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SPECIAL COMMITTEE ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES

First Session

SUMMARY RECORD OF THE TWENTY-FOURTH MEETING

Held at Mexico City,
on Tuesday, 15 September 1964, at 4.55 p.m.

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later,	Mr. PECHOTA	Czechoslovakia
Rapporteur:	Mr. BLIX	Sweden
Members:	Mr. COLOMBO	Argentina
	Sir Kenneth BAILEY) Mr. COOK)	Australia
	U BA THAUNG	Burma
	Mr. CHARPENTIER	Canada
	Mr. MONOD	France
	Mr. DADZIE	Ghana
	Mr. HERRERA IBARGÜEN	Guatemala
	Mr. KRISHNA RAO	India
	Mr. ARANGIO RUIZ	Italy
	Mr. HATANO	Japan
	Mr. FATTAL	Lebanon
	Mr. RATSIMBAZAFY	Madagascar
	Mr. CASTAÑEDA) Miss TELLEZ)	Mexico
	Mr. van GORKOM	Netherlands
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	Mr. BIERZANEK	Poland
	Mr. CRISTESCU	Romania
	Mr. KHLESTOV	Union of Soviet Socialist Republics
	Mr. KHALIL	United Arab Republic

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	Mr. JONES	United States of America
	Mr. ALVARADO	Venezuela
	Mr. VILFAN	Yugoslavia
Secretariat:	Mr. BAGUINIAN	Acting Representative of the Secretary-General
	Mr. WATTLES	Deputy Secretary of the Committee

I. CONSIDERATION OF THE FOUR PRINCIPLES REFERRED TO THE SPECIAL COMMITTEE IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTION 1966 (XVIII) OF 16 DECEMBER 1963, NAMELY:

(b) THE PRINCIPLE THAT STATES SHALL SETTLE THEIR INTERNATIONAL DISPUTES BY PEACEFUL MEANS IN SUCH A MANNER THAT INTERNATIONAL PEACE AND SECURITY AND JUSTICE ARE NOT ENDANGERED (A/AC.119/L.6, L.7, L.8, L.17-L.22) (continued)

Mr. KHALIL (United Arab Republic) considered that the two interlinked and complementary principles of the prohibition of the use of force and the peaceful settlement of disputes constituted the most important contribution which the Charter had made to contemporary international relations. The Special Committee should study the principle of peaceful settlement of disputes in the light of the recent history of those relations. The purpose of the principle, which was set forth in Article 2 (3) of the Charter, was clearly to maintain a state of peace and justice in the world, and the need for peace and justice was more and more compelling in the era of the atom and of the conquest of space. Neither peace nor justice could be secured at the other's expense and a balance between the two concepts must be sought. Moreover, a settlement of disputes achieved by peaceful means but contrary to the norms of justice could only increase the potentiality of violence and could not prove lasting. In that regard, he drew attention to the danger to the international community of unjust treaties and of all seemingly legal instruments which attempted to perpetuate injustice.

In his delegation's opinion, the most appropriate means of settlement was that which was most acceptable to the parties concerned, and that principle applied to all disputes, legal as well as non-legal. In a world of sovereign States, where a supra-national legislative body did not yet exist, the decisive factor remained the free will of the disputing States, subject, naturally, to the provisions of the Charter.

Negotiation was, unquestionably, the normal method of settling international disputes. Yet, unless it was previously agreed upon or otherwise made compulsory, it

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should not be given any preferential status. Indeed, to attempt to impose negotiation in certain cases might even constitute intervention. Moreover, negotiation should never be used by one of the parties to obtain an advantage, for example, to cast doubt on the rights of the other party - a not altogether rare occurrence between a powerful State and a weak State. Furthermore, the following conditions should be observed. Firstly, negotiations should always be carried out in good faith and should not be used simply as a tactical device or as a means of concealing a scheme to use force. Secondly there should be an absence of all forms of pressure if negotiations were to achieve a peaceful settlement based on justice. Thirdly, negotiations should under no circumstances affect the legitimate interests of another State or people; negotiations which prejudiced such interests should be considered of no value. That was a point to which his delegation attached particular importance in the light of the history of the part of the world to which his country belonged.

