



SIXTH COMMITTEE
27th meeting
held on
Tuesday, 20 October 1987
at 4 p.m.
New York

SUMMARY RECORD OF THE 27th MEETING

Chairman: Mr. AZZAROUK (Libyan Arab Jamahiriya)

later: Mr. SCHARIOTH (Federal Republic of Germany)

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The meeting was called to order at 4.05 p.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/42/33; A/C.6/42/L.1)

1. Mr. SANCHEZ (Spain) said that his delegation wished to continue contributing to its utmost to the preparation of the four sections of the draft handbook on the peaceful settlement of disputes between States, which was basically a technical task whose completion should be neither delayed nor complicated by the current financial difficulties of the United Nations.

2. The working paper on a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.1) represented an improvement in comparison with the earlier working paper submitted by the Romanian delegation, but the text in question nevertheless required careful consideration in order to solve the remaining problems to which the Spanish delegation had referred in the Special Committee.

3. Consideration of the working paper on the rationalization of existing United Nations procedures, submitted by France and the United Kingdom (A/AC.182/L.43/Rev.2), should be continued in order to establish what possibilities there were in that area.

4. Considerable progress had been made on the text of the draft declaration submitted by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain in document A/AC.182/L.38/Rev.3, on the maintenance of international peace and security. It was most encouraging that in the debate on that working paper all the proposals submitted to the Special Committee had been taken into account, and it thus appeared that the resulting text would give rise to no substantive objections of major importance on the part of any delegation. It was therefore reasonable to expect that it would be possible to adopt the draft declaration at the Special Committee's following session and that the Sixth Committee would be able to recommend adoption of the draft to the General Assembly at its forty-third session. As a result, the Special Committee would have brought its consideration of the issue of the prevention of disputes to a successful conclusion.

5. Mr. ECONOMIDES (Greece) noted that while some progress had been achieved in the Special Committee during the current year in the matter of maintenance of international peace and security, concrete results were still lacking although work on that issue had continued for almost 12 years. The advances made were largely due to the efforts of the sponsors of the third revised version of the draft declaration (A/AC.182/L.38/Rev.3). The draft contained positive elements relating essentially to the practical aspects of the problem and represented a clear and

(Mr. Economides, Greece)

useful synthesis of solutions provided under the Charter and those deriving from United Nations practice. The structure of the draft represented a distinct improvement over the earlier versions. His delegation particularly supported the fifth preambular paragraph, referring to the obligation of States to conduct their relations with other States in accordance with international law, operative paragraph 11 concerning the possible role of the International Court of Justice, and the provisions designed to strengthen the role of the Secretary-General in the prevention of disputes. The proposal by three East European countries (A/AC.182/L.48), also considered by the Special Committee, likewise had interesting features and his delegation took the view that all those of its provisions directly or even indirectly relating to the prevention of disputes should be considered at the Special Committee's next session with a view to their possible incorporation in the draft Declaration. The same applied to the proposals appearing in paragraphs 46 and 102 of the Special Committee's report (A/42/33). It was time to integrate the various proposals before the Special Committee, thus avoiding unnecessary future delay. As for the proposals contained in working paper A/AC.182/L.48 which were not related to the prevention of conflicts, their consideration should, in his view, be deferred to a later stage. The Special Committee should complete its work on the draft declaration in the coming year so as to be able to turn its attention to other aspects of the problem of the maintenance of international peace and security, especially that of enhancing the effectiveness of the collective security system and that of systematic violations of United Nations decisions, a problem he had already mentioned with particular reference to the Cyprus issue during the discussion on agenda item 131.

6. Turning to the subject of peaceful settlement of disputes between States, he recalled that his delegation had from the outset supported the Romanian proposal. It was to be regretted that the latest revised version of the proposal (A/AC.182/L.52/Rev.1) failed to spell out the role of international law in the settlement of disputes between States. Paragraph 11 of that proposal was both weak and imprecise, and it was to be feared that the absence of a reference to international law might open the way to arbitrariness. It was his delegation's firmly held view that only disputes arising from differing interpretations of international law could be classified as international disputes; political disputes in which the object was to violate established laws were nothing but illegal claims which introduced an element of force into international relations. Indeed, a political dispute in which the intention of one of the parties was to violate the law already represented a threat to international peace and security within the meaning of the Charter and the other party to such a dispute had only one duty, that of self-defence. His delegation also wished to recall a suggestion it had made in the Sixth Committee on an earlier occasion to the effect that a system of compulsory conciliation might be adopted in the first instance with regard to disputes of an essentially technical nature and gradually extended to other categories of disputes, further settlement procedures being introduced, again on a selective basis, at a later stage.

7. In conclusion, he expressed the hope that the Special Committee would complete its work on the rationalization of existing procedures of the United Nations, without, however, allowing the issue to encroach upon time allocated to the

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priority issues on its agenda. He also reiterated his delegation's interest in the work being done on the draft handbook on the peaceful settlement of disputes between States and its support for a further extension of the Special Committee's mandate.

