1468th meeting

Thursday, 3 October 1974, at 3.25 p.m.

Chairman: Mr. Milan ŠAHOVIĆ (Yugoslavia).

A/C.6/SR.1468

In the absence of the Chairman, Mr. Broms (Finland), Vice-Chairman, took the Chair.

AGENDA ITEM 93

Review of the role of the International Court of Justice *(continued)*

1. Mr. VILLAGRAN KRAMER (Guatemala) said that his country recognized the need for supervision of legality and the peaceful settlement of international disputes. Guatemala had always been in favour of the International Court of Justice, which had passed judgement *ex aequo et bono* in a legal action between Guatemala and the United Kingdom over Belize; however, the United Kingdom had not felt able to accept the judgement. More recently, Guatemala had been called before the Court by Liechtenstein and had appeared before the Court out of respect for the primacy of the law.

2. The discussion on the role of the International Court of Justice had been going on for several years and as a result the Court had started to amend its Rules. The law applied by the Court was positive law, the law of treaties and customary law, and it was not empowered to create law except in the case of judgements *ex aequo et bono.*

3. With reference to document A/8382, which gave the comments of some Governments on that issue, he pointed out that according to the United States it was uncertainty regarding the law to be applied which made States hesitant to appear before the Court; that according to Yugoslavia the role of the Court in the settlement of disputes depended on the codification and the modernization of international law; and that the comments of Iraq mentioned the accession to independence of many new States, which had led to the introduction of new forms of civilization and new legal systems which were inadequately represented on the Court. It was therefore clear that the law applied by the International Court of Justice was the crux of the problem, with regard to both form and substance. From the point of view of form, it was envisaged that more subjects of international law, particularly organizations, would have access to the Court. As for substance, many developing countries which had recently achieved independence were mainly concerned with economic and social questions and were seeking the adoption of rules on international economic security; that was why a charter of economic rights and duties was contemplated. Those new States were faced with a system established at the turn of the century, which did not meet their needs.

4. He recalled that the Government of Mexico had repeatedly proposed that the legal scope of the resolutions and decisions of the United Nations and other international organizations should be defined, and also noted that the Court had on occasion invoked General Assembly resolutions. Certain norms of international law were to be found in the resolutions adopted by international organizations, and it would be necessary to define to what extent those decisions could be invoked by the international judicial bodies.

5. It has been pointed out in the course of the discussion that the regional courts were more active than the International Court of Justice. The reason was that those courts did not always deal with strictly legal questions, but also with political problems which were thus resolved by legal means. The European Court had already handed down a most interesting series of judicial decisions. He also mentioned the court of the East African Community, where one did not need to be a barrister in order to plead a case, and the Andean Group's legal authority, where the judges were not necessarily nationals of the member countries of the Group, and where experts were taking an ever increasing part in the proceedings.

6. Although his delegation did not favour the establishment of an *ad hoc* committee, it none the less continued to concern itself with the question of the International Court of Justice, while recognizing that it would be difficult to strengthen the role of that body as long as its compulsory jurisdiction was not universally accepted.

7. He recalled that, for small countries like his own, a guarantee of the primacy of international law was fundamental. The Court must get abreast of the times and pursue its process of modernization, not only in terms of the Rules and the Statute, but by seeking to reflect the legal thinking of the international community. His delegation would favour a draft resolution which would highlight the important role of the Court and the concern its problems caused the international community.

8. Mr. MASUD (Pakistan) said that it would be appropriate to look back some 29 years when the International Court of Justice had been conceived as a legal organ of the United Nations under the Charter. In the post-war period there had been a burning desire among States to see their disputes settled by that international organ. However, the number of judgements and advisory opinions handed down by the Court since its establishment was much lower than that handed down by the Permanent Court of International Justice over a similar period. The question thus arose whether that organ was operating in the manner which its designers had visualized.