One of the important recent developments which the Committee should take into account was the role played by regional organizations. The success achieved by the Organization of African Unity in settling disputes was due to the confidence which the parties placed in its organs and to the genuine desire of all the members of the Organization to reach a just and peaceful settlement of their disputes. The Arab League had also successfully settled some difficult disputes among its members. He was gratified to note that the main proposals before the Committee recognized the importance of recourse to the regional organizations.

At the twenty-second meeting (A/AC.119/SR.22), the Mexican representative had made a penetrating analysis of the reasons why many States refused to accept the compulsory jurisdiction of the International Court of Justice. His own delegation wished to place special stress on two reasons. Firstly, even those countries which advocated the

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universal acceptance of the compulsory jurisdiction of the Court recognized that international law was as yet non-existent in certain fields and in others was so uncertain and vague that the judgements of the Court could not reasonably be predicted. Moreover, some States - namely the colonial States - tried to perpetuate outdated instruments which gave them economic, political and military privileges and which had been imposed under conditions amounting to coercion. The insistence of those States on the implementation of unjust provisions could hardly be encouragement to the new States to accept the compulsory jurisdiction of the Court. Secondly, there was the question of the geographical and ideological composition of the Court. A more equitable representation of the various geographical regions and legal systems was a prerequisite if States were to be encouraged to accept the compulsory jurisdiction of that tribunal.

Nevertheless, every State should retain full freedom to accept or reject the compulsory jurisdiction of the Court, because the choice of any method of settlement should be a choice freely made by each State. On that point, his delegation favoured the formula in the three-Power proposal (A/AC.119/L.19).

Most of the proposals and amendments before the Committee contained constructive elements and they could, taken together, serve as a basis for the Drafting Committee's efforts to achieve agreement.

Mr. SINCLAIR (United Kingdom) replied to criticisms of the United Kingdom proposal (A/AC.119/L.8).

At the twentieth meeting (A/AC.119/SR.20), the Soviet Union representative had said that the formulation in that proposal - he had apparently had paragraph 3 in mind - was diffuse and imprecise and that it pressed for the acceptance by States of the compulsory jurisdiction of the International Court of Justice. But as he himself had stated at the nineteenth meeting (A/AC.119/SR.19), the three paragraphs of the

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United Kingdom proposal derived direct from the Charter and paragraph 3 in particular was almost word for word a repetition of Article 36 (3) of that instrument. While the United Kingdom Government favoured the more wide-spread acceptance of the compulsory jurisdiction of the International Court of Justice, that attitude was reflected not in the statement of principle B itself, but in paragraph 3 of the commentary. Had it been otherwise, the Japanese proposal (A/AC.119/L.18) would have been unnecessary. His delegation was well aware of the difficulties involved in securing a more wide-spread acceptance of the compulsory jurisdiction of the Court. However, it saw grounds for optimism in some statements, in contrast to the pessimism shown by some representatives. At the twentieth meeting (A/AC.119/SR.20), the Polish representative had drawn attention to the fact that some States were more willing to accept compulsory arbitral procedures in connexion with specialized activities such as those covered by technical conventions than to subscribe to Article 36 (2) of the Statute of the Court. The Netherlands amendment (A/AC.119/L.21) might therefore meet the requirements of the Polish delegation. The wording of paragraph 3 (a) of the three-Power proposal (A/AC.119/L.19) was also a source of encouragement to his delegation because it came close to paragraph 3 of the United Kingdom statement. However, it should be pointed out that the reservation "if the parties agree that it [the dispute] is essentially legal in nature" deprived that proposal of much of its force. In fact the distinction between political and legal disputes was often only used as a device by States to avoid recourse to the Court. What was more, that reservation was inconsistent with Article 36 (3) of the Charter, which gave the Security Council, and not the parties, the power to decide in the first place whether or not a dispute was legal in nature and consequently whether or not it should be referred to the International Court of Justice. Accordingly, he urged the three Powers to withdraw that reservation from paragraph 3 (a) of their proposal.

