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SIXTH COMMITTEE  
23rd meeting  
held on  
Thursday, 15 October 1987  
at 10 a.m.  
New York

**SUMMARY RECORD OF THE 23rd MEETING**

Chairman: Mr. MIKULKA (Czechoslovakia)

later: Mr. SCHARIOTH (Federal Republic of Germany)

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The meeting was called to order at 10.15 a.m.

AGENDA ITEM 137: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/42/33)

AGENDA ITEM 129: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued) (A/C.6/42/L.1)

1. Mr. SCHARIOTH (Federal Republic of Germany) said that his delegation doubted whether the new procedure contained in the Romanian proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.1) was really needed. The instruments for the peaceful settlement of disputes were already there, in Chapter VI of the Charter. What was still needed was wider use of those instruments and the implementation of the Manila Declaration.

2. The draft handbook on the peaceful settlement of disputes between States was useful and should be submitted as soon as possible to the Special Committee on the Charter for formal approval, without any further assessment.

3. As to the rationalization of existing United Nations procedures, the way the United Nations dealt with problems must be in tune with the times. The Franco-British proposal (A/AC.182/L.43/Rev.1) was useful, and he hoped that it would serve as the basis for an agreement in the Special Committee. But the item was of limited importance and should not serve to prevent the Special Committee from dealing with more central problems, such as the maintenance of international peace and security.

4. There had in fact been a number of encouraging developments in the area of prevention of international conflicts. General Assembly resolution 41/70 on international co-operation to avert new flows of refugees had stemmed from an initiative by his delegation, and it was the first resolution giving the United Nations a clear mandate on a practical problem in the prevention of international conflicts. It made Governments more aware of the importance of preventive action and might be the beginning of a trend. Another sign of such a trend was the decision by the Special Committee on non-use of force to include the notion of preventive diplomacy in its draft Declaration (A/42/41, sect. III). In view of the excellent progress on the question of the maintenance of international peace and security in the Special Committee on the Charter, his delegation hoped that the Sixth Committee would be able to recommend to the General Assembly at its forty-third session the adoption of a declaration on the prevention of conflicts.

5. In its future work, the Special Committee should avoid excessively grand schemes, which were bound to fail and might cause a breakdown of the consensus essential to the achievement of the intended result: the strengthening of the role of the United Nations. But in determining the future work programme, the Sixth

(Mr. Scharioth, Federal  
Republic of Germany)

Committee should steer clear of the Charybdis of irrelevance as well as the Scylla of overambition. His delegation was ready to engage in informal consultations to that end.

6. Mr. Scharioth (Federal Republic of Germany) took the Chair.

7. Mr. BATH (Brazil) said that there was a striking contrast in the work of the Special Committee on the Charter between the provisional acceptance of the greater part of the working paper on prevention and removal of disputes (A/AC.182/L.38/Rev.3) and the lack of final results. Since 1983 the Special Committee had been concentrating on the narrower field of the "preventive activities" of United Nations organs. His delegation disagreed with that restriction of the mandate, but thought that the Special Committee could still make a useful contribution to the effectiveness of the United Nations in that more limited area. After four sessions devoted to the proposals on preventive activities, however, he wondered whether they warranted such attention, for they remained well within the framework of the Charter and of established practice. They neither opened new avenues nor infringed upon the competence of the Security Council, the General Assembly or the Secretary-General. The real reason for the difficulties in the Special Committee seemed to lie not in the substance of the proposals, but in the unwillingness of some members to allow any concrete results.

8. It was regrettable that the Special Committee had not found a way of incorporating the additional proposals contained in the working paper submitted by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.48), for the competition between the two sets of proposals was a waste of time. The Special Committee must conclude its consideration of all those proposals at its next session, and that objective should be made clear in its mandate. But even a carefully drafted mandate would be useless in the face of continued unwillingness to move forward. His delegation hoped that the more constructive atmosphere noted by the Secretary-General in his report on the work of the Organization (A/42/1) would prevail in the Special Committee.

9. Some aspects of the latest version of the proposal on the resort to a commission of good offices required further clarification. First, there was a certain looseness in the provisions for the setting up of the commission. Second, it was unclear who or which organ would take the decision on the formal establishment of the commission, when the Secretary-General's informal role ended; it also remained to be seen whether the parties to a dispute would prefer to relinquish the informal services of the Secretary-General in favour of a more institutionalized framework. Third, there was no provision concerning the individuals who would be appointed to the commission by the States having seats on it. Fourth, the question of who should bear the expenses of the commission remained unclear. There was a tendency in the Special Committee to gloss over those matters, but they must be looked into more attentively, with a view to determining the feasibility of the whole procedure. The proposal should not be adopted out of impatience; a more careful approach would result in a contribution of real significance for the peaceful settlement of disputes.