9. Those who had drafted the Charter had thought that Member States would accept the compulsory jurisdiction of the Court over legal disputes, since at that time the majority of States had been in favour of that approach. At the end of the 1950s, the United Nations had had 60

Member States, 34 of which had accepted the compulsory jurisdiction of the Court, as had two non-member States. In 1973, the number of Member States had risen to 132, but only 46 nations, including three which were not Members of the United Nations, had filed the declarations accepting compulsory jurisdiction.

10. His country had always been in favour of the peaceful settlement of disputes through a compulsory procedure recognized as valid between States. However, even though Article 2, paragraph 3, of the Charter made the peaceful settlement of disputes mandatory, it did not impose on Member States the obligation of referring them to an international body. Article 33, paragraph 1, while enumerating the variety of procedures for settlement, did not make any particular procedure obligatory; the effects of paragraph 2 of that Article were not clear. Therefore, partly because of the nature of those provisions, the peaceful settlement of disputes by the Court was not as effective as it should be. It was essential for the jurisdiction of the Court to be extended. Unfortunately, the Court's procedure took too long and was based on legal technicalities developed by the European States, without taking the interests of the new independent States sufficiently into account.

11. In the past the International Court of Justice had given an impression of being conservative in its outlook, which was not compatible with the progressive codification and development of international law. States should be able to seek advisory opinions on legal questions vis-à-vis other States. Article 96 of the Charter provided that advisory opinions might be sought by the General Assembly or the Security Council or by specialized agencies if so authorized by the General Assembly. But the Court had been reluctant to give advisory opinions on matters referred to it under that Article if, in its opinion, the legal questions amounted to disputes between States. In view of the reservations over the compulsory jurisdiction of the Court it would be desirable if a State could request an advisory opinion that would not be binding on the other State but would impose on the latter a moral obligation to negotiate a settlement in good faith. If that were done, States would be eager to refer their disputes to the Court, which would gain the confidence of the developing countries.

12. His delegation had welcomed the proposal to set up an *ad hoc* committee of the General Assembly. Qualified persons should be nominated to the *ad hoc* committee, which should undertake a thorough examination of the role of the Court and report to the General Assembly. Countries which were not Members of the United Nations but which had become parties to the Statute of the Court could also be co-opted as members of the *ad hoc* committee which, however, should only study the matter and not be empowered to act in respect thereof.

13. His delegation hoped that the principal judicial organ of the United Nations would be able to play its full part in the work of the Organization, which was to promote a structure of peace and justice in the world.

14. Mr. MONTENEGRO (Nicaragua) said that the international community wished to preserve peace and security; one of the ways of doing that was to settle differences between States by peaceful means—direct negotiation, arbitration, or the submission of disputes to the International Court of Justice. Nicaragua had accepted the compulsory jurisdiction of the Permanent Court of International Justice in 1929. Later, when there had been a frontier dispute with Honduras, Nicaragua had turned to the International Court of Justice and, although the Court's decision had not been in its favour, it had accepted the decision and handed over part of its national territory to Honduras, an action which had facilitated the improvement of relations between the two countries. Some speakers had reproached the Court for being inactive in comparison with national courts. But that inactivity was not a deliberate decision by the Court: it was the fault of States, which did not have recourse to it often enough. While recourse to national courts was practically compulsory, such was not the case for the International Court of Justice and until such time as its jurisdiction was compulsory it would be insufficiently active, but it could not be blamed for that. Nevertheless, the Court was the judicial organ of the United Nations, and States should make an effort to have recourse to it more often to prove their desire to use peaceful means to settle their disputes. The Court represented all the legal systems existing in the world, and if States did not show any wish to have recourse to it, that was only because there was a crisis with regard to law throughout the world.

15. The Court had amended its Rules so as to reduce the time and cost of proceedings. The international community could strengthen the role of the Court by following the recommendation made by the representative of Iraq at the previous meeting to accept the introduction in bilateral or multilateral treaties of a clause providing for recourse to the International Court of Justice in case of disputes over the application and interpretation of treaties.