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At the twentieth meeting, the Polish representative had spoken on the question of the judicial settlement of disputes in very pessimistic terms. Suggesting the reasons for the decline in that method of settlement, he had nevertheless expressed some regrets which were in themselves encouraging. First, he had mentioned mutual suspicion. In that regard, he shared the Polish representative's hope that the progressive development and codification of international law would tend to remove such suspicion. Moreover, at the eighteenth session of the General Assembly, many delegations had welcomed indications of a détente in international relations, which suggested that the moment was most opportune for a further attempt to increase the use of the Court's machinery. Secondly, the Polish representative had argued that many disputes were partly political. That might well be so, but if practice was any guide, it must be agreed that that factor had not deterred many States from referring disputes to the Court. The United Kingdom, for its part, had complete faith in the impartiality of the Court and its ability to distinguish legal from political issues. Thirdly, the Polish representative had said that there were still too many doubts about the principles of international law. He had added, however, that by completing its task the Committee would help to clarify those principles and remove those doubts. In the United Kingdom's view, it was also worth noting that the work of the Court itself could serve to clarify those principles and assist in the progressive development of international law. For all those reasons, his delegation believed that the moment was particularly opportune to try to strengthen the procedures for peaceful settlement, including recourse to the Court.

He warmly supported the Japanese proposal (A/AC.119/L.18), for a more wide-spread acceptance of the compulsory jurisdiction of the Court would be the most effective means of strengthening the rule of law in international relations. With reference to paragraph 3 (b) of the three-Power proposal (A/AC.119/L.19), he stressed the complexity

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of the problem of the composition of that body. While the rules governing elections to the Court and its membership did not allow for radical change, it must, however, be acknowledged that the changes made in 1963 showed that Members of the United Nations had made a real attempt, within those rules, to establish a balance between the various regional groups. Accordingly, the injunction contained in paragraph 3 (b) of the three-Power proposal seemed unnecessary.

He approved the Netherlands amendment (A/AC.119/L.21) which, by referring only to general multilateral conventions adopted under the auspices of the United Nations, took account of the reluctance of the new countries to accept the compulsory jurisdiction of the Court in relation to conventions in whose formulation they had not participated.

Lastly, the amendment submitted by France (A/AC.119/L.17) and Canada (A/AC.119/L.22) would be most useful additions to the United Kingdom proposal.

In conclusion, he regretted that in paragraph 2 of their proposal (A/AC.119/L.19) the three Powers had departed from the language of Article 33 of the Charter by giving a pre-eminent place to negotiation. At the present time, the international community was gradually progressing beyond the stage of negotiation, at least in the case of serious disputes, and was moving towards more institutionalized means of settlement. The growth of international organizations in the past twenty years afforded ample evidence of that trend. His delegation did not believe that there was a fundamental divergence of views within the Committee on the principles of the Charter concerning the peaceful settlement of disputes or on the need to secure their more effective application through greater use of the International Court of Justice and other judicial and arbitral bodies, and he was sure that the Drafting Committee would be able to draw up a text acceptable to all.

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Mr. HATANO (Japan) said that in order to reply to those who criticized his proposal (A/AC.119/L.18) for being unrealistic, he wished to give some statistics on the acceptance of the compulsory jurisdiction of the International Court of Justice. Of the thirty-nine States which had accepted the optional clause of Article 36 of the Statute of the Court the youngest was Uganda, which had achieved independence only two years before; that showed that it was possible for a very young State to accept the compulsory jurisdiction of the Court. And, he pointed out, that there was not any State represented at that committee which was younger than Uganda.

In answer to the remarks made by the representative of India at the 23rd meeting (A/AC.119/SR.23), he disclosed that the optional clause had been accepted by 18.1 per cent of the States which had become independent after the Second World War and by 18.7 per cent of the States which had become independent in the period between the two world wars. The difference - 0.6 per cent - was negligible for all practical purposes.

Among the thirty-nine States which had accepted the optional clause, some (Switzerland and Liechtenstein) had declared their willingness to do so even before they had officially become parties to the Statute. In the majority of cases, however, an interval had elapsed between the date of acceptance of the Statute and the date of acceptance of the optional clause. In the case of the twenty States which had accepted that clause and which were not covered by Article 36 (5) of the Statute, that interval had averaged twenty-nine months. Therefore, all of those States which had become parties to the Statute prior to March 1962, could reasonably be expected to adhere to the compulsory jurisdiction of the Court. Hence, having given all those concrete figures, he emphasized that his proposal had not only been based on its desirability, but also on its feasibility which he

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had determined after having made a thorough study of the practice of States.

