

United Nations
**GENERAL
ASSEMBLY**

FORTY-SECOND SESSION

*Official Records**



SIXTH COMMITTEE
28th meeting
held on
Wednesday, 21 October 1987
at 10 a.m.
New York

SUMMARY RECORD OF THE 28th MEETING

Chairman: Mr. AZZAROUK (Libya: Arab Jamahiriya)

CONTENTS

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)

AGENDA ITEM 129: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)

AGENDA ITEM 126: MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES

(a) REPORT OF THE SECRETARY-GENERAL

(b) CONVENING, UNDER THE AUSPICES OF THE UNITED NATIONS, OF AN INTERNATIONAL CONFERENCE TO DEFINE TERRORISM AND TO DIFFERENTIATE IT FROM THE STRUGGLE OF PEOPLES FOR NATIONAL LIBERATION

*This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned within one week of the date of publication to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

The meeting was called to order at 10.10 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) (see A/C.6/42/L.1)

1. Mr. RIANOM (Indonesia) said that the Reykjavik summit meeting between the leaders of the United States of America and the Union of Soviet Socialist Republics had marked an important turning-point. The proposals and ideas discussed were indicative of a positive evolution in the relations between the world's two most powerful nations. The International Year of Peace, celebrated in 1986, had helped to focus attention on the question of human survival and the need for co-operation. The deliberations at the forty-first session of the General Assembly had contributed to the clarification of views and the promotion of understanding among Member States.

2. His delegation noted with satisfaction the progress made by the Secretariat with regard to the handbook on the peaceful settlement of disputes between States. The hopes expressed by the Secretariat concerning the submission of four sections to the Consultative Group were commendable. Indonesia expected that work on the item would proceed on a priority basis.

3. The Romanian proposal on a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.1) raised certain issues which required clarification, such as the relationship between the proposed commission and the existing organs of the United Nations, as well as the financial implications of the initiative. The existing arrangement established by the Charter concerning the roles played by the General Assembly, the Security Council and the Secretary-General should be maintained. Resort to the commission should be at the sole discretion of the Member States; that would confirm the traditional principle of free choice of means.

4. The question of the rationalization of existing procedures of the United Nations had been considered at length by the Asia-African Legal Consultative Committee, which had formulated a set of recommendations concerning the functioning of the General Assembly. The implementation of those recommendations would contribute significantly to the enhancement of the authority of the United Nations. Attention should also be focused on the Security Council and the Secretary-General, with a view to strengthening their roles in conflict situations.

5. The revised working paper on the maintenance of peace and security (A/AC.182/L.38/Rev.3) constituted a useful basis for future work. The other working paper (A/AC.182/L.48) contained some elements worthy of consideration. His delegation hoped that, at the next session, it would be possible to arrive at points of convergence between those two documents, so that the way could be paved for a constructive discussion of the issues involved.

(Mr. Rianom, Indonesia)

6. His delegation hoped that the spirit of co-operation and compromise alluded to by the Chairman of the Special Committee would be continued at its future sessions. Indonesia also hoped that the Special Committee would redouble its efforts to fulfil expeditiously its task of improving the functioning of the United Nations, so that the confidence reposed in it by all Member States could be maintained.

7. Mrs. KUMI (Ghana) said that the question of strengthening the role of the United Nations deserved the attention of all Member States, especially since the Organization was going through a crisis of confidence.

8. The peaceful settlement of disputes, the maintenance of peace and security, and the rationalization of existing procedures of the United Nations were interrelated topics. It was obvious that the peaceful settlement of disputes was fundamental to the maintenance of international peace and security. The Charter took cognizance of that reality of international relations and provided the institutional mechanisms to permit the settlement of disputes. However, the ability to settle disputes depended to a great extent on the efficacy of the procedures of the Security Council and the United Nations as a whole.

9. The rationalization of existing procedures of the United Nations should encompass all the United Nations organs, because political stability, economic prosperity and social progress combined to create a peaceful and secure world, and because the United Nations had its presence in all those spheres. In that connection, her delegation fully supported paragraph 24 of the Special Committee's report (A/42/33). The rationalization measures proposed in document A/AC.182/L.43/Rev.1 were not limited to the General Assembly; many of them had already been recommended by other United Nations bodies.

10. Whatever the advantages of adopting resolutions by consensus, injudicious resort to that procedure could become a camouflage for the exercise of veto powers. Article 18 of the Charter stated that decisions were to be made through a system of voting. Consensus had been used as a tool by minority groups to block the adoption of draft resolutions. No action that was likely to prejudice the provisions of Article 18 of the Charter should be entertained. Her delegation recommended that the Special Committee should reconsider the time that should be spent on document A/AC.182/L.43 and the points that should be looked at again at its next session.

11. Her delegation noted the constraints and the lack of personnel which had made it impossible for the Secretariat to submit the handbook on the peaceful settlement of disputes between States. When completed, the handbook would constitute a positive contribution to the enhancement and diffusion of that important principle.