(Mr. Bath, Brazil)

10. He reiterated his delegation's opinion that the Special Committee did not have a useful contribution to make on the question of the rationalization of United Nations procedures. That was an important issue, but it was being dealt with by other organs in a better position to propose the necessary measures.

11. Mr. BERNAL (Mexico) said that his country had given firm support to the proposal to formulate concrete recommendations on the prevention and removal by the United Nations of situations which might give rise to an international dispute. One of the methods of preventive diplomacy available to States was the use of the machinery offered by the United Nations. Three factors had prevented the Special Committee from making more progress in that area: first, the refusal to strengthen the machinery by means of interpretation of the Charter; second, the lack of political will on the part of some permanent members of the Security Council; and third, the procedural necessity of securing a forced unanimity, so-called consensus. At its next session, the Special Committee must allocate whatever time was necessary for the conclusion of its work on preventive diplomacy.

12. The proposals contained in document A/AC.182/L.38/Rev.3 were modest but had his delegation's support. The original proposals had been watered down, and some permanent members of the Security Council objected to any real strengthening of the role of the United Nations in matters of preventive diplomacy; the document should therefore be adopted in the form of a resolution, and not as a declaration. His delegation supported the Chinese proposal contained in paragraph 102 of the report (A/42/33) and the proposals of the Soviet Union and Czechoslovakia in paragraph 46, although the latter proposals might not be necessary as they were already contained in the draft Declaration adopted by the Special Committee on non-use of force. The content of proposals 5, 8 and 9 in paragraph 46 required clarification. His delegation accepted the Soviet proposal contained in paragraph 42.

13. The latest version of the proposals on rationalization of existing United Nations procedures (A/AC.182/L.43/Rev.2) was an improvement on earlier versions, but still had many shortcomings. First, the proposals covered only the rationalization of the procedures of the General Assembly, not those of other organs. Second, some of the proposals did not have the unanimous support needed for their adoption. Third, some of the proposals were already contained in the rules of procedure of the General Assembly. Fourth, some of the proposals had already been adopted by the General Assembly on the recommendation of the Fifth Committee; they referred to matters of financial and administrative efficiency and not to the rationalization of procedures. His delegation would like the sponsors to explain why such proposals should again be adopted by the General Assembly.

14. Paragraphs 2 to 10 of the proposals were acceptable in principle, and paragraphs 9, 11 and 12 were a correct basis for subsequent deliberations. However, the proposal contained in paragraph 1 was totally unacceptable, for it amounted to the introduction of the veto in the General Assembly. Every effort should certainly be made to achieve consensus on substantive issues, but the right to vote must not be limited by the veto of a minority of delegations.

(Mr. Bernal, Mexico)

15. Mexico reiterated its support for the proposal to set up a commission of good offices, for it would enhance the means of peaceful settlement of disputes and the machinery of the United Nations for the maintenance of international peace and security.
16. His delegation supported the proposal made by the representative of the Federal Republic of Germany concerning informal consultations on the future work programme.
17. Mr. VOICU (Romania) emphasized the importance of the question of peaceful settlement of disputes, and said that adherence by all States to the fundamental principles of international law was an essential condition for the solution of international problems and the maintenance of peace and security. In that connection, he drew attention to the proposals recently made by the President of Romania, which were reproduced in document A/42/562.
18. Five years after the adoption of the Manila Declaration would be a good time for the Sixth Committee to review its implementation by Member States. That exercise might take place at the next session of the General Assembly on the basis of a report by the Secretary-General; it would also provide an opportunity for more detailed consideration of the undeniable link between the principle of non-use of force in international relations and the principle of peaceful settlement of disputes. He endorsed the comment made by the Chairman of the Special Committee on the need to translate the Manila Declaration into reality.
19. He drew attention to the revised working paper submitted by his delegation concerning resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.1), contained in paragraph 15 of the report (A/42/33). The working paper was based on the fundamental considerations explored in the past concerning the need to use the United Nations machinery more effectively and actively, and to allow it to contribute more substantially to efforts to settle disputes. Delegations had participated very actively in a detailed analysis of the text and had made concrete suggestions, which had been incorporated in the revised text.
20. His delegation felt that at its 1987 session, the Special Committee had made real progress in the accomplishment of its mandate with regard to resort to a commission of good offices, mediation or conciliation. The Special Committee had made an encouraging assessment of the work accomplished on Romania's proposal. As noted in paragraph 18, Romania had stated at the session that the revised text incorporated so many suggestions made by various delegations that it should be considered as a kind of collective work. As to the link between the proposed commission and the United Nations system, Romania had stressed that the commission was a procedure and not an organ; thus there was no need to enter into details, as the commission would function only in particular cases as defined in the paper. The principal aim of the proposed commission would be to facilitate negotiation between the parties.

