

United Nations
**GENERAL
ASSEMBLY**

FORTIETH SESSION

*Official Records**



SIXTH COMMITTEE
38th meeting
held on
Thursday, 14 November 1985
at 3 p.m.
New York

SUMMARY RECORD OF THE 38th MEETING

Chairman: Mr. AL-QAYSI (Iraq)

CONTENTS

AGENDA ITEM 132: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)

AGENDA ITEM 141: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

AGENDA ITEM 135: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS EIGHTEENTH SESSION (continued)

AGENDA ITEM 136: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES: REPORT OF THE SECRETARY-GENERAL (continued)

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

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

85-57649 8654S (E)

Distr. GENERAL
A/C.6/40/SR.38
19 November 1985

ORIGINAL: ENGLISH

/...

The meeting was called to order at 3.25 p.m.

AGENDA ITEM 132: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)
(A/40/59; A/40/60-S/16873, A/40/62-S/16876, A/40/63-S/16879, A/40/67-S/16882,
A/40/69-S/16883; A/40/70, A/40/76; A/40/79-S/16890, A/40/80-S/16891,
A/40/81-S/16892, A/40/83-S/16894, A/40/94-S/16902; A/40/98; A/40/111-S/16916;
A/40/116; A/40/120-S/16944, A/40/126-S/16952, A/40/129-S/16955, A/40/134-S/16964,
A/40/138-S/16968, A/40/140-S/16970; A/40/146; A/40/155-S/16988; A/40/161, A/40/170;
A/40/172-S/17023; A/40/175; A/40/181-S/17041, A/40/182-S/17042, A/40/206-S/17057,
A/40/208-S/17060, A/40/210-S/17064, A/40/212-S/17066, A/40/214-S/17068; A/40/220;
A/40/234-S/17102, A/40/235-S/17103, A/40/240-S/17109, A/40/255-S/17112,
A/40/257-S/17116, A/40/264-S/17126, A/40/268-S/17131, A/40/273-S/17135 and Corr.1,
A/40/287-S/17155, A/40/288-S/17158 and Corr.1, A/40/293-S/17165,
A/40/294-S/17167 and Corr.1; A/40/296; A/40/297-S/17173, A/40/309-S/17185,
A/40/310-S/17186 and Corr.1, A/40/311-S/17187, A/40/316-S/17194; A/40/323;
A/40/324-S/17204, A/40/330-S/17208; A/40/332; A/40/333-S/17211; A/40/335;
A/40/338-S/17218; A/40/351; A/40/352-S/17236, A/40/364-S/17247, A/40/368-S/17250,
A/40/371-S/17256, A/40/378-S/17296, A/40/382-S/17276, A/40/391-S/17285,
A/40/401-S/17301, A/40/403-S/17303, A/40/419-S/17311, A/40/424-S/17318,
A/40/466-S/17330, A/40/479-S/17339; A/40/484, A/40/495; A/40/499-S/17350,
A/40/500-S/17352; A/40/501; A/40/505-S/17359, A/40/507-S/17361, A/40/512-S/17365,
A/40/526-S/17377, A/40/538-S/17390, A/40/545-S/17395, A/40/566-S/17403,
A/40/568-S/17414, A/40/573-S/17417, A/40/582-S/17420, A/40/599-S/17432,
A/40/630-S/17458, A/40/636-S/17464, A/40/640-S/17468, A/40/664-S/17479,
A/40/674-S/17489, A/40/675-S/17490, A/40/685-S/17499, A/40/690-S/17504,
A/40/732-S/17545, A/40/753-S/17568, A/40/782-S/17582, A/40/786-S/17584,
A/40/821-S/17594, A/40/859-S/17613)

AGENDA ITEM 141: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (A/40/33, A/40/77, A/40/308, A/40/377, A/40/726 and Corr.1; A/C.6/40/L.10 and L.13)

1. Mr. PAWLAK (Poland) said that his country attached great importance to the enhancement of the role of the United Nations in the maintenance of international peace and security, and supported all appropriate steps to make effective use of its capabilities and mechanisms. The strengthening of the activities of the United Nations was urgently needed in view of the current international situation, characterized by the growing threat of nuclear war, the spiralling arms race and the continuation of armed conflicts in various parts of the world. Consequently, Poland supported the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.
2. Certain proposals submitted in the Special Committee gave rise to serious doubts as to their compatibility with the Charter as well as to their usefulness. He was referring in particular to the proposal submitted by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain (A/40/33, para. 60). It concentrated on the procedural aspects of the prevention of conflicts and disputes in isolation from the conduct and obligations of States. The proposal was also