12. Her delegation wished to commend the Romanian delegation for its proposal on a commission of good offices, mediation or conciliation within the United Nations, and for its flexibility, which had resulted in a second revised version of document A/AC.182/L.52. The new version left a number of questions unresolved, such as the

(Mrs. Kumi, Ghana)

relationship between the commission and the United Nations. Another question was whether the commission would necessarily have to be established at the initiative or under the auspices of the United Nations, as implied in the first eight paragraphs of document A/AC.182/L.52/Rev.1. There were also questions about the role of the International Court of Justice in the establishment of the commission, and the method of financing the commission.

13. Her delegation noted with satisfaction the efforts made to merge documents A/AC.182/L.38/Rev.3 and A/AC.182/L.48. In view of the progress made on the draft declaration on the prevention and removal by the United Nations of disputes, situations which might lead to international friction or give rise to a dispute and matters which might threaten the maintenance of peace and security, there was cause to hope for the early completion and wide acceptance of the draft. That progress was linked in no small measure to the completion of the draft Declaration on the principle of non-use of force, and the emphasis on preventive diplomacy.

14. Her delegation took note of the various forms of preventive diplomacy practised by the Secretary-General on the advice of the Security Council and the General Assembly, and was ready to make its contribution at the next session of the Special Committee.

15. Mr. VELASCO (Peru) said that his Delegation had closely followed the work of the Working Group. The questions relating to the peaceful settlement of disputes between States, the maintenance of international peace and security, and the rationalization of existing procedures of the United Nations all had precedents in various General Assembly resolutions and various international instruments.

16. At the current stage in the Special Committee's work, a certain amount of progress had been made and amendments likely to improve the text had been submitted. Under positive international law, there were natural exceptions to the freedom of choice of means in cases where international instruments had pre-established, by agreement among the parties, their own procedures for the settlement of disputes.

17. The development of international law was an ongoing process which should focus on the consolidation of such basic principles as non-use of force, non-interference, and respect for treaties. In today's world, the peaceful settlement of disputes was an inescapable option in the consolidation of peace and the preservation of the international legal order. It was essential to improve the system of peaceful settlement of disputes by progressively developing international law and cementing international peace and security.

18. His delegation wished to reiterate the comments it had made at the thirty-seventh session of the General Assembly, when the Manila Declaration on the Peaceful Settlement of International Disputes had been adopted.

19. Mr. VOICU (Romania) said that the debate in the General Assembly had highlighted the interest of virtually all delegations in strengthening and perfecting the role of the Organization in the light of current problems and the new requirements created at all levels by contemporary international life. The consolidation of multilateralism called for the strengthening of the role of the United Nations as a natural instrument of co-operation among States in all sectors of international relations.

20. He wished to refer to document A/42/562 of 14 September 1987, which contained the considerations and proposals of President Nicolae Ceaucescu with regard to the major issues of international life on the agenda of the forty-second session of the United Nations General Assembly. That document emphasized the need for a new way of thinking and of resolving the complex issues of war and peace and the economic and social development of peoples. It stated that that situation called more than ever before for the United Nations to act with all determination to enhance its role in resolving the issues of international life. The particularly grave and complex international situation required a new effort to strengthen the Organization. In the complex process of a collective search for ways to enable the United Nations to perform its essential functions, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had an important and useful role to play.

21. In accordance with the original mandate of the Special Committee, set forth in General Assembly resolution 3499 (XXX) of 15 December 1975, the Committee was to examine the observations received from Governments concerning suggestions and proposals regarding the Charter of the United Nations and the strengthening of the role of the Organization with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States.

22. His delegation had frequently observed that the Special Committee must be an effective tool for carrying out a detailed consideration of the main questions relating to the improvement of the Organization's structures and functioning. On 15 October 1987 it had expressed its views on the place which the question of the peaceful settlement of disputes should occupy in the Special Committee's activities. His delegation considered that, on the basis of the progress made, the Special Committee could, in 1988, complete its consideration of the proposal on resort to a commission of good offices, mediation or conciliation within the United Nations and submit its conclusions to the General Assembly.

23. He thanked the representative of Finland for saying that the Romanian proposal had been prudently prepared from a legal standpoint, had been widely discussed and was ready for finalization. He also thanked the representative of France for expressing the hope that the Special Committee would soon complete its work on the question before the Sixth Committee.

24. All the Special Committee's activities revolved around the idea that the strengthening of the role of the United Nations could not be separated from the maintenance of international peace and security or the peaceful settlement of

(Mr. Voicu, Romania)

disputes. In that regard, he quoted the statement by the Secretary-General in his report on the work of the Organization (42/1) to the effect that although the Charter of the United Nations defined the principles to be followed in gaining peace, what had too often been lacking was the readiness of Member States to put aside national differences and national ambitions and work together towards common goals. Romania approached the item on the maintenance of international peace and security on the basis of its conviction that the United Nations should play a primary role in solving the major problems confronting mankind.

25. He welcomed the efforts of the sponsors of document A/AC.182/L.38/Rev.3 containing a draft declaration on the prevention and removal of disputes or situations which might lead to international friction and emphasized the interest and value of documents A/AC.182/L.48 and A/AC.182/L.54 and of the informal proposals submitted by the Soviet Union at the Special Committee's latest session. Although progress had been made in the consideration of the draft declaration, general agreement had not been reached on all its elements, and it was therefore necessary to continue working to improve all the paragraphs of the draft. It had already been shown that the Organization could not perform its preventive function in a vacuum, independently of the actual behaviour of States and their respect for the principles and norms of international law. It was sovereign States which were responsible for maintaining international peace and security and preventing and removing threats to peace.