8. Mr. HABIMANA (Rwanda) stressed the importance of the draft handbook on the peaceful settlement of disputes between States to countries like his own, which lacked experience in that field. The slow progress being made on that project was therefore somewhat disappointing and he hoped that despite the complexity of the task and the Organization's current difficulties, the work would be completed in the near future.

9. Turning to the Romanian proposal on the resort to a commission of good offices, mediation or conciliation (A/AC.182/L.52/Rev.1), he remarked that the three proposed procedures could sometimes be very different from one another and should be treated separately. Moreover, since experience had shown that similar procedures set up in the past had been but little employed by States, something should be done to make the new procedures more attractive than those already in existence. The sponsor would do well to decide whether the proposed commission should or should not be linked to the United Nations system, specify by what legal act the commission would be established, and clarify further the nature of the commission's financing, personnel and operation and that of the role of the parties to the dispute.

10. With regard to the question of the rationalization of existing procedures of the United Nations, he favoured proposals for improving the work of various United Nations organs provided they were consistent with the Charter, respected the political activities of United Nations organs and took account of the principles of equality and sovereignty of States. Attempts made under the pretext of rationalization to encroach upon the rights of States and to restrict the scope of competence of certain United Nations organs were to be deplored. The working paper submitted by France and the United Kingdom (A/AC.132/L.43/Rev.2) dealt only with procedures of the General Assembly; unless its scope were extended to cover those of other United Nations organs, the very title of the proposal should be changed. Important as it was to simplify certain procedures of the General Assembly, other issues, such as that of means of giving effect to decisions in the economic and social fields, of promoting compliance with decisions of the International Court of Justice or of making the Security Council more operational, also needed consideration. As for the concept of consensus, which seemed to be the cornerstone of the proposal, his delegation, while of course recognizing the desirability of consensus, thought it essential to maintain the procedure of the vote so as to guarantee that a small minority of States should not be able to paralyse the General Assembly against the majority's wishes. Lastly, referring to the question of maintenance of international peace and security, he welcomed the spirit of mutual understanding shown by delegations in the Special Committee when considering the proposals before it and expressed the hope that a consolidated compromise proposal would shortly be produced. His delegation favoured the extension of the Special Committee's mandate in order to make that possible.

11. Mrs. DURAN (Bolivia) said there was no question that States had voluntarily limited their sovereignty in order to enable the United Nations and regional organizations to achieve the goal of maintaining international peace and security, on the basis of the principles of the peaceful settlement of disputes and the rectification of unjust situations that were an obstacle to the promotion of good-neighbourliness and the welfare of all parties. She wished to refer to General Assembly resolution 34/102, paragraph 1, in that connection. Moreover, it was generally accepted by Member States that the peaceful settlement of disputes was the foundation for implementation of the purposes and principles of the Charter of the United Nations, as indicated in the Manila Declaration on the Peaceful Settlement of Disputes. There was a legal basis for effective action by the United Nations and the Organization of American States with a view to solving disputes in accordance with the legal instruments signed and ratified by States. The peaceful settlement of disputes was the fundamental responsibility of international organizations, and multilateral diplomacy conducted on the basis of the purposes and principles of the Charter of the United Nations was undoubtedly more effective than conventional bilateralism.

12. Since the peaceful settlement of disputes called for co-operation between States and international organizations, her delegation supported the revised version of the Romanian proposal concerning a commission of good offices, mediation or conciliation within the United Nations.

13. It was Bolivia's strong belief that the implementation of resolutions adopted by international organizations formed the basis for friendly relations and peaceful co-existence between States. For over one hundred years Bolivia had been engaged in a diplomatic endeavour to achieve a peaceful, just solution to the problem of its land-locked status, which had an adverse effect on peace, security and good-neighbourliness in South America. The Organization of American States and the relevant sub-regional organizations, recognized Bolivia's right to sovereign access to the Pacific Ocean. Accordingly, in implementation of the relevant resolutions, particularly the resolution on the issue adopted by the Organization of American States in 1986, the Ministers for Foreign Affairs of Bolivia and Chile had met at Montevideo in April 1987 and the Bolivian Government had presented a proposal to the Chilean delegation, responding in writing to a Chilean memorandum that required clarification. The goal of the proposal in question had been to promote the economic development of Chile, Bolivia and southern Peru. Unfortunately, in June 1987, as a result of pressure from right-wing groups in Chile whose aim was to retain power, the Chilean Government had informed Bolivia that its proposal was unacceptable, thus bringing the negotiations to an end. The Bolivian Government remained determined to solve the problem of its land-locked status in accordance with the principles laid down in the Charter of the United Nations and the Charter of the Organization of American States, in accordance with the principle of the peaceful settlement of disputes.

