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New York

SUMMARY RECORD OF THE 50th MEETING

Chairman: Mr. AL-QAYSI (Iraq)

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5 December 1985

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

AGENDA ITEM 128: UNITED NATIONS PROGRAMME OF ASSISTANCE IN THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW: REPORT OF THE SECRETARY-GENERAL (A/40/893)

1. Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel), introducing the report of the Secretary-General on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law (A/40/893), noted that 1985 marked the twentieth anniversary of the Programme of Assistance, which had been in successful operation since its establishment by the General Assembly in resolution 2099 (XX). The report covered the activities carried out by the United Nations, the United Nations Institute for Training and Research (UNITAR) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1984 and 1985 (sect. II), and proposed action to be taken during the next biennium (sect. III), which largely followed the pattern of the recommendations made in previous years. The report had been endorsed by the Advisory Committee on the Programme of Assistance at its meeting on 30 October 1985.
2. The Secretary-General wished to thank UNITAR and UNESCO for their continued valuable contributions to the execution of the Programme, and also wished to join the Executive Director of UNITAR in expressing appreciation to the Government of Cameroon and to the International Relations Institute of Cameroon for providing host facilities for the 1984 regional training and refresher course for African countries.
3. The Secretary-General noted with regret that the proposed UNITAR regional training and refresher course in international law for Asian and Pacific countries had not taken place in 1985 for lack of a host country, and that UNITAR might have difficulty in finding host countries for future regional courses. It was hoped that voluntary contributions from Governments would be forthcoming to help cover the estimated amount of \$30,000 for daily subsistence allowances for up to 25 participants in each UNITAR regional course, thus alleviating the burden on host countries and making it possible for UNITAR to organize one regional course per year. The usefulness of the courses had been stressed by several delegations at the recent meeting of the Advisory Committee.
4. Financial difficulties had also been experienced in connection with the Geneva International Law Seminar. There too it was hoped that voluntary contributions would be forthcoming.
5. With regard to the financing of the Programme, the Secretary-General wished to express appreciation to Governments, institutions and individuals for their voluntary contributions during the past biennium. Contributions had been made to the Fellowship Programme by the Governments of Argentina, Austria, the Bahamas, Greece, Jamaica, Kuwait, Qatar and Trinidad and Tobago. The Government of the Libyan Arab Jamahiriya had also recently announced a contribution. For the Geneva International Law Seminar, contributions had been received from the Governments of Argentina, Austria, Denmark, Finland and the Federal Republic of Germany. The

(Mr. Fleischhauer)

Government of Brazil had made a contribution towards the reinstatement of the Gilberto Amado Memorial Lecture. The Governments of the Bahamas, India, Japan, the Netherlands and Norway had contributed to the Hamilton Shirley Amerasinghe Memorial Fellowship. The Third World Foundation for Social and Economic Studies had also made an important donation, as had Professor Pardo from Malta.

6. The Secretary-General wished to stress the importance of voluntary contributions for the successful implementation of the activities of all components of the Programme of Assistance, and as a supplement to the regular-budget allocation, which was intended only for some aspects of those activities.

7. The report gave an account of the meetings of the Advisory Committee on the Programme held during the 1984-1985 biennium. The Secretary-General was most grateful to the Advisory Committee for its assistance and advice in connection with the execution of the Programme.

8. Mr. GUMUCIO GRANIER (Bolivia), referring to the report of the Secretary-General in document A/40/893, said that the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law was of great importance to the developing countries. Where activities relating to public international law were concerned, his delegation believed that the internship programme of the Department of Public Information should be continued and that the number of interns should be increased. Furthermore, it welcomed the fact that the secretariat of the United Nations Commission on International Trade Law (UNCITRAL) had co-operated in the holding of a number of regional seminars and conferences in Latin America, Africa and Asia. It also wished to express its appreciation to the Secretary-General and the Programme for the provision of United Nations legal publications to Bolivia, in accordance with General Assembly resolution 36/108, paragraph 1, as well as to the International Court of Justice for the provision of its publications to Bolivian university centres. UNITAR was playing an important role in organizing training and refresher courses in international law, and it was therefore regrettable that the course for countries in the Asia and Pacific region that had been scheduled for 1985 could not be held owing to the lack of a host country. It would be desirable for such UNITAR seminars to be held in Latin America in the next biennium. UNESCO was to be commended for the series New Challenges to International Law and for its studies on research and training activities in international law in Asia and the Pacific and in Africa. However, his delegation wished to stress the need for the publications in question to be issued in Spanish as well.