16. His delegation would become a sponsor of any draft resolution aimed at reinforcing the role of the Court.

17. Mr. ELIAN (Romania) said it was not possible at the current stage to make an exhaustive assessment of the place of the Court in international life. Nevertheless, there was a need to stress that the role of that principal organ of the United Nations depended on its Statute, the current situation in international relations, and the level of development of international law. At the current stage it was necessary to determine whether it was a good idea to review the role of the Court more thoroughly, independently of other peaceful means of settling disputes. The examination of the judicial settlement of international disputes must be made in the general context of the system of pacific settlement instituted by the Charter and in the light of the fundamental principles of international law, taking into account in particular the principle of peaceful settlement of disputes between States. According to that principle, international disputes must be settled on the basis of sovereign equality of States and free choice of means. The parties to the dispute must agree on appropriate peaceful means corresponding to the circumstances and nature of the dispute. Article 2 of the Charter stated explicitly the principle of the sovereign equality of States; it also laid down that international disputes must be settled by the peaceful means enumerated in Article 33: judicial settlement was only one of those means.

18. The principle of the peaceful settlement of international disputes was no more than a restatement of a recognized rule of international law that all international jurisdiction must be based on the consent of the States concerned. Neither the optional compulsory jurisdiction clause in Article 36, paragraph 2, of the Statute of the Court nor the arbitration and judicial settlement treaties had fundamentally affected the rule that there was no universal legal obligation on States to settle their disputes through judicial channels.

19. For a number of reasons, the best course would no doubt be to consider all peaceful means of settlement together. Firstly, although they were different in some ways, there was in principle no fundamental contradiction between judicial procedures and direct agreement procedures. The aim of both was to obtain a peaceful settlement without any constraint, in other words, a solution that would improve friendly relations between nations. Secondly, while customary law did not establish a hierarchy of settlement procedures, there was a tendency in practice to use them one after another in a certain order and, in most peaceful settlement treaties, the exhaustion or failure of direct agreement procedures was a condition for recourse to judicial procedures. Thirdly, the types of procedure were interdependent: the judicial settlement of disputes was certainly influenced by direct agreement procedures and vice versa. States were able to see to it that the Court remained within the limits of its mandate. It also had to be pointed out that diplomatic negotiations were the starting-point for judicial procedures, and that the preparation of an arbitration agreement by direct negotiation was an important phase of the settlement process. The dependence of judicial procedures on direct agreement procedures was due to the subsidiary nature of the judicial channel. Moreover, the two types of procedure could use the same working methods, for example the inquiry. Moreover, in every instance where a judicial decision provided only a partial solution to a dispute, or when the parties refused to act in accordance with the decision, direct agreement procedures had to be used to break the deadlock. Furthermore, recourse to a court did not necessarily stop direct negotiations, and it was not unusual for the two types of procedure to be going on simultaneously. Finally, negotiations between the parties were necessary to execute international decisions whenever difficulties arose over the interpretation of the decision and the way in which it was to be executed.

20. If the judicial and direct agreement procedures were brought closer the institution of peaceful settlement of disputes would make progress. The Court itself had handed down decisions in favour of compromise and amicable arrangements. Its role would grow to the extent that it reflected the political configuration of the contemporary world and the new processes of international life; it would contribute in that way to the promotion of the fundamental principle of international law. By identifying the meeting points of the various means of peaceful settlement and by encouraging successive or simultaneous recourse to those means solutions would be found that were in accordance with law and acceptable to the States concerned.

21. The General Assembly should therefore carry out a comprehensive study of the peaceful settlement of international disputes covering the whole range of settlement procedures, starting with negotiation, as the principal method, and then going on to good offices, mediation, conciliation, enquiry, arbitration and judicial settlement. Four years earlier, the General Assembly had begun to consider the role of the International Court of Justice. Since then, the Court had revised its own Rules and it would perhaps be wise to await the practical results of the changes. The Court itself might continue to draw on its own possibilities and, for example, in addition to the sources of Western law used almost exclusively so far, take into account the wisdom of the principles of law applied throughout the world which belonged to the whole of mankind. In the meantime, the General Assembly might appeal to all the Members of the United Nations and of the Court to support the efforts made by the Court to increase its activity.