26. His delegation believed that, if a comprehensive view were taken of the constituent elements of the Organization's preventive function, the Special Committee would be able to fulfil its mandate. That would also require the active and constructive participation of all those who believed that in order to strengthen the role of the United Nations it was necessary to adopt, on a permanent basis, energetic measures aimed at increasing the Organization's ability, authority and prestige in order to enable it to achieve its fundamental objectives.

27. With respect to the rationalization of existing procedures of the United Nations, his delegation continued to question the way in which that issue had been conceived by its sponsors. Nevertheless, Romania had played an active part in the discussion of the working paper submitted by France and the United Kingdom (A/AC.182/L.43/Rev.2), and he thanked the sponsors for their contribution.

28. His delegation had observed on many occasions that the Organization's financial difficulties could and should be resolved without affecting its priorities, its structures and the democratic mechanisms for its functioning and decision-taking, and that no measures should be adopted that limited or reduced its basic activities or affected the principles of the United Nations and the sovereign equality of States. To that end, more attention should be paid to the future activity of the Special Committee. His delegation also believed that the Special Committee's activities would be more effective if all its members devoted themselves to the attainment of its fundamental objective and agreed on the adoption of efficient measures to strengthen the Organization's capacity for action. With a mandate extended by consensus and with a common denominator in the

(Mr. Voicu, Romania)

position of States regarding the priorities for the Special Committee's activities, that Committee would be able to submit in 1988 a report containing recommendations of immediate practical value relating to the maintenance of international peace and security and the peaceful settlement of disputes. His delegation considered that the Special Committee's mandate for 1988 should cover all the questions entrusted to it and define its items clearly, so as to avoid contradictory interpretation concerning the actual tasks to be performed. Romania was convinced that the spirit of co-operation of all delegations would make it possible to find consensus solutions that would render the Special Committee's future activities productive.

29. Mr. ABADA (Algeria) said that the broad scope of the principles and ideals of the United Nations had enabled the Organization to keep pace with the march of history, but the lack of political will that had often characterized the attitude of some within the United Nations, paralysing its organs and turning its decisions into dead letters, had often caused it to lag behind reality, thus disappointing the legitimate expectations of the peoples of the world. The establishment of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had reflected the concern of those who felt that, in the interest of all, the structures and activities of the United Nations must be adapted to the important qualitative changes that have taken place in the international community since the end of the Second World War. Although the current results of the Special Committee's work were still incomplete and somewhat inconclusive, the process of seeking and formulating new solutions had thus been irreversibly begun.

30. Although the Special Committee's report on its 1987 session described no important achievements, it did at least enable the members of the Sixth Committee to make observations and suggestions which, if they embodied audacious and innovative solutions to the problems that jeopardized the work of the Organization, would augur well for the future of the Special Committee. Of the three items considered at the latest session, it was the results relating to the item on the maintenance of international peace and security that reflected the Special Committee's dynamism and justified the energy invested in its work and the interest taken in it by the General Assembly.

31. His delegation was particularly interested in ways in which the Special Committee could achieve real results in the near future, especially in the sphere of the maintenance of international peace and security. In that connection, he felt that document A/AC.182/L.38/Rev.3, on the prevention of disputes, could be perfected and much improved if it was harmonized with other proposals, such as that set forth in document A/AC.182/L.48, before the next session. His delegation also supported the inclusion of the Chinese proposal contained in document A/AC.182/L.50.

32. As to the role of States, Algeria had already emphasized earlier that States should bear in mind their obligations in their international relations and when carrying out the responsibilities incumbent upon them by virtue of their membership in a particular organ of the United Nations.

(Mr. Abada, Algeria)

33. The Sixth Committee had heard many constructive statements which were encouraging for the future work of the Special Committee, especially those that expressed concern for the democratization of international relations, an objective pursued by the non-aligned countries within the United Nations. Algeria trusted that those statements would find a favourable echo among all Members and that at its next session the Special Committee would achieve tangible results. Only in that way would it be possible to avoid the frustration already felt by the majority of Member States in the face of the intransigent attitude of some countries which wished to maintain their privileged positions of force.

34. With regard to the proposal to establish a commission of good offices, mediation or conciliation within the United Nations, bearing in mind that some Members still questioned its usefulness or other aspects such as the link with the United Nations system and the type of financing, Algeria considered that a new and more detailed examination should be carried out to dispel the doubts that existed.

35. On the question of the rationalization of existing procedures of the United Nations, Algeria maintained the view that the Special Committee would be relieved of a burden if the matter were referred to other bodies, such as the General Committee, the Fifth Committee or the Committee on Conferences.

36. Ms. NORIEGA (Panama) said that the Special Committee had been entrusted with the task, by General Assembly resolution 41/83, of considering, as a matter of priority, the item on the maintenance of international peace and security, and had been requested, in resolution 41/74, to continue its work on the question of the peaceful settlement of disputes between States. It had also been urged to continue examining the item on the rationalization of the procedures of the United Nations.