Mr. KRISHNA RAO (India) reminded the Committee that at the 23rd meeting his delegation had replied to some questions which the United Kingdom representative had just raised regarding, in particular, paragraph 3 (b) of the three-Power proposal (A/AC.119/L.19). The United Kingdom delegation had stated that paragraph 3 of its proposal (A/AC.119/L.8) had been based on Article 36 (3) of the Charter. The same was true of paragraph 3 (a) of the three-Power proposal, the provisions of which did not in any way affect declarations filed under Article 36 (2) of the Statute of the International Court of Justice. Article 36 (3) of the Charter enjoined the Security Council to recommend that the parties to a legal dispute should refer their dispute to the Court. If the parties did not submit their dispute to the Security Council, they should nevertheless be guided by the same injunction and refer the dispute to the Court, provided, however, that they both agreed that the dispute was a legal one. That was exactly what the three Powers were proposing in paragraph 3 (a), which was clearly an elaboration of Article 36 (3) of the Charter.

The statistics which the Japanese representative had just given the Committee could hardly be considered a criterion. In his opinion they merely confirmed that certain questions could not be settled on the basis of figures.

Mr. van COEHOM (Netherlands) said that at the 19th meeting his delegation had expressed the view that there was at least one category of disputes with respect to which it should not be difficult to recognize that States were required to use one particular method of settlement, namely, disputes relating to the interpretation and application of general multilateral conventions adopted under the auspices of the United Nations. The Netherlands representative had then

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stated that it would be natural for a State which had voluntarily subscribed to the rules of law contained in such a convention and accepted the rights and obligations deriving therefrom to undertake to use a procedure of impartial settlement in the event of a dispute between it and another State party to that convention over the extent of its rights and obligations. Such disputes should, as a matter of principle, be referred to the International Court of Justice. His delegation had now formulated that principle in the form of an amendment (A/AC.119/L.21) to the United Kingdom proposal (A/AC.119/L.8). In order to take into account the fact that the Committee's recommendations to the General Assembly could not go beyond the scope and the obligations of the Charter, it had phrased the amendment in the form of a recommendation rather than of a legal obligation by using the word "should" rather than the word "shall".

His delegation had also taken into consideration the fact that the parties to a dispute relating to the interpretation or application of such a convention might wish to use other means of settlement before resorting to the compulsory jurisdiction of the Court and that many if not most of the multilateral conventions referred to in the Netherlands amendment would contain clauses providing for such other means of settlement.

At the 23rd meeting, the Yugoslav representative had quoted the Annual Report submitted to the General Assembly in 1955 by the late Mr. Hammarskjold, in which the latter had referred to the fragmentary and unstable character of international law and the broad scope of uncertainty of the law. In his delegation's view, in the case of general multilateral conventions, international law was neither fragmentary, nor unstable nor uncertain. On the contrary, those

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conventions had been carefully drafted after exhaustive preparation and discussion. They fully covered the field of rights and obligations which the parties intended them to cover and there was no uncertainty as to what the law said. Where such conventions existed, the situation should be no different from that under municipal law, and consequently, no different from that of the compulsory jurisdiction of the Courts. For those reasons he recommended that the Committee should adopt the amendment submitted by his delegation.

Mr. ALVARADO (Venezuela) said that before the discussion on principle B had begun his delegation had thought that the study of that principle would be a simple matter and that the Committee would quickly arrive at a formulation capable of meeting the views of all members. His delegation believed that the Charter provisions on peaceful means of settlement were wise and well integrated, and scarcely left room for innovation, for an entire chapter of the Charter was devoted to the subject. Moreover, the discussion which had taken place and the proposals and amendments that had been submitted had confirmed the wisdom of the authors of the Charter, for as soon as attempts had been made to formulate ideas not exactly coincident with those of that instrument difficulties and differences had arisen. While he appreciated the efforts made by the delegations submitting the texts in question, he wished to make it quite clear that in his view Chapter VI, Articles 14, 2 (3), 51 and 95 of the Charter fully sufficed to meet the purposes of the Committee. The new formulation of principle B should not go beyond the Charter provisions.

Mr. Pechota (Czechoslovakia), First Vice-Chairman, took the Chair.