(Mr. Pawlak, Poland)

silent on the need for all States to respect fully the relevant basic principles of international law. The essential role of States in the prevention of conflicts and the functional links between the actions of interested States and the competent United Nations bodies were also not sufficiently covered. The proposal therefore took too narrow an approach as compared with the Special Committee's mandate, which clearly called for priority to be accorded to the question of international peace and security in all its aspects, not merely to the prevention of certain "matters" and "situations". Moreover, the proposal failed to solve the basic difficulty of drawing the dividing line between the preventive measures needed at the embryonic stage of a conflict and the settlement of an existing conflict.

3. Although the sponsors had expressed their intention to respect and maintain the balance established between the main organs of the United Nations by the Charter, that was not convincingly reflected in their proposal, which to some extent placed the principal organs on an equal footing in the field of the maintenance of international peace and security, in spite of the primary role assigned to the Security Council in Article 24 of the Charter. The proposal conferred specific powers on the Secretary-General in areas where, as a rule, he acted at the request of the Security Council or with the agreement of the Governments concerned. The proposal also failed to take sufficiently into account the fact that, early in a dispute, direct negotiation between the States concerned was frequently the wisest and most efficient action. Unjustified priority appeared to be given to a confidential way of dealing with a given situation as opposed to official action.

4. In connection with the paragraph of the proposal concerning peace-keeping operations, he emphasized that under the Charter, only the Security Council was authorized to take decisions regarding initiation of such operations. Certain stipulations of the proposal were not fully compatible with, in particular, Chapters VI and VII and Articles 52, 53 and 99 of the Charter. His delegation also had doubts concerning the proposal in the light of the basic principle of free choice of means of peaceful settlement, provided for in Article 33 of the Charter and elaborated in the Manila Declaration.

5. His delegation shared the view that the proposal on the establishment of a commission for good offices, mediation and conciliation was still not satisfactory from the point of view of conformity with the Charter and practical usefulness. The proposed commission might in certain circumstances encroach upon the area of competence of the Security Council. It might also affect the discretion which the Charter allowed States in choosing freely the appropriate means for settling their disputes. There was still some doubt as to the need for the proposed procedure. The Charter and the Manila Declaration already provided sufficient and flexible means for the settlement of disputes; what was often lacking was the political will of States to have recourse to the existing mechanisms. It was highly questionable whether the proposed new body would be more effective than the existing organs. Furthermore, the institutionalization of procedures which functioned best in an atmosphere of informality did not appear conducive to the solution of international disputes and the promotion of negotiated settlements.

(Mr. Pawlak, Poland)

6. He welcomed the further progress achieved on the draft handbook on the peaceful settlement of disputes. The handbook should be descriptive, practically oriented and fully consistent with the Charter. It should not be of a legal nature.
7. Further consideration should be given to the rationalization of procedures of the United Nations. The primary objective should be the efficient functioning of the Organization, and no attempt should be made to circumvent the Charter. All proposals in that context must be within the framework of the existing provisions of the Charter if they were to be realistic.
8. Mr. OMAR (Libyan Arab Jamahiriya) said that the Special Committee on the Charter must give priority to the question of the maintenance of international peace and security, in accordance with General Assembly resolution 39/88 A. It should take into account the experience acquired by the United Nations in that area during the past 40 years and evaluate the role played by the Security Council during that time, with a view to identifying shortcomings, devising means of overcoming them, and setting priorities within the framework of its mandate. Priority must be given to the elimination of the difficulties and obstacles preventing the Security Council from settling conflicts that had lasted for decades, and from adopting effective measures against threats to international peace and security, acts of aggression and flagrant violations of the Charter and resolutions of the United Nations. The Security Council must be provided with the means of fulfilling its obligations under the Charter. It was regrettable that primarily because of its reluctance to tackle controversial questions, the Special Committee had concentrated on preventive measures and had failed to address the real problems confronting the United Nations in connection with the maintenance of international peace and security.
9. As a matter of principle, his delegation did not object to the idea that the Special Committee should consider the strengthening of the effectiveness of the United Nations system in the peaceful settlement of disputes. His country's willingness to comply with the provisions of the Charter and refer disputes to the official judicial organ of the United Nations was demonstrated by the fact that its disputes with Malta and Tunisia had been referred to the International Court of Justice. Moreover, his delegation was in principle not opposed to the consideration of proposals concerning preventive measures which would ultimately strengthen the Organization and contribute to the implementation of the provisions of the Charter. However, it believed that priority should be given to other, more important issues.
10. Specifically, the procedures of the Security Council must be reformed if it was to be effective. The Council was not fully discharging its responsibilities under the Charter and was no longer able to adopt effective measures against the breach of international peace and security, as had been pointed out by the Secretary-General and by a number of Member States during the current session of the General Assembly. They included India, France, Denmark, China, Egypt and the United Kingdom. During the session, attention had been drawn to the reasons for