22. Mr. RAKOTOSON (Madagascar), after having congratulated the officers of the Committee on their election and the three new Members of the United Nations, referred first of all to the remedies to be introduced into the organization of the Court itself in order to enhance its effectiveness. In that connexion, he suggested a more rapid rotation of judges, to ensure better representation of the various regions and the various legal systems and to guarantee the independence of judges. He also suggested that the appointment of *ad hoc* judges provided for in Article 31 of the Statute of the Court should be abolished and that the right to bring a case before the Court should be extended to international organizations and non-governmental organizations and the right to consult the Court should be extended to regional organizations.

23. With regard to some of the reasons why States showed a certain reluctance to appeal to the Court, namely the slow pace of proceedings and the heavy costs involved, one suggestion might be for the parties to opt for the more rapid procedure provided for in Articles 26 and 29 of the Statute. The idea of creating permanent regional chambers would be justified only if States put an end to the practice of increasing the number of specialized tribunals of all kinds. In any event, the cause of the disaffection of States with the Court lay in the nature of the present-day international community in which States were increasingly jealous of their national sovereignty. Moreover, recourse to international jurisdiction was regarded as a hostile act to be envisaged only after other means of peaceful settlement of disputes had failed.

24. The real remedy for the crisis through which the Court was currently passing should be sought in the States themselves, since any reform would be artificial unless the international community demonstrated goodwill and confidence in judicial settlement. Many conflicts could in fact have been avoided or resolved if the international community had had faith in the primacy of law.

25. As for the argument that international law was still vague, it should be recognized that international law could develop only as the Court was seized of a greater number of disputes from which it could evolve its case law. The United Nations should accord a more important role to the International Law Commission so that it could peruse the

development and codification of all branches of international law.

26. In his view, the confrontation of ideas within the Sixth Committee would yield long-term positive results and there was no need to establish an *ad hoc* committee to study the role of the Court. His delegation was, however, prepared to consider any proposal designed to enhance the role of the Court.

27. Mr. YOKOTA (Japan) pointed out that his delegation was among those which at the twenty-fifth session had requested the inclusion of the item under consideration in the agenda of the General Assembly. As his delegation had already stated on several occasions, the judicial settlement of disputes constituted a safeguard of international peace. It had two distinctive merits which set it apart from other peaceful means of settlement. First, it ensured great impartiality, since a dispute was decided by law and not by the greater or lesser force of the parties. Secondly, it led to a decision binding on both parties, thus definitively settling the dispute.

28. Although the International Court of Justice was the most important institutional means of judicial settlement, it must be admitted that it had not been used to the fullest extent desirable and that its role remained limited. One of the obstacles to the satisfactory functioning of the Court was to be found in the attitude of States towards it. His delegation considered the misigivings sometimes expressed regarding the independence and impartiality of the judges to be unfounded.

29. The General Assembly should recognize the desirability of having the greatest possible number of States accept the compulsory jurisdiction of the Court with as few reservations as possible. It should also ask States to include in treaties a provision whereby contentious cases relating to those instruments would be referred to the Court. For its part, the Court, being fully conscious of its responsibilities and of the problems that had to be resolved, had revised its Rules in order to expedite its work and to make it easier for States to refer disputes to it. States should therefore make full use of the new possibilities opened up by the revised Rules.

30. His delegation had proposed the establishment of an *ad hoc* committee to study the role being played by the Court, the problems involved and ways and means of solving them, but if the majority of the members of the Committee felt that it was unnecessary to establish such a committee, it would not insist on its proposal. The General Assembly should, however, continue to give attention to the role of the Court since it would thus contribute to the strengthening of law and the maintenance of international order.

31. He said that, as his delegation saw some connexion between the item under consideration and the item entitled "Need to consider suggestions regarding the review of the Charter of the United Nations", it reserved the right to revert at a later stage to the aspect common to the two items.