9. Bolivia welcomed the recommendations of the Secretary-General regarding execution of the Programme in the biennium 1986-1987 and the presentation of the administrative and financial implications of United Nations participation in the Programme during the same period. In particular, it supported the proposal that funds accruing from voluntary contributions should be used to increase the number of fellowship grants to candidates from developing countries. Furthermore, it wished to express its appreciation to the contributors to the Hamilton Shirley Amerasinghe Memorial Fellowship, particularly the Third World Foundation. It noted that it would thus be possible to provide a fellowship for students of the law of the sea, and wished to suggest that due consideration should be given to the needs of the land-locked countries.

(Mr. Gumucio Granier, Bolivia)

10. Bolivia was in favour of holding a regional seminar in Latin America under the Programme, and would be interested in hosting such a seminar in the near future.

11. Mr. AKDAG (Turkey) said that his delegation supported the efforts made under the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, especially those in favour of the developing countries. In that connection, he drew attention to paragraphs 333 and 334 of the report of the International Law Commission (A/40/10), and paragraph 366 of the report of UNCITRAL (A/40/17). He also drew attention to the need for additional financial contributions for the twenty-second session of the International Law Seminar.

12. His delegation welcomed the Secretary-General's report (A/40/893) and supported the recommendations on the implementation of the Programme for the biennium 1986-1987, set forth in section III. It was hoped that more fellowships would be granted to candidates from the developing countries, and that they would be granted in accordance with the criteria set out in paragraph 36 of the report.

13. The CHAIRMAN appealed to interested delegations to expedite the preparation and submission of the draft resolution under item 128.

AGENDA ITEM 133: DRAFT CODE OF OFFENCES AGAINST THE PEACE AND SECURITY OF MANKIND: REPORT OF THE SECRETARY-GENERAL (continued)

Draft resolution A/C.6/40/L.15

14. The CHAIRMAN said that Cyprus had joined the sponsors of draft resolution A/C.6/40/L.15 and that Egypt had requested a recorded vote.

15. Mr. EDWARDS (United Kingdom), speaking in explanation of vote, said that his delegation would vote against the draft resolution because it was not in favour of taking one item from the International Law Commission's ongoing work programme and making it a separate item on the agenda of the General Assembly. In that respect, the approach suggested by the draft resolution was not justified and amounted to an attempt to exert political pressure on the Commission. Certain preambular and operative paragraphs of resolution 39/80 which had been repeated in the draft resolution were unacceptable. His delegation questioned the usefulness of the draft resolution and disagreed with the Commission's method of identifying specific offences before elaborating general criteria.

16. Mr. ALMEIDA LIMA (Portugal), recalling his delegation's earlier statement on the draft Code of Offences against the Peace and Security of Mankind, reaffirmed its support for the codification of international law in that area. However, the International Law Commission should study the subject in greater depth in view of the considerable disagreement to which the issue still gave rise. The finalization of the draft must not be rushed.

17. Given the complexity of the work of the Commission, its report must be considered as a whole. Items must not be discussed separately by the General Assembly. His delegation was able to support only a limited number of the

(Mr. Almeida Lima, Portugal)

provisions elaborated by the Commission, and regretted that the question of the draft Code had not been included in the draft resolution covering its report.

18. Mr. ROSENSTOCK (United States of America) said that it made no sense to adopt one resolution on the Commission's programme of work as a whole and another on only one of the topics included in that programme. Such a duplication would be irrational, and the adoption of the draft resolution would, in many ways, be counter-productive. His delegation would therefore vote against it.