Mr. FATTAL (Lebanon) said that having heard the Netherlands representative, and bearing in mind the interesting remarks made the previous day

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by the United States delegation, he wished to suggest, in a spirit of compromise, an addition to the Netherlands amendment (A/AC.119/L.21). After the words "under the auspices of the United Nations", the words "and relating to social, cultural or scientific questions" would be inserted, with the rest of the amendment remaining unchanged. In point of fact, most of the draft multilateral conventions of the United Nations contained the clause desired by the Netherlands delegation. Often, however, the clause disappeared after discussion or was subjected to reservations rendering it meaningless. The addition his delegation suggested might improve the chances of the Netherlands proposal, which, he felt, would not easily obtain an adequate number of votes in the General Assembly in present circumstances.

Sir Kenneth BAILEY (Australia) said that the principle of peaceful settlement of disputes was stated in the Charter with flexibility, but without exceptions. It was stated partly in Article 2 (3) and partly in Chapters VI and XIV

Article 2 (3) could be regarded from two points of view: first, it imposed a duty on Member States; second, it provided a guideline to be kept in mind by the Security Council and the General Assembly in the exercise of their powers, especially the powers of initiative, vested in them by Chapter VI.

It was not surprising, therefore, that many of the proposals before the Committee should be proposals de lege ferenda which, according to the degree of unanimity with which they were accepted, might help towards the development and codification of international law. Some of those proposals took the form of recommendations to the effect that Members should do what they were at liberty, but not required, to do under the Charter. An example of that was the Japanese proposal (A/AC.119/L.18) which expressed the view that Members should exercise the

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liberty reserved to them by Article 36 (2) of the Statute of the International Court of Justice to accept the Court's jurisdiction in advance.

In his delegation's view, much of the disagreement in the Committee's debates on principle B had sprung from the fact that some members had failed to recognize that those proposals were not mandatory but advisory or recommendatory in their effect. The real problem was one of policy, i.e. of determining whether or not States should properly be urged to take a particular course.

With regard to the voluntary acceptance by States under Article 36 (2) of the Statute of the Court, the French amendment (A/AC.119/L.17), which logically, as the French representative himself had pertinently observed, was unnecessary, would certainly help to clear away some misapprehensions and clarify the Committee's subsequent discussions. His delegation would therefore support that amendment.

Further, he noted that the proposals of Czechoslovakia (A/AC.119/L.6) and the United Kingdom (A/AC.119/L.8) had many points in common and that the Drafting Committee should be able to resolve the differences between them.

On the substance of the law as it stood, his delegation was in full accord with the United Kingdom text, which had the great merit of gathering together and stating in connected form the various Charter provisions on principle B. That proposal, however, omitted all reference to the powers and functions of the General Assembly and the Security Council; that lacuna was remedied by the Canadian amendment (A/AC.119/L.22), which his delegation approved.

A large proportion of international law in the economic, technical and humanitarian fields and even in the political field was now codified in bilateral and multilateral conventions. He therefore approved the Netherlands amendment (A/AC.119/L.21), which he would support.

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Again, he was in complete accord with the very pertinent observations of the representative of the United Arab Republic to the effect that the Committee should give more attention to the reference to justice in Article 2 (3) of the Charter. It had in fact been on the Australian delegation's initiative at the San Francisco Conference that that word had been added to the paragraph. The Australian delegation had had a clear recollection at that time of the course of events in Europe in the decade preceding the Second World War; those events had shown only too clearly that success in preventing a breach of the peace was not necessarily enough to justify a particular settlement of a dispute. That was why the Charter had placed such emphasis on the concept of justice, as its authors had been firmly convinced that durable peace could not be founded on injustice; it was because of the importance his delegation attached to settling disputes in such a manner that justice was not endangered that it rejected the imposition on States, in the Czechoslovak proposal (A/AC.119/L.6) and the three-Power proposal (A/AC.119/L.19), of the legal duty to negotiate as a necessary first step, without allowing the possibility of using any other method unless and until both sides agreed to do so.

With regard to what the Indian representative had said at the 23rd meeting about negotiation, he did not deny the place of that method of settlement in the peaceful settlement of disputes. Direct negotiations were, of course, the common stuff of relations between States. Neither did he quarrel with the Lebanese representative's statement of the previous day that most disputes between States were settled in that way. He did not dispute that parties wishing to negotiate should choose that method of settlement first. But the Committee was not dealing with disputes which could be settled by ordinary diplomatic procedures, but with

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more serious disputes, the continuance of which was likely to endanger peace and security. At the 23rd meeting, the Indian representative had also cited the eminent jurist Mr. Gros; but if Mr. Gros had adduced the negotiation of the Antarctic Treaty as an illustration of the settlement of a serious international dispute, the Australian delegation would venture to disagree with him on the appositeness of that illustration: the preparation by negotiation of a multilateral international convention was something entirely different from the matters with which the Committee was now concerned.