(Mr. Voicu, Romania)

21. The United Nations should take more practical steps towards the settlement of disputes and should provide more effective support for the parties to disputes. As the Secretary-General had said in his report on the work of the Organization (A/42/1), "the peaceful resolution of problems depends more than anything else on a convergence of interests. ... The beginning ... of the translation of this convergence into practical agreements needs to be, and can be, pursued in sustained dialogue and negotiations". In that context, the peaceful settlement of disputes must not be seen solely as an abstract principle, but as a concrete action: effective use must be made of the various ways and means to implement the principle, and all its elements must be taken into account. His delegation reaffirmed its support for the drafting of a handbook on the peaceful settlement of disputes between States, and applauded the efforts of the Special Committee and the Secretariat to finalize the text.

22. Lastly, he expressed the hope that Romania's proposal concerning resort to a commission of good offices, mediation or conciliation would receive all the attention it deserved, and that the Special Committee would be able to complete its consideration of the proposal at its next session.

23. Mr. PAMBOU TCHIVOUNDA (Gabon) said that his delegation appreciated the high quality of both the form and the substance of the Special Committee's report (A/42/33), which had drawn attention to the fundamental and ideological unity of two topics, namely, the peaceful settlement of disputes and the rationalization of existing United Nations procedures. The report was an expression of the desire to respond to the many complaints which had been made against the United Nations system.

24. His delegation was in favour of expediting the work on the draft handbook on the four means of peaceful settlement of disputes: inquiry, mediation, conciliation and good offices. The synthesis of those techniques, based on their common denominator, namely, their political nature, would make it possible to discern the nuances distinguishing them from one another. The revised version of the Romanian proposal concerning resort to a commission of good offices, mediation or conciliation within the United Nations was in the same spirit as Chapter VI of the Charter, as supplemented by the Manila Declaration. It was based on a realistic approach, as shown by at least four of its aims: firstly, to make up for the general nature of the provisions of the Charter with regard to what procedures could be recommended by the General Assembly or the Security Council in respect of the settlement of a dispute; secondly, to give a more active role to the parties to the dispute in initiating the advocated procedure; thirdly, to alter the relative importance of the role of law in the settlement of certain political disputes without detracting from that law; and fourthly, implicitly to recognize the constraints of the current jurisdictional system within the United Nations, which could be clearly seen in the subordination of the International Court of Justice to State voluntarism.

25. The Romanian proposal should be made more specific by defining the commission's mandate. The progression from the offer of good offices to the

(Mr. Pambou Tchivounda, Gabon)

conciliation phase could be influenced by factors which had no direct bearing on the dispute; the very comprehensiveness of the commission's functions might be an inherent weakness in the proposed system. The second half of paragraph 9, and paragraph 10 of the working paper should therefore be rewritten to provide that the submission of the commission's report should not be solely at the request of the parties to the dispute, and to specify what body would be empowered to decide whether direct negotiations had begun within a reasonable time. Moreover, a provision should be added concerning the financing of the commission.

26. With regard to the rationalization of existing United Nations procedures, the revised version of the working paper submitted jointly by France and the United Kingdom (A/42/33, para. 34) could generate similar initiatives with regard to other United Nations bodies, instead of applying only to the methods of the Special Committee. The Special Committee might develop an appropriate questionnaire to be addressed to the various bodies, including those specialized agencies, to gather information on the practices followed by those bodies in applying their rules of procedure. Moreover the rationalization of existing procedures would be helped by an assessment of the way in which the various bodies were co-ordinated. Subject to those general considerations, his delegation would have supported the second revised version of the working paper, had it not contained a disturbing contradiction. The adoption of General Assembly resolutions by consensus, far from strengthening the authority of the United Nations, weakened their scope and jeopardized their applicability. Instead, existing United Nations procedures could be rationalized by reverting to the type of resolution which had served as a basis for the international law of decolonization, for example. Rationalization required, on the one hand, the retention of procedures which had proved their worth by giving authority to the decisions of the General Assembly, and, on the other hand, an honest review of the procedures which had led to a vast number of ineffective resolutions. His delegation therefore advocated the renewal of the Special Committee's mandate so that those questions could be studied further.

The meeting rose at 11.30 a.m.