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SUMMARY RECORD OF THE 19th MEETING

Chairman:

Mr. MIKULKA

(Czechoslovakia)

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

AGENDA ITEM 147: CONCILIATION RULES OF THE UNITED NATIONS (continued) (A/45/143 and Corr.1; A/C.6/45/L.2)

1. Mr. ASTAPENKO (Byelorussian Soviet Socialist Republic) said that his delegation joined with others in welcoming the draft conciliation rules submitted by the Government of Guatemala (A/C.6/45/L.2, annex I). The proposals reflected the fundamental and universally recognized principle of peaceful settlement of disputes, which was enshrined in the Charter and was a key element in the establishment of a new international order based on the rule of law in inter-State relations. The by-no-means painless transition from the law of force to the force of law had frequently underscored the relevance of that principle.
2. The proposed rules, which reflected a flexible approach, were an attempt to fill a gap in the procedures under international law for the peaceful settlement of disputes. They provided a reliable basis for further progress although the text as submitted needed to be worked out in greater detail after further study. His delegation would refrain from commenting, at the current stage, on the specific features of the proposals, pending consideration of, and a decision on, the way in which further work on the topic should proceed.
3. The elaboration of conciliation rules should form part of the programme for the United Nations Decade of International Law, and could be an integral component of a universal and comprehensive document on the peaceful settlement of disputes. However, since the programme for the Decade was still at the preparatory stage, it would be appropriate to consider the possibility of including the draft rules in the agenda of the next session of the Special Committee on the Charter - particularly in the light of the Secretariat's intention to complete the draft handbook on the peaceful settlement of disputes before the next session - thus facilitating a wide-ranging and substantive discussion on the ways in which the conciliation rules could best be implemented in the interests of strengthening international peace and security.
4. Mr. TRAXLER (Italy), speaking on behalf of the 12 States members of the European Community, said that given the importance the Twelve attached to the principle of the peaceful settlement of disputes as an essential element in the functioning of international relations, they welcomed the Guatemalan proposals. The proposed rules made thorough use of the existing precedents and scholarly contributions, of which they were an interesting synthesis, but it would have been useful to have specific indications of the sources of the various provisions.
5. Detailed observations on the proposals would be premature. However, the Twelve would like to indicate, without prejudice to any views they might subsequently express, that they had some doubts as to the scope of application of the articles, the wisdom of adopting different rules for cases where there was only one conciliator and cases where there was a conciliation commission, and also the rule concerning disputes involving more than two parties.

(Mr. Traxler, Italy)

6. The difficulty in deciding what to do with the Guatemalan proposals lay partly in the fact that no specific proposal on the peaceful settlement of disputes was currently before the Special Committee on the Charter, which had been considering the topic for many years. In addition, it was not yet known what action would be taken on the peaceful settlement of disputes during the Decade of International Law, or what part would be played by the Special Committee in that connection. The Twelve therefore limited themselves to suggesting that it would be preferable not to maintain the topic "Conciliation rules of the United Nations" as a separate item on the agenda of the Sixth Committee. The inclusion of their consideration in more wide-ranging plans for work in the field of the peaceful settlement of disputes seemed the most reasonable course of action.

7. Mr. VERENIKIN (Union of Soviet Socialist Republics) said that the Guatemalan proposals merited the most careful consideration, since they sought to further one of the basic aims of the Decade of International Law, namely, that of finding ways and means to encourage the peaceful settlement of disputes. The Soviet Union advocated the enhancement and effective use of the whole range of procedures for the peaceful settlement of disputes, from prevention and early identification of situations of conflict, to fact-finding and procedures for resolving disputes through the mediation, if necessary, of a third party.

8. The proposals envisaged the elaboration of rules which could be adopted, mutatis mutandis, by States in order to simplify the settlement of a dispute. Under the rules, only an invitation by one party and acceptance by the other would be required to initiate conciliation proceedings.

9. His delegation considered that the proposals should either be submitted for consideration to the Special Committee on the Charter or reviewed in conjunction with questions relating to the Decade of International Law.

10. Mr. SAENZ DE TEJADA (Guatemala) pointed out that in introducing the draft resolution on United Nations rules for the conciliation of disputes between States (A/C.6/45/L.2), he had acknowledged the fact that, since the text was lengthy and complicated, the Sixth Committee probably would not have time to study it in detail. He had therefore suggested that the Secretary-General should be asked to distribute the draft rules to all Member States, the relevant agencies of the United Nations system, regional intergovernmental organizations and international legal institutions, soliciting their comments on the draft text. He had also suggested that the Sixth Committee should request the Secretary-General to submit to the General Assembly, at its forty-sixth session, a report on the replies received. Finally, he had suggested that the Committee should recommend to the General Assembly that it should include the item on the provisional agenda of its forty-sixth session (A/C.6/45/SR.17, para. 52).

11. His delegation had listened with great interest to the delegations that had taken part in the debate on the item. It had noted that, despite the favourable comments and the different suggestions made, no well-defined view as to what course should be followed in dealing with the item had emerged. It therefore wished to

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(Mr. Saens de Tejada, Guatemala)

make a few points which might help orient future activities with regard to the draft rules of conciliation.

12. In the first place, it should be noted that the discussions on the United Nations Decade of International Law were still at an initial stage, and so far had been limited to a general review of the role of international law. An important process of reflection was currently under way which might eventually lead to the adoption of norms and measures aimed at promoting international law. It was his delegation's understanding that one of the objectives of the Decade was to promote procedures for the peaceful settlement of disputes between States. Some delegations felt that the way to achieve that goal was to draw up an international convention, while others felt that the emphasis should be on making use of existing bodies and mechanisms. The discussion on the promotion of procedures for the peaceful settlement of disputes was indeed a very important one, and it would help generate a new vision and a new approach towards those procedures. For the time being, however, what was taking place was just a very general discussion.

13. It was clear from the views expressed that the draft rules on conciliation called for a more detailed technical and legal study than could be carried out in the framework of the Decade. The consideration and eventual adoption of a set of rules on conciliation would, of course, represent a step forward in the international community's efforts to promote the procedures for the peaceful settlement of disputes to be discussed in the context of the Decade; however, the draft rules on conciliation could be refined to the degree of technical perfection required only in an uninterrupted debate on the draft itself.

The meeting rose at 10.40 a.m.