14. Mr. ADANK (New Zealand) said his delegation was pleased to note that significant progress had been made by the Special Committee in 1987 on the three major issues before it. The subject considered by the Special Committee to which New Zealand attached primary importance was that of maintenance of international

(Mr. Adank, New Zealand)

peace and security. For the past few years the Special Committee had had before it a working paper on conflict prevention and resolution submitted by his country, and five others. It was pleased to note that in 1987 the Special Committee had made substantial progress towards finalizing its work on the topic in question and in identifying points of convergence between the working paper co-sponsored by his delegation (A/AC.182/L.38/Rev.3) and that sponsored by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.48). New Zealand joined previous speakers in calling on the Special Committee to give the greatest priority to the achievement of final agreement on that matter.

15. New Zealand awaited with interest the draft handbook on the peaceful settlement of disputes between States, which should be a useful working tool for officials around the world. It shared the Australian delegation's view that the Office of Legal Affairs should give priority to the task of formulating the handbook and agreed with the United Kingdom suggestion that further informal meetings should be held once the Secretariat had taken their drafting further.

16. Although the revised working paper submitted by Romania on the establishment of a commission of good offices, mediation or conciliation (A/AC.182/L.52/Rev.1) represented a considerable improvement, New Zealand remained to be convinced that the proposal would make a significant contribution to dispute settlement, since it was a lack of will to use existing mechanisms that prevented peaceful settlement of disputes. Moreover, any implication that the continued search for new means of dispute settlement was somehow a vote of no confidence in the existing means was to be avoided.

17. On the issue of the rationalization of existing procedures of the United Nations, New Zealand believed that every institution needed to undertake from time to time a thoroughgoing reappraisal of its structures and procedures. His Government itself was in the process of carrying out a far-reaching reform of the function of government in New Zealand. Although the primary focus for administrative reform of the United Nations lay outside the Special Committee, New Zealand welcomed the revised proposals (A/AC.182/L.43/Rev.2) put forward by the French and United Kingdom delegations at the Special Committee's 1987 session. The proposals in question deserved careful attention, and New Zealand believed that the Special Committee's consideration of the matter could be finalized at its following session.

18. It was to be hoped that the positive results achieved by the Special Committee in 1987 had set a pattern for the future. That would be the case only if the members of the Special Committee remained true to the mandate of review and reform of the Charter and rejected the temptation to consider more controversial and unrelated areas. The Charter had survived over 40 years and demonstrated its ability to adapt to changed world realities, and it was therefore to be hoped that future sessions of the Special Committee would build on the significant consensus that that commitment to the Charter represented.

19. Mr. GÜNEY (Turkey) said that the improvements made by the Romanian delegation in the latest revised version of its proposal on the resort to a commission of good offices, mediation or conciliation (A/AC.182/L.52/Rev.1) had failed to dispel his delegation's doubts as to the need for a new mechanism in the field of peaceful settlement of disputes between States. His delegation fully shared the view that failures in that field were due to a lack of political will rather than to a lack of suitable machinery at the global or regional levels. Efforts should be made to promote the use of the procedures provided in Chapter VI of the Charter and to ensure the implementation of the Manila Declaration, the most recent instrument on the subject.

20. Noting that work on the draft handbook appeared to be making good progress, he stressed the importance which his delegation attached to that project. With regard to the latest revised version of the proposal on the rationalization of existing United Nations procedures submitted by France and the United Kingdom (A/AC.182/L.43/Rev.2), he said that it was logical for the Special Committee to focus on the procedures of the General Assembly because they were most in need of streamlining; similar initiatives might be undertaken at a later stage with regard to the procedures of other principal United Nations organs. Lastly, referring to the topic of maintenance of international peace and security, he noted the progress achieved in the consideration of that issue since the previous report and expressed the view that the third revised version of the six-Power working paper (A/AC.182/L.38/Rev.3) provided a useful basis for continuing work on the subject.

21. Mr. SCHRICKE (France) said that the latest session of the Special Committee had taken place in a good atmosphere and the work done had been highly constructive. The reduced duration of the session had had no adverse effect on its productivity; quite on the contrary, thanks to the preliminary consultations held at the suggestion of the Tunisian delegation, procedural matters had been disposed of very rapidly and the Special Committee had embarked on the substance of its work without delay. While none of its various tasks had been completed at the session, the progress achieved in each of the areas covered warranted the hope that appropriate conclusions might be adopted the following year, provided, of course, that all delegations showed flexibility and a spirit of compromise.

22. Taking up first the subject of rationalization of existing procedures of the United Nations, he said that the Special Committee had reached a stage when agreement on the proposals contained in the revised working paper submitted by France and the United Kingdom (A/AC.182/L.43/Rev.2) should be possible. The proposals were doubtless modest in scope if considered in isolation, but viewed in the more general context of efforts to improve the effectiveness of the Organization, they had some importance. In that connection, he regretted the objections made to the proposal on the ground that the question of procedures of the General Assembly was allegedly being discussed elsewhere, and, in particular, in the General Committee and the Fifth Committee. Having personally taken part in meetings of the General Committee for the past five sessions, he was in a position to testify that the question of rationalization of procedures had never been discussed there. Neither was it considered in the Fifth Committee except with regard to specific points within the scope of that Committee's competence. There

(Mr. Schricke, France)

was thus no duplication of work involved in the Special Committee's continuing consideration of the proposals contained in the working paper, without prejudice, of course, to the consideration of the other and more important topics on its agenda.