37. The Special Committee had spent most of its time on the consideration of the maintenance of international peace and security. In that connection, it had had before it document A/AC.182/L.38/Rev.3, submitted by several Western countries, highlighting the prevention of disputes. That document had met with wide acceptance among the members of the Committee, which had also had before it document A/AC.182/L.48, submitted by three Eastern European countries. The latter document took a broader approach to the strengthening of the role of the United Nations and its substantive organs with regard to the maintenance of international peace and security. New amendments had also been proposed, including one submitted by China (A/AC.182/L.54). It reflected the concerns of many delegations, in particular the concerns of the Group of Non-Aligned Countries. In the opinion of her delegation, the progress achieved in the Special Committee's work on the question, the constructive spirit which had prevailed at its sessions and the wise system of holding preliminary informal discussions provided an optimistic basis for expectations of widespread agreement at future sessions. Her delegation considered that discussion of the question should be pursued as a matter of urgency since it was extremely important for the improvement and strengthening of the role of the United Nations in the prevention and settlement of international disputes, through wider and better use of its mechanisms. States must be more aware of the responsibility they assumed for acts that were contrary to the international legal order.

(Ms. Noriega, Panama)

38. Consideration of the item on the rationalization of the procedures of the United Nations had been based on document A/AC.182/L.43/Rev.1 and 2, submitted by the United Kingdom and France, which focused on the modus operandi of the General Assembly. That document had not received sufficient support. Since the matter was under discussion in a number of bodies, her delegation was sceptical about the usefulness of also considering it in the Special Committee, which, owing to current limitations on time and other constraints, might not be able to give it the priority it deserved. In regard to the same matter, her delegation noted the strategy of a well-known group of countries which devoted themselves to obstructing and frustrating the substantive work of the Special Committees, by claiming that they were not performing their tasks, that their mandates should be changed or that they should be abolished. That had happened in the case of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; any attempt to achieve results on the question of the maintenance of international peace and security had been frustrated. That reflected a negative political will, on efforts to prevent the United Nations from working in an effective manner, and had already resulted in creating a negative image of the Organization.

39. Her delegation believed that the second and more significant achievement of the Special Committee at its twelfth session related to the item on the peaceful settlement of disputes. The failure by States to observe that mechanism had a direct effect on the maintenance of international peace and security. Two documents had been under consideration in connection with the item: the report of the Secretary-General on the progress of work on the draft handbook on the peaceful settlement of disputes between States (A/AC.182/L.51) (a handbook which it had not been possible to complete owing to the lack of personnel caused by financial problems); and the proposal for the establishment of a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.1). That was a remedy that could be made available to States as a follow-up to General Assembly resolution 2625 (XXV), by which the Assembly had endorsed the 1970 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, and as a follow-up to resolution 37/10 of 1982, by which the Assembly had endorsed the Manila Declaration on the Peaceful Settlement of International Disputes.

40. In the opinion of her delegation, document A/AC.182/L.52/Rev.1 was a significant improvement over previous documents in that it explained the nature of the proposed commission in greater detail, and made it clear that it was not a mechanism that was contrary to the provisions of the Charter, disturbed the balance between existing mechanisms, or undermined their efficiency, but, on the contrary, one that would serve to strengthen the role of the United Nations. The Special Committee had therefore been able to make definite progress in the discussion of the item, and although some delegations had continued to express reservations, it seemed probable that consideration of the establishment of the commission of good offices would continue to make progress at the Committee's forthcoming sessions.

(Mr. Noriega, Panama)

41. In that regard, her delegation wished to refer to the Contadora process, as it had participated in it. That was an instance of mediation in the regional context where the efforts had culminated in the achievement of a subregional peace plan. The four options referred to in paragraph 2 of the proposal set forth in document A/AC.182/L.52/Rev.1 presupposed the political will of the parties to the dispute to submit to mediation, as long as the mediators were somewhat open to persuasion or were called upon to act in that capacity. Within the Contadora Group, the process had been almost the reverse, since the mediators, who had been highly motivated and had had the political will, had used their wits and the means at their disposal to activate and, in some cases, to produce the necessary political will among the parties to the dispute.

42. The experience with the Contadora process could be useful in approaching the practical problems which inevitably had to be tackled in a mediation process. The action of the Contadora Group had always been consistent with the principles, procedures and mechanisms on which the provisions of international law, the Charter of the United Nations and the Charter of the Organization of American States were based. The purpose of the Contadora effort had been to dissuade certain countries from ever pursuing any warlike option. The mediators were neighbouring countries which shared common regional interests and which had drawn attention to the need to intensify the dialogue at the Latin American level. From the outset, the Ministers for Foreign Affairs of the Group had been deeply concerned at the foreign intervention and had pointed out that it was highly undesirable to place the disputes of Central America within the context of East-West confrontation. The Contadora Group had always insisted on a comprehensive solution to the problems of the area, giving priority to that approach over any bilateral problems. By virtue of diplomatic perseverance and bold decisions, it had been possible to introduce innovative proposals and ideas to reconcile interests that were entirely opposed, as pointed out by the former Panamanian Minister for Foreign Affairs, Oydén Ortega Durán. However, it had at all times been obvious that the fulfilment of the peace objectives depended on the political will of the States of the subregion themselves. There had been dark moments but, as the President of Costa Rica had stated before the General Assembly, it was never darker than just before the dawn. The Esquipulas II agreement, signed at Guatemala City on 7 August 1987, which contained a "procedure for the establishment of a firm and lasting peace in Central America", represented that dawn. The General Assembly, in draft resolution A/42/L.2, which had been unanimously adopted, had endorsed the Guatemala agreement and had requested the international community to give its full support to it.