32. Mr. TENEKIDES (Greece) said that Greece had always maintained an unequivocal position on the question of the International Court of Justice: it had faith in that high judicial organ since it believed in the primacy of law. Greece's position was in keeping with a centuries-old tradition; he pointed out that international arbitration had been born on Greek soil and that the principle of compulsory jurisdiction had been recognized in the treaties concluded in Greece as far back as the fifth century B.C. The Greek Government remembered cases in which it was interested that had been referred to the Permanent Court of International Justice and to the International Court of Justice and it had nothing but praise for the judgements and advisory opinions handed down on those occasions. International jurisdiction excluded by definition behind-the-scenes pressure and action, which were current practice in diplomatic meetings. It was for that reason that, while not wishing to interfere in the internal affairs of Cyprus, an independent and sovereign State, the Greek Government hoped that in the event of a settlement freely accepted by the Cypriot people by means of a democratic procedure, any dispute which might arise out of that settlement would be referred to the Court.

33. Turning to the question of the crisis through which the Court was passing, he referred to the reluctance of States, the lack of clarity in the applicable law, the slow pace of proceedings and the composition of the Court. The Committee could, of course, adopt the draft resolution submitted unofficially, provided that the text was strengthened on some points, but in doing so it would in no way contribute to a solution of the problems. It also seemed unnecessary to establish an *ad hoc* committee to study the role of the Court. What was needed above all was a search for the underlying causes, the psychological causes of the crisis in international justice. His delegation did not think that the principle of compulsory jurisdiction jeopardized the sovereignty of States nor that it was a hostile act to refer a dispute to the Court. Since there was a close link between the normative legal order and the jurisdictional order, the crisis would be overcome, not when international law had become clearer, nor when the Statute of the Court had been revised, but when States abandoned *real-politik* and meticulously and generously applied the fundamental rules of the Charter and the rules which would be progressively codified. International law, shield of the weak against the strong, was also the protector of mankind, and States, particularly the big nuclear powers, should be conscious of that fact.

34. Mr. QUENTIN-BAXTER (New Zealand) said that, in his opinion, the debates of the Sixth Committee concerning the International Court of Justice had served to give a better understanding of the problems of judicial settlement. Also, it was heartening to hear from so many delegations their avowals of belief in the value of judicial settlement, and those avowals were not in any way diminished by the recognition that that was not in itself the only means or, in particular cases, even the best means of settling a dispute. It was, after all, a feature of the times that a dispute often had political implications and that States then preferred to seek other means of settlement, but the other methods of settlement were more likely to succeed if as a last resort the parties realized that there was the possibility of a judicial settlement.

35. As to the question of the compulsory jurisdiction of the Court, it was true that some States, such as New

Zealand, had accepted it with reservations which had an historical basis. Perhaps the States in question might attempt to have fewer and more rational reservations so that the law would be applied more evenly. It also happened that States sometimes agreed to submit an issue to judicial settlement because they valued good relations with each other more than they were concerned with the outcome of the issue in question, but such a decision demanded great sacrifice and a certain degree of courage. It must be conceded that in the world of today there were some disputes which could not automatically be submitted to judicial settlement. Just as it was true that States often wished to reserve to themselves political and other non-judicial means of settlement, so also it was true that States which had made changes in their own position or their national aims in order to conform to international law would want the assurance that when a difference of opinion arose it could be dealt with objectively and impartially by judicial settlement.

36. The International Court of Justice was an institution which belonged to the international community and was financed by the United Nations, and it would therefore be tragic if States did not feel that it was their own and found it impossible to seek the assistance of the Court. In that connexion, more emphasis should be placed upon the role of the States themselves. The Court, for its part, had taken steps to make it easier for States to use its facilities. As was clear from the introduction to the report of the Secretary-General on the work of the Organization (A/9601/Add.1) the delays incurred in the consideration of disputes were in large measure the responsibility of the States involved. His delegation also thought that the question of the expenditure entailed in approaching the Court was exaggerated and that it was wrong to suppose that the services of the Court were available only to the great Powers and the prosperous States. Turning to the question of the composition of the Court, he expressed the view that the major systems of law were represented on the Court, and he pointed out that some States, in view of their limited resources, were often obliged to rely on other States whose position was more or less similar to their own to represent them in certain instances.