23. Turning to the subject of peaceful settlement of disputes and to the revised Romanian proposal (A/AC.182/L.52/Rev.1), he said that, as stated in paragraph 19 of the report, tangible progress on the topic had been achieved and general agreement on a number of points was likely to be reached shortly. His delegation, however, continued to share the doubts expressed by others as to the usefulness of the proposed procedure. It also regretted the relative lack of progress on work on the draft handbook, while recognizing the difficulties caused by shortage of staff, and hoped that new portions of the draft would be submitted to the Consultative Group before the Special Committee's next session.

24. With regard to the question of maintenance of international peace and security, indisputably the most important on the Special Committee's agenda, he welcomed the spirit of compromise shown by all delegations and particularly by the sponsors of the working paper in document A/AC.182/L.38/Rev.3. The Chinese proposal (A/AC.182/L.54) for the insertion of a "saving clause" was, in his view, an opportune one. As for the new paragraphs proposed for inclusion (A/42/33, para. 46), which reproduced some of the ideas underlying the proposal in working paper A/AC.182/L.48, he felt that the Special Committee could now embark upon the preparation of a consolidated text combining elements drawn from both working papers which were likely to command consensus. Such a document could then be submitted in appropriate form to the General Assembly at its next session.

25. Experience had shown that there was little point in discussing controversial proposals in the Special Committee. As the representatives of the Federal Republic of Germany and Italy had pointed out, the weight of the Special Committee's recommendations depended largely on the consensus achieved. In his view, consensus was possible only within the tried and tested framework of the Charter of the United Nations. Suggestions for the establishment of a so-called "comprehensive system of international peace and security" outside or beyond the Charter were therefore to be deprecated. Past failures were due, not to the system established by the Charter, but to the parties involved and to the specific circumstances in each case. The Charter's fundamental principles remained as valid in 1987 as they had been in 1945; what was lacking was political will. His delegation was prepared to support any proposals likely to strengthen the role of the United Nations and enhance its contribution to settling the world's problems, but it refused to lend itself to propaganda operations or to any venture designed, directly or indirectly, to cast doubt upon the Charter. It was in that spirit that his delegation would continue to participate in the Special Committee's work.

26. Mr. ZURITA (Venezuela) said that his country would continue to support all appropriate endeavours to enhance the effectiveness of the United Nations and its organs in preventing and eliminating situations that might threaten the maintenance of international peace and security. The maintenance of international peace and

(Mr. Zurita, Venezuela)

security should not be regarded as the responsibility of the competent United Nations organs alone, since States also had duties in that connection, particularly where observance of the principles and purposes of the Charter was concerned. Venezuela therefore believed that the draft declaration under preparation should stress the fundamental responsibility of States. At the same time, his Government believed that the competence of the General Assembly and the Security Council in the area of the prevention of disputes or situations that were a threat to international peace should be strengthened, particularly the Secretary-General's role in that respect, as indicated in the provisions set forth in document A/AC.182/L.54.

27. Venezuela attached particular importance to the preparation of the draft handbook on the peaceful settlement of disputes between States and believed that it should be given priority, despite the current shortage of resources.

28. The proposal concerning a commission of good offices, mediation or conciliation required further consideration. Venezuela fully supported the purposes and principles of the Charter of the United Nations, particularly the principle of the peaceful settlement of disputes between States by means recognized under international law and in the Charter. In view of the relationship between that principle and the principle of the sovereign equality of States, agreement between the parties would always be the best way of settling any dispute or choosing a means of settling a dispute. Due account should therefore be taken of the freedom of parties to a dispute to choose the most appropriate means of reaching a settlement.

29. The scope of the text on the rationalization of existing procedures of the United Nations should be expanded so as to include major organs other than the General Assembly. It should be borne in mind that the Economic and Social Council had a body especially set up for the purpose in question. Venezuela believed that working paper A/AC.182/L.43/Rev.2 provided an appropriate basis for the Special Committee's work on the matter.

30. Mr. SCHARIOTH (Federal Republic of Germany), took the Chair.

31. Mr. BROMS (Finland) said that the latest version of the working paper on prevention of disputes (A/AC.182/L.38/Rev.3) did not differ much from its predecessors and the Special Committee ought to be able to reach a speedy agreement on it. It was for the sponsors to decide whether the various amendments to the preamble were needed; they caused no difficulties from the legal point of view. The Chinese proposal on the operative part (A/AC.182/L.54), deserved favourable consideration. All delegations had had ample time for comment, and any new proposals must now be kept to a minimum. Otherwise the discussion would drag on indefinitely and the draft declaration would be watered down.