43. The Contadora process had had the unstinted support of a large number of nations, which had been a great stimulus in its development. Also, the President of Costa Rica had been awarded the Nobel Prize for Peace at a propitious moment for furthering the implementation of the plan. One major Power, however, which apparently did not want peace, insisted, regardless of the expressed wishes of the Presidents of five sovereign countries, on interfering and openly taking action with the object of bringing about the collapse of the peace plan, even though that was contrary to international public opinion and in open violation of the Manila Declaration and the provisions of the Charter of the United Nations. The acts of the country in question were a denial of its assertions and afforded grounds for regarding it as an enemy of peace.

44. Mr. MAKTARI (Yemen) said that an objective analysis of document A/42/33, containing the report of the Special Committee on the Charter, revealed the concern of many States at the violations of the principles of the Charter, which highlighted a lack of political will. The strengthening of the role of the Organization could not be based solely on statements and resolutions that were not implemented nor could it depend on a single organ. The maintenance of international peace and security was the responsibility of all Member States and involved the renunciation of war, the peaceful settlement of disputes and the non-use of force or the threat of its use. His delegation supported every effort made to settle disputes by peaceful means, whether through a commission of good offices, mediation or conciliation within the United Nations or by other means within the framework of the Organization or of regional organizations.

45. International disputes could certainly be settled if the following conditions obtained: compliance with the principles and objectives of the Charter and recourse to the General Assembly, Security Council or International Court of Justice when a dispute arose, and implementation of the decisions of those organs.

46. With regard to the rationalization of the procedures of the United Nations, his delegation considered that, as a first step, duplication of work should be eliminated and resolutions having an economic and social content should be implemented. The concept of consensus had still not been clarified owing to the lack of legal elements. The actual idea would not have emerged had the negotiations not reached an impasse. Consensus undermined the essence and the objectives of the resolutions and was not consistent with the Charter.

47. His delegation favoured the extension of the mandate of the Committee, which should also consider such complicated issues as the use of the veto in the Security Council and the application by States of the resolutions of the Security Council and General Assembly as well as of the decisions of the International Court of Justice.

AGENDA ITEM 126: MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES (A/42/519 and Corr.1 and Add.1, A/42/193 and Add.1-3; A/C.6/42/L.1 and L.2; A/42/564)

(a) REPORT OF THE SECRETARY-GENERAL

(b) CONVENING, UNDER THE AUSPICES OF THE UNITED NATIONS, OF AN INTERNATIONAL CONFERENCE TO DEFINE TERRORISM AND TO DIFFERENTIATE IT FROM THE STRUGGLE OF PEOPLES FOR NATIONAL LIBERATION

48. Mr. FLEISCHHAUER (Under-Secretary-General, Legal Counsel) said that, on 18 September 1987, the General Assembly had decided that item 126 on international terrorism should be allocated to the Sixth Committee on the understanding that a

(Mr. Fleischhauer)

short general debate on the item would be held at a plenary meeting. That debate had taken place on 20 October 1987, and the representative of Libya had introduced sub-item (b).

49. International terrorism had attracted the concern of the General Assembly since 1972 when an item had been included on the agenda at its twenty-seventh session in 1972, resulting in the establishment of an Ad Hoc Committee on International Terrorism. The Ad Hoc Committee had met in 1973, 1977 and 1979 and had produced a report (A/34/37) containing recommendations relating to practical measures of co-operation for the speedy elimination of the problem of international terrorism.

50. By resolution 40/61, the latest resolution on the subject, the General Assembly had unequivocally condemned as criminal all acts, methods and practices of terrorism wheresoever and by whomsoever committed, including those that jeopardized friendly relations among States and their security. It had also called upon States to undertake certain measures, individually, collectively and through appropriate international organizations, to fulfil their obligations under international law in connection with various aspects of international terrorism. In that resolution, the General Assembly had encouraged the International Civil Aviation Organization (ICAO) to continue its efforts to promote universal acceptance of and strict compliance with international air security conventions. It had also requested the International Maritime Organization (IMO) to study the problem of terrorism aboard or against shipping with a view to making recommendations or adopting appropriate measures. Those two specialized agencies had responded to that request.