37. Everything that the international community of lawyers did in the Sixth Committee and in other bodies, international or regional, helped, or should help, to create the conditions in which all forms of peaceful settlement, including judicial settlement, could be effected.

38. Mr. STEEL (United Kingdom) reaffirmed the strong attachment of the United Kingdom to the principle of the peaceful settlement of international disputes, and in particular to the settlement of legal disputes by judicial or similar means and, even more specifically, to the reference of such disputes to the International Court of Justice where they had not otherwise been resolved and if appropriate to the nature of the case. That attachment had, moreover, been put into practice on a number of occasions when the United Kingdom had submitted its disputes to the International Court of Justice and had then faithfully abided by the decisions of the Court whether they had been in its favour or not.

39. Having said that, he also wished to say—and there was no inconsistency between the two statements—that the United Kingdom was still not satisfied with the role which the Court was playing in the life of the international community today. It was a body which, by virtue of its powers and functions and by virtue of its position in the United Nations system, ought to be playing a major role in the solution of international problems and in providing a framework of uniform law for friendly and peaceful co-operation among States. It was a body which, by virtue of the integrity and learning of its members, the strength of its established jurisprudence and its receptiveness to modern currents of thought, was eminently capable of playing such a role. However, there was no denying the fact that it had not played that role in recent years and that there was little prospect of its doing so in the immediate future.

40. Many analyses of the reasons for that situation had been made both in past debates and in the present debate. Some of the fault in the past might well have been attributable to the Court itself. There was now every reason to think that the new procedures which the Court had recently brought into operation would give it flexibility and the power to adapt its methods to the needs of each particular case. There seemed, however, to be general agreement that for the most part the fault had been with the States Members of the international community. The fault had lain in the inability or unwillingness of States to take advantage of what the Court and its machinery had had to offer; to a certain extent that might have been due to their lack of imagination or their timidity, but mostly it had been due to an excessive preoccupation with a narrow notion of national sovereignty.

41. The essence of the problem thus lay in the discrepancy between the role which the Court should be playing and the role which it was in fact playing in current international life. In so far as the Court had been guilty of short-comings, it had largely remedied them. It was now for the States to modify their attitudes and practices, both individually and as Members of the United Nations and members of other international organizations. In his delegation's opinion, that was a matter which ought to occupy the attention of the General Assembly. It believed that the Assembly should set up some machinery whereby the problem might be examined in depth and possible remedies considered. An *ad hoc* committee would be one possibility, but it was only one of many solutions which might be contemplated. However, his delegation was aware that there were delegations which saw difficulties in such a proposal and others which thought that it was premature. His delegation was therefore prepared, with some reluctance and some misgivings, to refrain from pressing its view that some specific machinery for conducting a review of the role of the International Court of Justice should be established. That decision was based on its desire to avoid dividing the Committee on a subject of such importance. He hoped none the less that the Committee would adopt a resolution which would express in suitably emphatic terms the General Assembly's view of the importance of the role of the Court, would draw the attention of States and of the relevant organs of the United Nations system and other international bodies to the possibilities which the Court afforded for the settlement of disputes and the resolution of legal problems, and, finally,

would reaffirm the need for the General Assembly to give continuing attention to the potential role and the actual role of the Court in international law.

42. The draft resolution prepared by the Netherlands delegation corresponded to some extent to the wishes expressed by his delegation, which, however, would prefer more forceful language and the introduction of a provision calling for the adoption of concrete measures by the General Assembly.

43. Mr. GÜNEY (Turkey) recalled that his country's views and suggestions on the subject under consideration were given in document A/8382/Add.3 and had been put forward at the 1283rd meeting of the Committee.

44. The principal reason for the reluctance of States to resort to the International Court of Justice seemed to be an excessive concern for their sovereignty, although account must also be taken of the disappointing results of the attempts made since the Second World War to rely on political machinery for the solution of international disputes. The failure of such means had set the stage for the current world situation in which most disputes remained unresolved and were a threat to international peace and security. A further reason for the reluctance to rely on judicial machinery for the peaceful settlement of disputes was the vagueness and the lack of development of international law.