32. The only real remaining problem was how to deal with the proposals submitted by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.48). His delegation shared the view that some of those proposals went beyond the scope of the Special Committee. However, it hoped that the forthcoming informal

(Mr. Broms, Finland)

negotiations between the two groups of sponsors would produce an acceptable compromise. The sponsors of document A/AC.182/L.48 might like to consider whether some of their proposals could not best be taken up by other United Nations organs. His delegation supported the Mexican proposal that the Chairman should see to it that the negotiations were carried out during the current session of the General Assembly.

33. When the further revision of the Romanian proposal on the resort to a commission of good offices, mediation or conciliation (A/AC.182/L.52/Rev.1) was submitted to the Special Committee at its next session, the topic really ought to be ripe for finalization. His delegation emphasized the point that the commission was to be established in casu and would not be a permanent organ. As to the division of costs, suitable provisions could easily be included in the revised version of the proposals. Some delegations apparently objected to the central idea of the proposal - the need for the system of commissions. The Romanian delegation should not be asked to make major amendments if the delegations calling for the amendments did not accept, in principle at least, the main idea of the working paper.

34. The submission of the draft handbook on the peaceful settlement of disputes to the Consultative Group before the Special Committee's next session would mark a big step forward. At that session an agreement ought also to be possible on the Franco-British proposals on rationalization of United Nations procedures (A/AC.182/L.43/Rev.2).

35. The Special Committee should not be criticized for working slowly, for its slowness was due to the intrinsic nature of its work. Nevertheless, the 1987 session had been an improvement over previous ones, and his delegation remained convinced that, with the help of the permanent members of the Security Council, the Special Committee's efforts would eventually strengthen the role of the Organization.

36. Mr. TOLENTINO (Philippines) said that the mechanisms of the United Nations as the guardian of international peace and security must not be allowed to atrophy. Perhaps the Organization's failures were caused not so much by internal inadequacies as by the unwillingness of some Member States to honour their commitments. However, in that respect political will must be founded on good faith. The Philippines was proud that the Manila Declaration had been adopted in its capital, for the Declaration was a manifestation of his country's desire to help end international conflicts.

37. His delegation had always supported the Romanian proposal on the resort to a commission of good offices, mediation or conciliation, and it hoped that the Romanian delegation would continue to be flexible in accommodating proposed amendments. It also supported the proposals on prevention of disputes and was sure that the remaining problems would be solved at the Special Committee's next session. It welcomed the Chinese proposal (A/AC.182/L.54), but thought that the proposals contained in working paper A/AC.182/L.48, while important, were highly political and it might be difficult for the Special Committee to deal with them.

(Mr. Tolentino, Philippines)

38. Notwithstanding the comment made by the Finnish delegation on the slow progress of the work, it must be remembered that the Special Committee had to make recommendations as well as listing and examining proposals. It must be freed from the shackles of a false consensus. A simple majority vote should be a sufficient basis for forwarding a recommendation to the General Assembly when true consensus was not possible.

39. Mr. JOSHI (Nepal) said that his delegation welcomed the proposed draft handbook on the peaceful settlement of disputes between States, and hoped that the handbook would be issued as soon as possible.

40. His delegation also welcomed the Romanian proposal on commission of good offices, mediation or conciliation as a positive step in strengthening the process of peaceful settlement of disputes between States. Such a commission, to be more effective, should be initiated at an early stage of the conflict. The Security Council should be vigilant in determining which disputes might erupt into major armed conflicts, for it might not be practically possible to establish a commission of good offices for every dispute. The commission must not in any way undermine regional initiatives for good offices and mediation. The International Court of Justice also had a major role to play. Unfortunately, its role had shrunk considerably, while the number of conflicts had increased. His delegation supported General Assembly resolution 37/10, which called for a wider use of the Court.

41. His delegation had taken part in all the meetings of the Special Committee at its 1987 session and had been impressed by the constructive atmosphere that prevailed. He expressed the hope that agreement would be reached at the next session on a single working paper concerning the maintenance of international peace and security.

42. Mr. RAO (India) said that his delegation had noted with distress the financial obstacles to the preparation of a handbook on the peaceful settlement of disputes between States. India hoped that the work would proceed on a priority basis the following year.

43. The Romanian proposal concerning resort to a commission of good offices, mediation or conciliation was a novel one, seeking to combine the three methods of peaceful settlement and stipulating that the members of the commission should be selected by States which were not parties to the dispute. The proposal was a bold step in the progressive development of international law and deserved encouragement. Its further refinement, incorporating the suggestions made by delegations, would help in securing general agreement for its adoption in an appropriate document.

44. The question of rationalization of United Nations procedures had been dealt with by various other forums. For example, some of the proposals contained in working paper A/AC.182/L.43/Rev.2 were akin to the recommendations made by the Asian-African Legal Consultative Committee. His delegation suggested that the proposals contained in the working paper might be referred to the Fifth Committee.

