those States had thus failed to live up to their responsibilities; had they set a better example, the attitude of the international community might have been different; and in any event, the prestige of the Court would have been enhanced by the demonstrations of confidence in it. Furthermore, if the international community's faith in the Court was to be restored, the permanent members of the Security Council should accept the Court's compulsory jurisdiction, in conformity with their obligations under the Charter.

63. The Court's position would also be much better if international law were more progressive and did not reflect outmoded conservative thought reminiscent of imperialism. At present the sessions of the International Law Commission seemed too short to enable the Commission to project the progressive development of international law; his delegation believed that such a development was one of the indispensable requirements for strengthening the role of the Court.

64. With regard to the term of office of the judges of the Court, Articles 13 and 15 of the Statute seemed unsatisfactory, and it might be desirable to consider the possibility of fixing a mandatory retirement age for judges.

65. As to the question of appointing an *ad hoc* committee to examine the role of the Court, his delegation did not oppose the proposal that the committee should consist of experts but believed that the experts should not be solely university professors, whose approach might be too theoretical. It believed that the members of the committee should be, on the one hand, legal advisers in ministries of foreign affairs and, on the other hand, jurists who had practical experience with the work of the Court. In view of the serious financial situation of the Organization and the urgency of the problem, it might also be desirable to fix a time-limit for the committee to complete its work.

The meeting rose at 6 p.m.