51. At that stage, the question of international terrorism had engaged not only the attention of the General Assembly but also the concern of the Security Council. In that connection, the Security Council, by resolution 579 (1985) of 18 December 1985, had condemned unequivocally all acts of hostage-taking and had called for the immediate release of all hostages and abducted persons. On 30 December 1985, the President of the Security Council had made a statement on behalf of the members of the Security Council in which they had condemned the unjustifiable and criminal terrorist attack at the airports of Rome and Vienna which had caused the loss of innocent lives. On that occasion the Security Council had reaffirmed resolution 579 (1985) and had endorsed the Secretary-General's statement of 27 December 1985 in which he had noted the latest General Assembly resolution on international terrorism. At the same time the Security Council had expressed its hope that the General Assembly resolution would be followed by determined efforts by all Governments and authorities concerned in accordance with established principles of international law in order that all acts and practices of terrorism might be brought to an end.

52. The report of the Secretary-General on the subject of international terrorism was divided into three parts. Part I set out the relevant operative paragraphs of resolution 40/61. Part II contained replies received from Governments in response to the note verbale of the Secretary-General dated 18 April 1986 inviting

(Mr. Fleischhauer)

Governments to communicate to him views and comments concerning the implementation of resolution 40/61 which he could use in the preparation of the report as requested in paragraph 14 of that resolution. Part III contained replies received from international intergovernmental organizations in response to a letter by the Legal Counsel dated 13 February 1986 inviting them to communicate to him any information or relevant material deemed to be appropriate for inclusion in the report of the Secretary-General. The report also had an annex which gave the status of signature, ratification of or accession to the five international conventions listed therein relating to various aspects of the problem of international terrorism.

53. With respect to part III of the report, the International Civil Aviation Organization had scheduled an international conference in Montreal from 9 to 24 February 1988 to consider a draft protocol supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971. Also, the International Maritime Organization had scheduled a diplomatic conference from 1 to 2 November in Rome to consider the adoption of a convention on the suppression of unlawful acts against the safety of maritime navigation.

54. With respect to the annex, since the issuance of the previous report of the Secretary-General, seven States, namely, Bahamas, China, Democratic Yemen, Egypt, Japan, New Zealand and Spain, had become parties to the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and 16 States, namely, Antigua and Barbuda, Austria, Byelorussian Soviet Socialist Republic, Canada, Denmark, Dominica, Hungary, Italy, Japan, Jordan, Malawi, Mexico, Senegal, Togo, Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics had become parties to the 1979 International Convention against the Taking of Hostages. China had not been mentioned in the report in regard to the former Convention nor had Denmark and Hungary in connection with the latter Convention since in all three cases the relevant instrument of accession had been received after the date of the submission of the report. The trend to expand participation in international convention was firm evidence of the desire to contribute to the strengthening of international co-operation aimed at combating international terrorism.

55. Apart from the report, there were a number of documents which had been submitted under agenda item 126 and circulated as official documents of the General Assembly in accordance with the requests of Member States. Those documents were listed in part two of the note by the Secretary-General on the organization of work of the Sixth Committee (A/C.6/42/L.1). At a later stage documents A/42/564 and A/42/193 and Add.1-3 had been issued. A group of Member States had also submitted a draft resolution contained in document A/C.6/42/L.2.

56. The importance of the item had been underscored both by the General Assembly and by the Security Council. The Secretary-General had said that acts of terrorism, which had spread to virtually all parts of the world, were exceptionally difficult to cope with and that the most tragic aspect of the problem was the

(Mr. Fleischhauer)

increasing loss of innocent civilian lives. Some of the necessary international legal instruments were in place and it was time for concerted efforts to be made by Governments to implement them. On behalf of the Secretary-General he expressed the hope that the consideration of such a vital international problem would contribute to the eradication of the intolerable scourge of terrorism.

57. Mr. KIRSCH (Canada) said it was encouraging to note that the number of States becoming parties to the conventions relating to the problem of international terrorism was increasing steadily. Canada had joined the list of States parties to the International Convention against the Taking of Hostages. He hoped that the General Assembly would again urge those States which had not already done so to become parties to those conventions.

58. In 1987, the international community had reached a level of mutual co-operation and understanding which would have been difficult to imagine 15 years earlier. During that period it had been possible to make substantial progress thanks to the adoption of a pragmatic approach to combat terrorist acts through specific instruments rather than by considering theoretical or ideological aspects. That approach had been reflected in a number of conventions, which included the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the 1979 International Convention against the Taking of Hostages. Not only had it been possible to elaborate a number of legal instruments but at the same time the atmosphere in which the work had been performed had greatly improved while the same spirit of co-operation and conciliation had been shown in recent months by the sponsors of the various proposals on the issue of terrorism. Such rapprochement explained how the General Assembly had been able to approve, without a vote, resolution 40/61 which, for the first time in the history of international relations, had unequivocally condemned all acts, methods and practices of terrorism as criminal; as such it represented an unprecedented declaration of solidarity by all Member States of the United Nations.

59. The delegation of Canada wished to stress the importance of the Diplomatic Conference on the Law of the Air which the International Civil Aviation Organization (ICAO) had convened in Montreal from 9 to 24 February 1988 with a view to studying and approving an additional protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed in Montreal in 1971; he hoped that such an instrument would be approved. In regard to the diplomatic conference convened by the International Maritime Organization (IMO) to approve the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and an annexed draft protocol, Canada, which had participated actively in the preparation of those instruments, hoped that they would be approved. The efforts of ICAO and IMO demonstrated the type of useful measures which the international community could adopt on the issue. Further examples were the Declaration on Terrorism drafted by the summit meeting of the seven industrialized countries held in Venice on 9 July 1987 and the Declaration of the Commonwealth Countries in Vancouver on 17 October 1987.