45. His country had made a number of suggestions for changing those conditions. One of the most effective ways of restoring security and the rule of law in the international community was to recognize the primacy of law. The judicial settlement of disputes was an important method of settlement, at least in so far as legal disputes were concerned. The distinction between political and legal disputes was to be sure a difficult one to make, and precise legal rules must exist for doing so. The superiority of the judicial method of settlement lay in the finality of the solution to which it led. States should, in addition, be encouraged to present to the Court disputes which pertained to the non-codified area of international law so that the Court might be able by its decisions to lay down rules for some of the grey areas. Its opinion of 1969 regarding the *North Sea Continental Shelf* was a good example of the role it could play. The component elements of that famous decision had made, and were still making, a great contribution to the development of the law of the sea, the codification and progressive development of which were still being pursued.

46. The structure of the Court could hardly be an obstacle to recourse to that institution. The election procedures and the length of the term of office of judges were satisfactory. Consideration could, however, be given to the possibility of allocating more seats to judges from developing countries. It would no doubt also be preferable to make the term of office of judges non-renewable. On the other hand, Turkey was in favour of maintaining the institution of *ad hoc* judges and the establishment of regional chambers or courts.

47. With regard to the competence of the Court, the Court's jurisdiction should at least be made compulsory after all the peaceful means enumerated in Article 33 of the Charter had been exhausted. It might also be useful to invite States to make the declaration referred to in Article 35, paragraph 2, of the Statute and to refrain from making restrictive reservations. Another possibility would be to consider the declarations valid until the State gave notice to the contrary. It would also be desirable to extend the competence of the Court to enable international organizations, or some such organizations, to bring cases before the Court; to encourage States to include in their bilateral and multilateral treaties clauses whereby the Court would have jurisdiction with respect to any disputes arising out of those agreements; and to consider the possibility of giving international organizations access to the advisory procedure. Moreover, if the Court had stricter control over the length of the written procedure and oral statements, its proceedings could surely be made less time-consuming. Lastly, it would be as well to consider granting financial assistance at the request of States, especially with a view to helping developing countries wishing to appeal to the Court.

48. Turkey was in favour of the idea of entrusting an *ad hoc* committee with the task of considering the role of the International Court. The draft resolution submitted by the Netherlands did not meet that point. However, his delegation was willing to consider any suggestion that might enhance the authority of the Court, which was the highest judicial organ of the United Nations.

49. Replying to the statement made by the representative of Greece, he said that his country was just as interested as Greece in the question of Cyprus. The Turkish delegation considered that the question of Cyprus had its own forum. It was neither appropriate nor useful to raise and discuss that question out of context or in unsuitable organs. Turkey, which firmly believed in and strictly adhered to the celebrated maxim *pacta sunt servanda,* which was a basic principle of the law of treaties and consequently of international law, had frequently stated that the solution of the problem must be sought and applied within the framework of the Treaties of alliance and guarantee of 1960, which were still in force, and by means of negotiations between the two communities–the Turkish-Cypriot community and the Greek-Cypriot community–which had the same rights and obligations under the treaties establishing the Republic of Cyprus and in conformity with the constitutional system deriving from those instruments. To raise the problem in an inappropriate framework and in unsuitable bodies was a regrettable approach which would in no way contribute to the solution of the Cyprus problem.

50. Mr. GARCIA ORTIZ (Ecuador) welcomed the presence of the delegations of Bangladesh, Grenada and Guinea-Bissau, which had recently been admitted to the United Nations.