Referring to paragraph 2 of the three-Power proposal (A/AC.119/L.19), the Indian representative had stated that that text did not alter Article 33 (1) of the Charter. He himself was willing to assume that the text had not been so intended. Nevertheless, paragraph 2 of that proposal read as follows: "Unless otherwise provided for, the parties to any dispute shall, first of all, seek a solution by direct negotiations; taking into account the circumstances and the nature of the dispute, they shall seek a solution by inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice." However, what the Charter said in Article 33 (1) was: "The parties to any dispute ... shall, first of all, seek a solution by negotiation ... or other peaceful means of their own choice." Article 33 (1) of the Charter therefore left the method of peaceful settlement entirely and at all points to the choice of the parties. In other words, the weaker party was not forced into negotiations by the refusal of the stronger party to agree to the choice of some other method. But the weaker party was forced into negotiations under the three-Power proposal (A/AC.119/L.19) and

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both parties were forced willy-nilly into negotiations under the Czechoslovak proposal (A/AC.119/L.6). There was no alternative left to them, as the Czechoslovak representative had made perfectly clear at the 18th meeting, unless and until all parties agreed. In his delegation's view: (1) those proposals were not in conformity with the system of the Charter, which at all points left to the parties a free choice of methods and gave to United Nations organs, when the parties had not succeeded in reaching agreement, initiatory and recommendatory functions; (2) the Charter of the Organization of African Unity imposed no such burden upon its members (cf. A/C.6/L.537/Rev.1, p. 132); (3) there was no good reason for recommending the imposition of such a restriction de lege ferenda on the Members of the United Nations. He then quoted a passage from a book by Mr. Julius Stone entitled Legal Controls of International Conflict (pp. 67-69), in which the author had said, inter alia, that while direct negotiations might be fully satisfactory in the ordinary course of events, it had been characteristic of the latter part of the nineteenth and the first part of the twentieth century to develop a great variety of third-party procedures and that, for more serious disputes, negotiation showed important weaknesses. First, negotiations were not suitable for fixing disputed facts objectively and impartially; second, in the absence of the moderating influence of a third party, the negotiators usually made exaggerated claims, which might further aggravate the dispute; third, as the representative of Ghana had pointed out, the parties to the dispute were often grossly unequal in bargaining power at the time of negotiations; fourth, it was always open to either party to declare that it was unable or unwilling to give way. Accordingly, where the subject matter of a dispute required thorough investigation and involved some measure of controversy as to the legal or other

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merits, the disputing States must have recourse to some more adequate technique than diplomatic negotiations. For those reasons, his delegation found both the Czechoslovak proposal (A/AC.119/L.6) and the three-Power proposal (A/AC.119/L.19) unacceptable.

He had found the discussion on the place of the International Court of Justice in the peaceful settlement of disputes of particular value because delegations had analysed with the utmost candour the factors affecting the extension of the role of the Court in the contemporary world. It had been stated, with the support of statistics, that only a few of the States which had recently gained independence had accepted the compulsory jurisdiction of the Court. In that regard, he observed in passing that the term "compulsory jurisdiction" was an unfortunate one because the point of Article 36 (2) of the Statute of the Court was not "compulsion", but "agreement in advance" to the exercise of the Court's jurisdiction, an agreement which corresponded, to use the phrase employed by the Indian representative, to the facts of international life. When a dispute actually arose, particularly a serious dispute, it was often much harder, even if the dispute was on an exclusively legal point, to secure the agreement of the parties to refer it to the International Court or to any other tribunal. The experience of federal States showed that the component elements of the State could accept from a court, even in the case of a serious dispute, a solution which they could never have accepted politically in the course of negotiations, or even agreed to in a political settlement. To illustrate the point, he cited the decision recently handed down by the International Court in the dispute between Cambodia and Thailand. Those factors explained why so many treaties contained a