(Mr. Kirsch, Canada)

60. Those precedents should be borne in mind in considering the draft contained in document A/42/193, regarding the convening, under the auspices of the United Nations, of an international conference to define terrorism and to differentiate it from the struggle of peoples for national liberation. After careful study of that proposal, his delegation considered that its acceptance would not produce beneficial results. General Assembly resolution 40/61 had been adopted after a long series of unsuccessful efforts, starting with the decision adopted by the General Assembly in 1972 in its resolution 3034 (XXVII) to set up the Ad Hoc Committee on International Terrorism. That resolution had been adopted in difficult circumstances and the mandate of the Ad Hoc Committee had been ambiguous and controversial, leading to serious difficulties in its work. The Ad Hoc Committee had only been able to achieve limited success in 1979 thanks to the concerted will of its members to concentrate its conclusions on those elements on which it was possible to achieve unanimity while omitting those elements on which there continued to be deep divisions. In the same year, 1979, the General Assembly had approved a resolution on which it had not been possible to obtain general agreement. Consequently it was no accident that, in its resolution 40/61, the General Assembly had called upon all States to observe and implement the recommendations of the Ad Hoc Committee on International Terrorism contained in its 1979 report rather than the conclusions of the General Assembly itself during the same year.

61. His delegation considered that a number of difficult questions remained to be solved although they had been examined repeatedly. Those included the relationship between measures to prevent international terrorism and the study of its underlying causes; the relationship between international terrorism and national liberation movements; the concept of State terrorism; the legitimacy of the measures adopted by States to fight against international terrorism; and, finally, a proper definition of international terrorism. A fresh examination of those questions would not produce better results than those which had already been achieved as the international problems underlying the deep divisions which existed on the issue had not yet been resolved. The report of the International Seminar on the Phenomenon of Terrorism in the Contemporary World and its Impact on Individual Security, Political Stability and International Peace, held under the auspices of the Organization of the Islamic Conference (A/42/564) contained a summary of the most difficult problems connected with the issue.

62. Against that background the delegation of Canada had reached a number of conclusions: first, it was encouraging that the international community had demonstrated increasing awareness of the gravity of the problem of international terrorism and of the need to condemn it unequivocally and to wage a concerted struggle against it; second, that the international community was convinced that the issue should be pursued on the basis of general agreement; third, and less encouraging, was the reappearance of problems which for the time being seemed to be insoluble and threatened to weaken the basis of the unity which had been achieved after considerable efforts. There was no question of denying the existence or importance of those problems. Nevertheless, the Sixth Committee, as the legal organ of the Organization, must continue to build on what it had already achieved,

(Mr. Kirsch, Canada)

reducing to a minimum the risk of confusion and controversy. The proposal contained in document A/42/193 carried with it the danger of retreat and the loss of the unity which had been achieved notwithstanding the good intentions which had inspired it. His delegation did not think that it would be possible to achieve consensus on the definition of terrorism and feared that a conference for the purpose of defining terrorism and differentiating it from the struggle of peoples for national liberation would strengthen the false impression that there was an intrinsic and unstated linkage between the two phenomena. His delegation could not accept the legitimacy of such a link and believed that other States and the national liberation movements themselves would also find it unacceptable.

53. He then introduced draft resolution A/C.6/42/L.2, on behalf of Canada and the following countries: Australia, Austria, Belgium, Denmark, Finland, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Norway, the Netherlands, Portugal, Spain, Sweden, Turkey and the United Kingdom of Great Britain and Northern Ireland. All the sponsors of that draft resolution were aware of the historic importance of General Assembly resolution 40/61 and had therefore sought to use its solid foundations as a basis for intensifying the struggle against terrorism. After commenting on various aspects of the draft resolution, he said that it was based largely on the text of General Assembly resolution 40/61 and included new modest but practical measures that the international community could take to continue its struggle to eradicate terrorism. The sponsors considered it essential that in 1987 no measure should be adopted that might weaken the international community's determination to eliminate the scourge of terrorism. Whatever causes it might invoke, terrorism could be neither excused nor tolerated, but must be fought. The sponsors of the draft resolution were wholeheartedly committed to that struggle and hoped that all Member States would demonstrate similar commitment at the current session, thus maintaining the spirit of General Assembly resolution 40/61.

64. Mr. BROWN (Australia) said that the item under consideration was the most important one before the Sixth Committee at the current session. He recalled that General Assembly resolution 40/61 had been adopted without a vote and expressed the hope that it would be possible to achieve similar results at the current session, once again condemning all acts of terrorism without any qualification whatsoever. In view of the widespread support obtained by General Assembly resolution 40/61 in 1985, it was somewhat surprising that more States had not responded to the Secretary-General's invitation to communicate to him their views and comments concerning the implementation of that resolution. Australia's views were contained in the communication dated 16 April 1987 set out in the Secretary-General's report (A/42/519). In future reports it would be desirable to include among the international conventions relating to the various aspects of the problem of international terrorism the Convention on the Physical Protection of Nuclear Materials adopted in Vienna in 1980.