19. Mr. SCHRICKE (France) said that his delegation would vote against the draft resolution, because it still disagreed with the approach adopted by its sponsors. It had been hoped that France's abstention in previous years would have prompted them to alter their approach, but they had failed to do so. The work of the International Law Commission must be considered as a whole and should not be broken down into separate items covered by separate resolutions.

20. Ms. CHOKRON (Israel) said that, despite the Jewish people's special interest in the draft Code, her delegation would vote against the draft resolution for reasons already stated. However, in view of the reaction of the Sixth Committee, it was hoped that the sponsors would make the necessary changes. Indeed, there was no reason to dissociate that particular item from the rest of the Commission's work.

21. Mr. HERRON (Australia) said that his delegation would again vote in favour of the draft resolution. However, it had reservations about paragraph 4. The item should be considered in the context of the report of the International Law Commission instead of being discussed separately.

22. Mr. MAGNUS (Norway), speaking also on behalf of Denmark, Finland, Iceland and Sweden, said that the Commission should continue its work on the elaboration of the Code, and that the Nordic delegations would vote in favour of the draft resolution. However, the item should not be given higher priority than the other items on the agenda of the Commission. There was no reason for addressing it separately in the Sixth Committee. It should be discussed under the general heading of the report of the Commission. The Nordic delegations had reservations as to the wording of the draft resolution, particularly that of paragraph 4.

23. Ms. SKINNER (Ireland) said that her delegation would vote in favour of the draft resolution because it supported the elaboration of the Code. However, that topic should not be a separate agenda item, and did not call for the adoption of a separate resolution. She therefore expressed reservations as to paragraph 4.

24. It was hoped that the Commission would continue its work on the topic and would produce an acceptable and authoritative text.

25. Mr. GUNNEY (Turkey) said that the adoption of a separate resolution on one of the topics in the Commission's programme of work was contrary to established practice. That approach was based on the idea that one topic had precedence over the rest of the Commission's work and, was likely to have an adverse effect on the Commission's programme of work in the long run. His delegation would therefore abstain from voting on the draft resolution.

26. Mr. TREVES (Italy) said that his delegation would abstain for the same reasons, and had reservations about paragraph 4 of the draft resolution. It also objected to the idea of consulting intergovernmental organizations, as provided for in paragraph 2.

27. Mr. MORAGA (Chile) said that his delegation would vote against the draft resolution because it did not adequately reflect the importance of the topic and was likely to put undue pressure on the Commission, whose work must be rationalized in the context of the overall rationalization of the procedures of the Organization.

28. At the request of the representative of Egypt, a recorded vote was taken on draft resolution A/C.6/40/L.15.

In favour: Afghanistan, Algeria, Angola, Argentina, Australia, Austria, Bahrain, Bangladesh, Benin, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Denmark, Djibouti, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, Gabon, German Democratic Republic, Greece, Guyana, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Ivory Coast (Côte d'Ivoire), Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mexico, Mongolia, Morocco, Mozambique, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saudi Arabia, Senegal, Sri Lanka, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia.

Against: Chile, France, Germany, Federal Republic of, Israel, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Belgium, Canada, Italy, Japan, Netherlands, Portugal, Spain, Turkey.

29. Draft resolution A/C.6/40/L.15 was adopted by 98 votes to 6, with 8 abstentions.

30. Mr. LACLETA (Spain), speaking in explanation of vote, said that his delegation had abstained for the reasons already mentioned by other delegations. It objected to the wording of paragraph 4 because there was no reason for dissociating the item from the rest of the Commission's programme of work. He also opposed the idea of consulting intergovernmental organizations, referred to in paragraph 2.

31. Mr. MÜTZELBURG (Federal Republic of Germany) said that if the draft resolution just adopted had been more similar to the corresponding draft resolution adopted the previous year, his delegation would have abstained in the vote once again. It was regrettable that the mandate of the International Law Commission should be split up in separate draft resolutions. Moreover, it was unfortunate that, in comparison with the corresponding draft resolution adopted the previous year, the draft resolution just adopted had a number of additional shortcomings, particularly in paragraphs 2 and 3, which had forced his delegation to vote against it.