(Mr. Rao, India)

45. The sponsors of the working paper on the maintenance of international peace and security (A/AC.182/L.38/Rev.3) had made commendable efforts in revising their earlier paper. The main thrust of the working paper was to re-emphasize the art of quiet diplomacy and informal consultations, and to reiterate the need for collecting accurate information. However, a close examination of the forty years' history of the United Nations had led his delegation to feel somewhat doubtful about the utility of the recommendations contained in the paper. The system established by the United Nations Charter was basically sound and enabled the Security Council and the Secretary-General to function with the requisite flexibility and effectiveness whenever and wherever situations involving threats to international peace and security arose. The real cause of the ineffectiveness of the United Nations in that regard lay not in any particular deficiency of the Charter system but in the lack of appreciation of common interests and political will, particularly among the more powerful and wealthy nations. His delegation appreciated the sponsors' proposed amendments to the working paper and supported the decision of the Working Group to consider the amendments at its next session. His delegation also supported China's proposal (A/AC.182/L.54).

46. His delegation congratulated the sponsors of working paper A/AC.182/L.48 for their commendable efforts. The current international situation, clouded by tensions, economic crisis and underdevelopment, called for a more active role on the part of the United Nations in strengthening international peace and security. The working paper was designed to achieve that purpose. The Special Committee should direct its efforts towards completion of a draft declaration at its next session.

47. Mr. SOBOLEV (Byelorussian Soviet Socialist Republic) said that the United Nations must be the centre for reconciliation of the contradictory but legitimate interests of States and the guarantor of the international legal order. The key to the successful discharge of those functions was in the hands of Member States themselves, provided that they used all the possibilities of the Charter to ensure a peaceful future for mankind. In that connection, Mr. Gorbachev's proposals for the establishment of a comprehensive system of international peace and security were very pertinent, for they were based on the Charter and were designed to ensure its strict observance.

48. Both the original proposals on the prevention of disputes (A/AC.182/L.38/Rev.3) and the proposals submitted by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.48) warranted careful consideration, for the topic was a very important one. With regard to the Romanian proposal on the resort to a commission of good offices, mediation or conciliation, his delegation thought that such a commission could be set up on the decision of the Security Council and with the consent of the parties to the dispute.

49. The question of rationalization of United Nations procedures was an important one because improvement in that area would enhance the effectiveness of the Organization's work and the economical use of budgetary resources. The atmosphere was currently propitious for further advances in the Special Committee's work, and

(Mr. Sobolev, Byelorussian SSR)

it could make its proper contribution to strengthening the Organization's role if it sought generally acceptable agreements on the proposals before it took account of political realities.

50. Ms. PHALA (Botswana) said that the peaceful settlement of disputes and the maintenance of peace and security, which were inseparable, were an integral part of the United Nations Charter. In particular, Article 2, paragraph 3, obliged Member States to settle their disputes by peaceful means.

51. With regard to the Romanian proposal concerning resort to a commission of good offices, mediation or conciliation (A/AC.182/L.52/Rev.1), her delegation felt, firstly, that the use of the word "recommendation" in paragraph 5 laid a weak foundation for the peaceful settlement of disputes, especially since such disputes might endanger global peace and security. The issue of setting up a commission of good offices, mediation or conciliation should be worded in a more obligatory way. Secondly, although paragraph 7 stated that the chairman of the commission would be selected by the States parties to the dispute or be appointed by the Secretary-General, it did not address itself to the possibility that there might not be general agreement. Thirdly, the text should lay down a standard period of time in paragraph 10 instead of using the phrase "within a reasonable time". Lastly, paragraph 16 should establish a more workable solution to the problem of the fundamental right to self-determination, drawing a clear distinction between theory and practice. Botswana supported, however, the concerted efforts of the Special Committee on the text and felt that a general agreement on an appropriate conclusion should be submitted to the General Assembly.

52. With regard to the draft declaration proposed in working paper A/AC.182/L.38/Rev.3) her delegation supported the view that the parallel maintained between the respective roles of the General Assembly, the Security Council and the Secretary-General was not in keeping with the Charter, which assigned different powers and responsibilities to those three principal organs. All those organs should, however, fully participate in dealing with the issue.

53. Mr. ROSENSTOCK (United States of America) said that his delegation was inclined to regard the Special Committee's 1987 session as being, on balance, a positive one. More could be done, however, to make the report (A/42/33) clearer for non-participants and participants alike.

54. The revised working paper on resort to a commission of good offices, mediation or conciliation (A/AC.182/L.52/Rev.1) was an improvement over the previous text. Although his delegation remained sceptical as to the utility of the concept, it would maintain an open mind should a significant number of States indicate that they would consider such a facility useful. Brazil had made some particularly interesting comments concerning the proposal which he trusted would be taken into account. If the Special Committee was unable to make meaningful progress towards a positive recommendation on those suggestions, it might be best to postpone the idea for the time being, since no useful purpose was served by adopting something out of impatience.