(Mr. Omar, Libyan Arab Jamahiriya)

the weakness and paralysis of the Security Council. The main reasons mentioned by Member States were the misuse of the veto, particularly in furtherance of national rather than collective interests, the privileged status of the permanent members of the Council, which was inconsistent with the principle of equality, and the lack of co-operation. In that connection, he recalled the statements to the General Assembly made by New Zealand on 24 October 1985 and Bahrain on 7 October 1985, the views expressed in the Secretary-General's report (A/40/1) regarding the lack of unanimity in the Security Council, the statement by Suriname to the General Assembly regarding the use of the veto to the detriment of the third world countries, the statement by Egypt regarding the gradual retreat from multilateralism, the views expressed by the President of the General Assembly regarding the paralysing effect of the veto on the Security Council, the statement by Peru regarding the anachronistic character of the veto, the statement by Madagascar regarding the unfortunate consequences of the pursuance of narrow interests, and the statement by India regarding the Council's inability to achieve its basic objectives.

11. Clearly, the prevailing opinion was that the Security Council was incapable of discharging its main responsibilities under the Charter. Therefore, there was an urgent need to discuss ways and means of reforming the way in which the Council functioned. That problem should be faced squarely, on the basis of the past 40 years' experience with a view to working out appropriate solutions.

12. During the current session, a number of Member States had suggested ways of overcoming the weaknesses of the Security Council and of strengthening its effectiveness. The Special Committee should consider those suggestions. The question of the veto should be reconsidered, the use of the veto in certain non-procedural matters should be suspended or restricted, and the veto should not be used to defend aggression and wrongful acts. The permanent members of the Security Council must fulfil their Charter obligations and give precedence to common interests over national interests. The General Assembly's role in the maintenance of international peace and security must be strengthened.

13. The efforts made by the Libyan Arab Jamahiriya and a number of other countries to draw attention to the need to strengthen the role of the Security Council had consistently been rejected, without justification, by most of its permanent members. The rules of procedure of the General Assembly had always been invoked to avoid consideration of the proposals, in a manner that was inconsistent with the democratic principles underlying the Organization. However, many States, including members of the Security Council, believed that there was an urgent need to strengthen its role in the maintenance of international peace and security. The most effective way of setting about that task would be to draw conclusions from past experience, as had correctly been pointed out by the representative of China in his statement to the Security Council. In view of the importance of the role of the Security Council, it was hoped that the Special Committee would give new impetus to the Council and ensure that it served the common interest.

AGENDA ITEM 135: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS EIGHTEENTH SESSION (continued) (A/40/17; A/C.6/40/L.5, L.6 and L.7)

14. Miss DAUCHY (Secretary of the Committee) announced that Czechoslovakia had become a sponsor of draft resolutions A/C.6/40/L.6 and L.7.

15. Draft resolution A/C.6/40/L.6 was adopted by consensus.

16. Draft resolution A/C.6/40/L.7 was adopted by consensus.

AGENDA ITEM 136: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES: REPORT OF THE SECRETARY-GENERAL (continued) (A/40/453 and Add.1-5; A/C.6/40/L.11)

17. Miss DAUCHY (Secretary of the Committee) announced that Mongolia had become a sponsor of draft resolution A/C.6/40/L.11.

18. Draft resolution A/C.6/40/L.11 was adopted by consensus.

The meeting rose at 4.25 p.m.