51. The problem posed by the role of the International Court of Justice was, basically, merely one aspect of a more general problem: the disparity between the life of the international community and the aspirations of the peoples who sought to place it within a strictly legal framework. The fundamental role of the Court, as indicated in the Charter and the Statute of the Court, was to serve as a last

resort for the peaceful settlement of disputes, which Ecuador strongly favoured. However, the Court had other functions, including an advisory role, which could be expanded if the Court were given the task of defining the law, and particularly customary law. The progressive development of international law revealed a world in which juridical norms were constantly changing. States tried to define the law while, by its very nature, the International Court of Justice tried to establish it. That might be one of the reasons for the obvious reluctance of States to accept the compulsory jurisdiction of the Court, an attitude which could hardly be explained by the structure of the Court itself. Amendments to the Court's Statute would therefore not suffice to dissipate the conflict that had come to light.

52. States were seeking to co-ordinate their activities within the international community so as to ensure that all aspects of international life were subject to internationally accepted standards, which alone could guarantee a measure of security. That trend could be seen by the efforts made to establish an international criminal court to complete the international legal order. However, those aspirations were still far from being fulfilled; hence the reluctance of some States to accept compulsory jurisdiction. The International Court itself was not the issue; but there was nothing to prevent a State from refusing to accept its compulsory jurisdiction until the international community abided by a universally accepted body of law.

53. Ecuador was ready to support any measure that would promote the rule of law, and hoped that no time-limit would be placed on the study of the role of the International Court of Justice, which could clearly not be completed at the twenty-ninth session. His delegation favoured in-depth consideration of the Court's role through the establishment of an *ad hoc* committee if necessary.

54. Mr. ORREGO (Chile) said that his country firmly believed in the validity of the principle of the peaceful settlement of disputes, as it had demonstrated by accepting clauses to that effect in numerous multilateral and bilateral treaties. In 1902, Chile, together with Argentina, had also from the beginning participated in the signing of the first general treaty of international arbitration in the history of the world.

55. His delegation considered it of capital importance to strengthen the role of the International Court of Justice. Viewed in an over-all perspective, the sum total of the Court's work must be considered positive, although in many cases the developing countries could not feel entirely satisfied. The Court had already helped to lend a measure of cohesion to an international order that showed a tendency to disintegrate. The Court was the victim of a more general crisis affecting the international community as a whole. The remedies to that crisis had to be considered within that broader framework.

56. Before questioning the evident reluctance of States to accept the compulsory jurisdiction of the Court, it was necessary to consider if and how international law and international judicial procedure could effectively help to bring about a peaceful settlement of international disputes. Failure to make that effort could lead to the adoption of an ineffectual resolution.

57. The Chilean delegation had no preconceived views as to the method to be adopted and was willing to agree to any satisfactory solution. Perhaps the Court itself could propose a method whereby its role could be studied within the international community. His delegation reaffirmed its faith in the competence of the judges of the Court and its President. There was reason to hope that a study of the question of the Court's role would promote the development of international law and make it possible to strengthen the efficacy of the role played by the International Court of Justice.

58. Mr. TENEKIDES (Greece), exercising his right to reply, said that the statement by the representative of Turkey was a reflection of the crisis in international law and, what was more, the crisis with regard to international jurisdiction. The Greek delegation had never said that any dispute arising with regard to the settlement of the Cyprus question should be referred to the International Court of Justice; it had merely expressed a hope in the event of a solution to the crisis. He was glad that the Turkish delegation had mentioned the maxim *pacta sunt servanda*, which certainly held good for treaties, but also was applicable to the Charter, and particularly to the principle of the non-use of force, to the fourth Convention respecting the laws and customs of war on land signed at The Hague in 1907, to the Geneva Conventions of 1949 for the protection of war victims, to the tripartite guarantee treaty of 1960 and to the Geneva cease-fire agreements. He sincerely hoped that that maxim would be applied to the case of Cyprus.

AGENDA ITEMS 96 AND 97*

Declaration on Universal Participation in the Vienna Convention on the Law of Treaties *(continued)*

Question of issuing special invitations to States which are not Members of the United Nations or members of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice to become parties to the Convention on Special Missions *(continued)*

59. The CHAIRMAN announced that the Byelorussian Soviet Socialist Republic and the German Democratic Republic had become sponsors of draft resolution A/C.6/L.981.

The meeting rose at 6.05 p.m.

* Resumed from the 1465th meeting.