(Mr. Rosenstock, United States)

55. The question of the peaceful settlement of disputes was worthy of future consideration by the Special Committee. Recent articles and statements had indicated a potential major shift in attitude towards third party dispute settlement. The United States welcomed the Soviet Union's proposal that greater use should be made of the International Court of Justice. Despite the recent decision by the United States to withdraw its acceptance of compulsory jurisdiction under Article 36 of the Statute, his Government continued to support recourse to the Court where appropriate. As to the remarks by the Nicaraguan delegation, his delegation was of the view that an assertion of jurisdiction did not create jurisdiction where it did not exist. His Government's continuing support for recourse to the Court was evident from the fact that it was currently a party to a case before the Court with Italy. Moreover, the United States was a party to a large number of multilateral treaties that provided for referral to the Court of issues relating to the interpretation and application of their provisions.

56. The United States would consider joining with the Soviet Union, or any other State, in proposals for expanding the compulsory jurisdiction of Court in appropriate cases. In the meantime, the Soviet Union could significantly enhance the role of the Court in the peaceful settlement of disputes if it were itself to begin withdrawing its reservations regarding the jurisdiction of the Court in some of the many multilateral treaties to which it was a party, for example by accepting the Optional Protocols to the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations.

57. His delegation would also be willing to consider in the Special Committee any useful follow-up measures to the Manila Declaration, although the United States shared the inclination of the United Republic of Tanzania to think that the endless production of declarations had its limits. It would not be an efficient use of finite resources to burden the Secretariat with distributing a questionnaire or preparing a report concerning the Manila Declaration. It would be preferable to devote those resources to other, more useful questionnaires, to work on the handbook or to preparation of background material for the International Law Commission.

58. His delegation was pleased that some progress had been made in working out a recommendation on the role of the United Nations in preventing international disputes (A/AC.182/L.38/Rev.3). He expressed disappointment, however, that it had not been possible for the Special Committee to make a final recommendation. Several developments had given his delegation cause to hope that work would be completed on such a recommendation at the Special Committee's 1988 session. Most of the suggestions that would have obscured such a working paper in a welter of comments on other aspects of peace and security had already been dealt with in the draft Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations. Moreover, there seemed to be new and positive thinking in certain quarters. Co-operation in producing meaningful recommendations, particularly in the manner suggested in document A/AC.182/L.38/Rev.3, would mark significant progress in making the collective security system function as intended. The mandate for the Special

(Mr. Rosenstock, United States)

Committee's next session should reflect a commitment to conclude its work on a draft declaration on the maintenance of international peace and security.

59. With regard to the need for greater rationalization of United Nations procedures, France and the United Kingdom had made a series of modest suggestions (A/AC.182/L.43/Rev.2). His delegation hoped that the new thinking, with its emphasis on making greater use of the United Nations, would cause others to join in pressing for the acceptance of those suggestions as a basis for more ambitious measures designed to equip the United Nations to be as efficient and effective as possible.

60. A measure of impatience in both the Sixth Committee and the Special Committee was a useful antidote to excessive caution and perfectionist demands. On the other hand, excessive impatience could lead to the destruction of all prospects for progress. The consensus method of work was the only one which could produce results that States might be expected to honour. Although some decisions, such as elections, could usefully be taken by majority vote, other decisions, such as those by the Security Council, needed to be taken by a carefully qualified majority. Still other actions were likely to be effective only if they commanded general agreement. Most, if not all, of the issues before the Special Committee fell into the third category, requiring patience on the part of all concerned. His delegation was optimistic that significant progress would be possible in several areas of the Special Committee's work, and pledged itself to a continued positive approach.

61. Mr. Azzarouk (Libyan Arab Jamahiriya) resumed the Chair.

62. Mr. AKA (Côte d'Ivoire) welcomed the fact that the Special Committee had been able to adopt provisionally many of the paragraphs of the draft declaration in working paper A/AC.182/L.38/Rev.3. Moreover, its consideration of the working paper submitted by Czechoslovakia, the German Democratic Republic and Poland (A/AC.182/L.48) had brought out points that might be taken up in the draft declaration and thus offered promising prospects for its future work.

63. On the subject of the peaceful settlement of disputes between States, his delegation had noted with regret the report of the Secretary-General on the progress of work on the draft handbook (A/AC.182/L.51) and hoped that the problems indicated by the Legal Counsel (A/42/33, para. 11) would be speedily solved. It was grateful to the Romanian delegation for introducing a revised version of its proposal on the resort to a commission of good offices, mediation or conciliation (A/AC.182/L.82/Rev.1). However, the proposal might be difficult to apply if a common will to resort to such techniques for the peaceful settlement of disputes did not exist. A second difficulty concerned the procedures for establishing the commission. Finally, the variety of solutions proposed for each particular case in the Romanian proposal might sacrifice speed and effectiveness to flexibility. His delegation believed that the provisions of Chapter VII of the Charter on the peaceful settlement of disputes had lost none of their usefulness and could provide the elements needed to settle disputes arising between States. It was always ready to support any proposal that usefully served that end.

(Mr. Aka, Côte d'Ivoire)

64. The rationalization of existing procedures of the United Nations could serve to strengthen its role and the Franco-British working paper (A/AC.182/L.43/Rev.2) was to be welcomed. His delegation would have no difficulty in supporting a revised version of the document from which controversial elements had been removed.