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clause calling, at least as a last resort, for the judicial settlement of disputes arising as to their interpretation or application. The category of multilateral conventions, mentioned by the USSR and Polish representatives, as a case in which their countries had accepted in advance the Court's jurisdiction, should, in his delegations' view, be a point of departure for more frequent recourse to the Court. He would not repeat what he had already said in supporting the Netherlands amendment (A/AC.119/L.21). He thought that neither the personnel nor the progressive record of the Court justified the pessimistic view expressed by some delegations that the Court should not receive further support in the present circumstances. His delegation, consistent with the position it had taken at the San Francisco Conference and as one of the sponsors of General Assembly resolution 171 (II), which it did not wish to see rescinded despite the apparent trend contrary to that view held by certain delegations, therefore supported in principle the Japanese proposal (A/AC.119/L.18) and hoped that, in the light of the discussion which had just taken place, it would receive stronger support.

Mr. KHLESTOV (Union of Soviet Socialist Republics) wished to clarify that when he had said, in illustration of his delegation's position, that the Soviet Union had accepted the compulsory jurisdiction of the Court in the case of certain United Nations conventions, such as that on slavery, he had made it clear that every State must be free, in the light of the nature and the particular circumstances of a dispute, to determine the most appropriate means of settling it.

Mr. SINCLAIR (United Kingdom), exercising his right of reply, said that he had unfortunately been absent when at the previous meeting the Indian representative had explained the genesis of the three-Power proposal (A/AC.119/L.19)

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with regard to direct negotiations. So far as paragraph 3 (a) was concerned, he did not dispute that it was based on Article 36 (3) of the Charter; he even found, as he had already said, that it bore considerable resemblance to the United Kingdom delegation's text (A/AC.119/L.8). His criticism related essentially to the phrase "if the parties agree that it is essentially legal in nature", to which he was opposed because he saw it as a slight elaboration on the Charter. In his opinion only the Security Council was authorized to make decisions of that kind, and for the reasons he had already stated, that phrase deprived the paragraph of all value.

Mr. FATTAL (Lebanon), exercising his right of reply, reminded the Australian representative that he had been extremely cautious and had deliberately avoided categorical language in indicating the proportion of disputes settled by negotiation.

Mr. KRISHNA RAO (India) said that the sponsors of the three-Power proposal (A/AC.119/L.19) had devoted a special paragraph (para. 5) as they had in the case of principle A (A/AC.119/L.15, para. 4), to territorial disputes and problems concerning frontiers, which were a major source of tension, violence and conflict in the world.

He wished briefly to explain, for the benefit of the United Kingdom representative, the distinction he saw between Article 36 (2) of the Statute of the Court and Article 36 (3) of the Charter. When the parties referred a dispute to the Court they must have previously decided that the dispute was of a legal nature. If it was not, it ordinarily came within the jurisdiction of the Security Council; if, then, the Security Council had jurisdiction within the meaning of Article 36(3) of the Charter, it was for the Council to recommend that the solution of a dispute should be entrusted to the Court.

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(Mr. Krishna Rao, India)

Replying to the Australian representative, whom he was happy to acknowledge as one of his own "gurus", he pointed out that the sponsors intention had not been to give a pre-eminent position to direct negotiation, but to recognize a reality of contemporary life. In support of his view he read out a passage from the judgement rendered in the Mavrommatis case, in which the Permanent Court had invited the parties to settle their dispute by direct negotiation.

Mr. van GORKOM (Netherlands) said that while he realized that the oral sub-amendment proposed by the Lebanese representative to the Netherlands amendment (A/AC.119/L.21) should help the latter to win a large number of votes in the General Assembly, he feared that it would weaken the Netherlands text, which was meant to apply not only to humanitarian, cultural and technical conventions, but also to multilateral conventions of a political character. His delegation would therefore like to study the Lebanese proposal more closely before stating its view on it.

Sir Kenneth BAILEY (Australia) said he did not think that the example cited by the Indian representative was relevant, since the judgement rendered in the Mavrommatis case dealt with a special situation and could not be generalized.

Mr. SINCLAIR (United Kingdom) said that the Indian representative's explanations had not dispelled his delegation's misgivings regarding paragraph 3 (a) of the three-Power proposal (A/AC.119/L.19).

The CHAIRMAN declared the discussion of principle B closed.

The meeting rose at 6.50 p.m.