32. Mr. ALI (Democratic Yemen) said that his delegation would have voted in favour of the draft resolution if it had been present during the voting.

AGENDA ITEM 134: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

Draft resolution A/C.6/40/L.14

33. The CHAIRMAN said that in addition to draft resolution A/C.6/40/L.14 on the report of the Special Committee, the Sixth Committee had before it a statement of programme budget implications (A/C.6/40/L.25). Cameroon had joined the sponsors of the draft resolution, on which a recorded vote had been requested.

34. Mr. ZAMANINIA (Islamic Republic of Iran), speaking in explanation of vote, said that his delegation wished to reaffirm its strict commitment to the principle of non-use of force in international relations. It was common knowledge that in 1979 Iraq had unilaterally abrogated the 1975 Algiers Agreement. The Iraqi régime had resorted to full-scale military force and had invaded the Islamic Republic of Iran, thus imposing a long war on the Muslim peoples of the two countries, despite the availability of machinery for the peaceful settlement of disputes, provided for in various international instruments, including the Charter of the United Nations.

35. In those circumstances, Iraq had hypocritically become a sponsor of a primarily procedural draft resolution on the process of the codification of international law. What was absolutely essential for the codification of international law was the necessary political will on the part of States to fulfil their international obligations. It was clear from the war imposed by the Iraqi régime that it was neither willing nor able to fulfil its international obligations, regardless of whether they related to the principle of non-use of force in international relations or to the principle of non-use of chemical weapons. His delegation believed that Iraq had become a sponsor of draft resolution A/C.6/40/L.14 in order to: conceal the fact that it had resorted to military force and imposed a war of aggression on the Islamic Republic of Iran; endeavour to produce United Nations documents for future political reference and claim that it was a peaceful State; and deceive the international community as to the real nature of the Iraqi régime. Such practices undermined the work of the United Nations and seriously affected the codification of international law. Iraq was misusing the United Nations in general and the Sixth Committee in particular in order to achieve cheap political objectives.

36. Notwithstanding that opportunistic manoeuvre by Iraq, his delegation supported draft resolution A/C.6/40/L.14.

37. Mr. CASTROVIEJO (Spain) said that his delegation would abstain in the vote on draft resolution A/C.6/40/L.14. It could accept the idea of drafting a declaration, on the understanding that that process would not constitute a step towards drafting a world treaty.

38. Mr. CALERO RODRIGUES (Brazil) said that his delegation would abstain in the vote on the draft resolution. It wished to emphasize that the Special Committee needed a mandate that addressed the substance of its work. That Committee should be requested to continue its work with a view to identifying the elements that could enhance the effectiveness of the principle of non-use of force in international relations; it should also be requested to suggest measures that could contribute to such enhancement. The question of the final form to be given to the result of the work of the Special Committee should be considered at a later stage.

39. A recorded vote was taken on draft resolution A/C.6/40/L.14.

In favour: Afghanistan, Algeria, Angola, Argentina, Bahrain, Bangladesh, Benin, Bolivia, Brunei Darussalam, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, Gabon, German Democratic Republic, Greece, Guyana, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mexico, Mongolia, Morocco, Mozambique, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saudi Arabia, Senegal, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia.

Against: Belgium, Canada, Denmark, France, Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Saint Vincent and the Grenadines, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia, Austria, Brazil, Chile, Germany, Federal Republic of, Ireland, Ivory Coast (Côte d'Ivoire), New Zealand, Spain, Sweden, Turkey.

40. Draft resolution A/C.6/40/L.14 was adopted by 90 votes to 15, with 11 abstentions.

41. Mr. AENA (Iraq), speaking in exercise of the right of reply, said that the Sixth Committee was not the proper forum for discussion of the Iran-Iraq war. It was quite clear who the aggressor was in that war and who was continuing to commit acts of aggression. Iraq had always indicated that it would accept all good



(Mr. Aena, Iraq)

offices with a view to restoring peace. It had not abrogated the Algiers Agreement. The efforts made by Iran to export its philosophy and to topple the Iraqi Government had caused the conflict.