65. Mr. DROUSHIOTIS (Cyprus) said that his delegation noted with satisfaction the progress made by the Special Committee on the twin subjects of strengthening the role of the United Nations in the area of the maintenance of international peace and security and the peaceful settlement of disputes. So far as the first was concerned, his delegation had welcomed the working paper submitted by the six Western countries as a first practical step. The progress since achieved by the Special Committee had raised hopes that it would be able to complete work on that particular aspect of the topic and begin work on other aspects which had hitherto appeared intractable. In view of the improved international climate, a fresh look should be taken at the ideas and suggestions already submitted to the Special Committee by representatives of non-aligned and developing countries and of the Union of Soviet Socialist Republics.

66. Cyprus had frequently drawn attention to the debilitating effect that non-compliance with United Nations resolutions had on the Organization and had underlined the need for their effective implementation. It was itself a case where United Nations resolutions, in particular those of the Security Council, continued to be blatantly violated.

67. On the subject of the peaceful settlement of disputes, his delegation welcomed the progress made on the working paper on resort to a commission of good offices, mediation or conciliation within the United Nations, and considered that work should continue with a view to reaching agreement on appropriate conclusions to be submitted to the General Assembly. As for the draft handbook on the peaceful settlement of disputes between States, thanks were due to the Codification Division, without whose valuable work the progress made would not have been possible.

68. With regard to the topic of rationalizing the existing procedures of the United Nations, his delegation believed that it could be better dealt with by other United Nations bodies, so as to allow the Special Committee to devote its whole attention to the two main subjects on its agenda. His delegation fully supported renewal of the Special Committee's mandate to carry out its important work on strengthening the role of the United Nations.

69. Mr. ZLITNI (Libyan Arab Jamahiriya), speaking in exercise of the right of reply, said that the representative of Chad had raised various matters. His own country was ready to negotiate with Chad but such negotiations should be between sovereign States. The existence of colonial forces in Chad encouraged aggressive activities by the puppet régime there and prevented any dialogue. He could dwell on those activities but did not wish to waste the Committee's valuable time or turn it into a place of vituperation and insults. He was therefore simply clarifying his position rather than exercising the right of reply.

70. Mr. BOULANDI (Chad) said that the representative of the Libyan Arab Jamahiriya was the only member of the Committee who called his country's legitimate Government a puppet régime. But the Libyan Arab Jamahiriya had itself often received official delegations from that Government. As to the alleged Libyan willingness to engage in dialogue, Security Council documents S/18692, S/18834 and S/19070 showed that the Tripoli régime had consistently tried to dominate Chad and the whole Sahel region by force. At the beginning of negotiations with Chad in 1983, Tripoli had attempted to set pre-conditions that violated Chadian sovereignty and territorial integrity. The Libyan Arab Jamahiriya had also refused to co-operate with the Ad Hoc Committee set up by the Organization of African Unity to deal with the conflict between the two countries. It was therefore a case of extreme bad faith for the Libyan representative to claim that colonial forces in Chad were an obstacle to negotiations when the real obstacles were raised by his own country.

71. Mrs. VOLOCHINSKY (Chile), replying to the statement by the representative of Bolivia, said that the border established by international treaty between their countries in 1904 had been fully respected by Chile and repeatedly improved by mutual agreement over the years. There was no dispute over the treaty, so the claim that Chile's peaceful use of its own territory in an area where there had never been any significant Bolivian presence was a threat to peace was simply a distortion of reality. Although Bolivia had no coastline, it was not land-locked because it enjoyed the privilege of unparalleled freedom of access to the sea under the treaty. Moreover, Chile had been prepared to consider and in 1975 had been on the verge of complying with Bolivia's aspiration to have its own outlet to the Pacific. However, the negotiations had failed because Bolivia had withdrawn its agreement to compensate Chile territorially. Her country had in turn exercised its sovereign right to reject Bolivian proposals which did not provide for territorial compensation.

72. Talks on such sensitive territorial issues required understanding between peoples and the campaign of lies and distortions launched by Bolivia in no way helped to create a suitable atmosphere. The right to dispose of Chilean territory belonged to the Chilean people alone and not to international organizations or any foreign countries.

73. Mrs. DURAN (Bolivia) said that the representative of Chile's claim that no dispute existed over the Treaty of 1904 was contradicted by the fact that the Organization of American States had repeatedly called for a negotiated solution to the problem of Bolivia's access to the sea. Bolivia had signed that Treaty under pressure, but its claim was based on historic rights. The Treaty of 1904 had been imposed unjustly on her country, which had therefore proposed negotiations based on a fresh approach to rectify the situation. She recalled Pope John Paul II's equation of peace with development and said that Bolivia cherished both. It wanted a peaceful solution to the problem, but the obstacle which it presented to Bolivia's development was a threat to peace.

The meeting rose at 7 p.m.