65. Various measures must be taken to prevent international terrorism. First, the United Nations must reaffirm the unequivocal condemnation of all forms of terrorism. Australia had always been opposed to recourse to terrorism as a means

(Mr. Brown, Australia)

of resolving political differences. Terrorism recognized no rules and respected no moral standards and its victims were almost always innocent people. Second, there should be no giving in to terrorist demands. His Government had stated publicly that it would never give in to the political demands of terrorists. Third, there must be concerted international co-operation to combat terrorism. Australia saw such co-operation as the key to combating all forms of terrorism and had consistently encouraged that approach in international forums. That co-operation could be carried out within the framework of international agreements or in the form of informal co-operation among Governments. In that connection, he read out the portion on terrorism of the communiqué issued by the meeting of Commonwealth Heads of Government held in Vancouver on 17 October 1987. In that text, the Heads of Government, among other things, had reiterated their deep concern over the incidence of terrorism world wide and their condemnation of all terrorist activities, whether perpetrated by individuals, groups or States, and had renewed their pledge to counter terrorism by every means possible and to strengthen their co-operation, both formal and informal. Australia fully shared the views expressed in that communiqué. Fourth, there must be continuing commitment to the work done in the United Nations and the specialized agencies, particularly the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO), to combat terrorism. Australia had co-sponsored the Canadian initiative in ICAO to develop an instrument for the suppression of unlawful acts of violence at airports and would continue to work towards the adoption of a convention on that subject. It would also continue to participate actively in the work of the International Maritime Organization. Fifth, the necessary measures must be taken at the national level to give effect to what was agreed at the international level. Australia was a party to all the relevant conventions or was preparing legislation to give effect to them; it controlled the export of arms and munitions manufactured in Australia; it closely monitored the movement of persons convicted in, or expelled from, other countries for terrorist activities; it had extradition arrangements with 97 countries, and had strict immigration and visa controls. Since 1970, there had been only 36 terrorist incidents in Australia.

66. Lastly, the causes of terrorism must be removed. His Government had always sought to do that in its relations with other countries and peoples. One of the basic principles guiding Australia's foreign policy was the need to acknowledge the rights of the Palestinian people to self-determination, including their right to independence and their own State. Australia also considered that the South African Government's persistent refusal to dismantle apartheid and to negotiate fundamental reforms for the black community had led to a situation in which frustration was increasingly expressed in violent ways. However, violence could not be justified if alternative solutions existed. Those alternatives - peaceful negotiation, pressure (including sanctions), and peaceful settlement - must always be preferred to violence.

67. The representative of the Libyan Arab Jamahiriya had proposed in the plenary meeting of the General Assembly the convening of an international conference to define terrorism and to differentiate it from the struggle of peoples for national liberation. Such a conference would undermine the consensus that had been achieved

(Mr. Brown, Australia)

on the subject and would seek to legitimize certain acts of violence in a way that would be quite unacceptable to the Government of Australia. The communiqué issued by the Commonwealth Heads of Government gave no support to any proposal for the convening of an international conference on terrorism.

68. There were insuperable obstacles to any effort to define terrorism. In 1934, after the King of Yugoslavia had been assassinated in France, the Council of the League of Nations had convened an international conference which had drawn up in Geneva on 16 November 1937 a Convention for the Prevention and Punishment of Terrorism. Acts of terrorism were defined in article 1, paragraph 2, of that Convention. The Convention had required three ratifications to enter into force, but it had received only one. In its resolution 3634 (XXVII), the General Assembly had established the Ad Hoc Committee on International Terrorism. At its first session, that Committee had established a Sub-Committee of the Whole on the Definition of Terrorism, which had considered a number of proposals submitted by its members. Those proposals were set out in the annex to the Ad Hoc Committee's first report (A/8728). During the nine years that the Ad Hoc Committee had met, no agreement had been reached on a definition of terrorism. The sixty-first conference of the International Law Association, held in Paris from 26 August to 1 September 1984, had adopted a statement on the rules of international law applicable to international terrorism. Article 2 contained a definition of acts of international terrorism. Even within that relatively apolitical conference, that resolution had not been adopted without some dissent.

69. The convening of the conference requested by the Libyan Arab Jamahiriya would give rise to divergent views on an ideological issue on which the international community was unable to agree and would entail additional costs at a difficult time for the Organization. The same problems would beset any proposal to renew the mandate of the Ad Hoc Committee or to establish an international tribunal to investigate aspects of the problem. The Sixth Committee should condemn all acts of terrorism and intensify co-operation in practical ways to uproot international terrorism. All States must accede to existing international conventions and apply them effectively. That was the central element of the proposal contained in draft resolution A/C.6/42/L.2 co-sponsored by Australia. The challenge was not the convening of new conferences or the establishment of new bodies, but the use of existing machinery, the implementation of existing international agreements and compliance with the obligations imposed by international law.

The meeting rose at 12.30 p.m.