42. Mr. ZAMANINIA (Islamic Republic of Iran), speaking in exercise of the right of reply, referred to the statement made by the representative of Iraq and said that the facts remained unchanged.

AGENDA ITEM 148: DRAFT DECLARATION ON SOCIAL AND LEGAL PRINCIPLES RELATING TO THE PROTECTION AND WELFARE OF CHILDREN, WITH SPECIAL REFERENCE TO FOSTER PLACEMENT AND ADOPTION, NATIONALLY AND INTERNATIONALLY (continued) (A/C.6/40/7; A/C.6/40/L.8 and L.26)

43. Mr. MUTZELBURG (Federal Republic of Germany), referring to draft decision A/C.6/40/L.26, said that, following consultations, he wished to revise the end of the last paragraph so that it would read: "in order to consider the remaining questions with a view to achieving agreement and adopting the draft Declaration at that session".

44. Mr. ANDRIAMISEZA (Madagascar) said that the child occupied a privileged position in Malagasy society. The legislation of his country paid particular attention to the protection of children, and had contained provisions concerning adoption since the middle of the nineteenth century. Compared with it, the document that had been transmitted by the Third Committee only partially covered the question.

45. His delegation shared the view that the draft Declaration should be adopted by consensus, which would give it considerably more weight. The draft resolution (A/C.6/40/L.8) caused his delegation no problems. The provisions in the first 16 articles of the draft Declaration were already reflected in current Malagasy legislation, and his delegation welcomed the remaining articles. In effect, intercountry adoption required harmonization of legislation. He had personally seen cases where the adoption of children by foreigners, legally under Malagasy law, had not been recognized as valid under foreign legislation.

46. With regard to article 18, a question arose as to the measures to be used to "establish ... effective supervision", but in his country there seemed to be no reason why the existing institutions could not undertake what had to be done in that area.

47. In view of the increasing number of orphans and the current difficulties encountered in adoption, he hoped the Declaration would be adopted rapidly. Nevertheless, he wished to point out that the draft appeared to be principally concerned with adoption through a judicial process as was the case in many countries, especially European countries. Moreover, it appeared that the sponsors had in mind only children who had lost both parents. However, some children who still had one or both parents alive might also be in need of adoption because of the illness or poverty of their parents. In such cases, there was a serious danger that the natural parents would reclaim the child at a future date. For that reason, Malagasy legislation also made provision for traditional adoption, which

(Mr. Andriamiseza, Madagascar)

consisted in placing the child with a second family without severing links with the natural family. Full account was thus taken of the interests of the adopted child, who enjoyed full rights in the adoptive family, but could return at will to the biological family. When adopted by foreigners, such a child was entitled to dual nationality, if the legislation of the other country so allowed.

48. Mr. LINDHOLM (Sweden) recalled that in 1984 his delegation had introduced a draft resolution on the item that had been adopted without a vote. The General Assembly had decided, also without a vote, to appeal to Member States representing different legal systems to undertake consultations on the draft Declaration. The report on those informal consultations was contained in document A/40/244. His delegation was satisfied with the progress that had been made.

49. Together with the Netherlands, the Philippines and Venezuela, Sweden had requested that the question should be included as an additional item in the agenda of the fortieth session of the General Assembly. They felt that there were good prospects for a consensus on the draft Declaration and that the General Assembly might wish to consider the draft and, it was hoped, conclude work on it during the current session, or during the forty-first session at the latest.

50. Informal discussions in the Sixth Committee during the current session had shown that delegations were close to arriving at a consensus on the draft Declaration. However, some delegations were not prepared to take a decision at the current stage, and for that reason draft decision A/C.6/40/L.26 had been introduced to allow informal consultations on the question to be held in the early part of the forty-first session.

51. His delegation considered that it was important to reach a consensus on the draft Declaration, and that that concern was more important than the time aspect. He understood that the draft would be only slightly amended and polished, and he hoped that the Declaration would be proclaimed by the General Assembly at its next session.

52. Draft decision A/C.6/40/L.26, as orally revised, was adopted without a vote.

53. Mr. ROSENSTOCK (United States of America) suggested that the Secretariat should consider the purely editorial question of referring to the adoption of a draft declaration. Strictly speaking, the General Assembly adopted declarations rather than drafts.

AGENDA ITEM 132: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)  
(A/40/59; A/40/60-S/16873; A/40/61; A/40/62-S/16876, A/40/63-S/16879, A/40/67-S/16882, A/40/69-S/16883; A/40/70, A/40/71, A/40/76; A/40/79-S/16890, A/40/80-S/16891, A/40/81-S/16892; A/40/82; A/40/83-S/16894; A/40/86; A/40/94-S/16902; A/40/95, A/40/98, A/40/110; A/40/111-S/16916; A/40/116; A/40/120-S/16944; A/40/124; 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/40/151; A/40/155-S/16988; A/40/157, A/40/161, A/40/170; A/40/172-S/17023; A/40/175; A/40/178-S/17030, A/40/181-S/17041, A/40/182-S/17042, A/40/186-S/17045, A/40/204-S/17054, 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/40/258-S/17177, A/40/264-S/17126, A/40/268-S/17131, A/40/273-S/17135 and Corr.1, A/40/274-S/17136, A/40/282-S/17149, 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/40/300-S/17176, 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/40/337-S/17214, 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/40/376-S/17268, 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/40/412-S/17305, A/40/419-S/17311, A/40/424-S/17318, A/40/466-S/17330, A/40/479-S/17339; A/40/484, A/40/488-S/17343, 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/40/531-S/17383, A/40/538-S/17390, A/40/545-S/17395, A/40/554-S/17401, A/40/562-S/17409, A/40/566-S/17403, A/40/568-S/17414, A/40/573-S/17417, A/40/582-S/17420, A/40/595-S/17431, A/40/599-S/17432, A/40/630-S/17458, A/40/636-S/17464, A/40/639-S/17465, 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/40/691-S/17505; 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/40/822-S/17595, A/40/859-S/17613, A/40/866-S/17615, A/40/899-S/17636; A/40/902-S/17637, A/40/908-S/17641, A/40/911-S/17644, A/40/922-S/17651, A/40/937-S/17655; A/C.6/40/L.21 [132])

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)  
(A/40/33, A/40/77, A/40/308, A/40/377, A/40/726 and Corr.1; A/C.6/40/L.10, L.13/Rev.1, L.21 and L.24)

54. The CHAIRMAN said that Bolivia and the Dominican Republic had become sponsors of draft resolution A/C.6/40/L.21.

55. Mr. EDWARDS (United Kingdom), noting that the request in paragraph 3 of draft resolution A/C.6/40/L.21 duplicated that in paragraph 3 (b) of draft resolution A/C.6/40/L.10, expressed the hope that at the forty-first session of the General Assembly the point would not have to be discussed under two different agenda items.

56. Mr. DIACONU (Romania), speaking as a sponsor of draft resolution A/C.6/40/L.21, assured the Committee that, as in the past, the items concerned would be considered together at the next session.

57. Draft resolution A/C.6/40/L.21 was adopted without a vote.

58. Mr. RIVERA (Peru), noting that the draft resolution just adopted referred to the Manila Declaration, drew attention to the statement made by his delegation at the thirty-seventh session on the occasion of the adoption of that Declaration explaining his country's interpretation of the Declaration.
59. The CHAIRMAN invited the Committee to consider draft resolutions A/C.6/40/L.10 and L.13/Rev.1. The financial implications of draft resolution A/C.6/40/L.13/Rev.1 were set out in document A/C.6/40/L.24.
60. Mr. TOLENTINO (Philippines), introducing draft resolution A/C.6/40/L.10 on behalf of its sponsors, said that as a result of intensive consultations the text had been revised in the following manner. A new preambular paragraph should be inserted after that beginning with the words "Having considered", reading as follows: "Taking into account the work accomplished on the working paper 'Prevention and removal of threats to the peace and of situations that may lead to international friction or give rise to a dispute'; 5/", the relevant document number being supplied in a new footnote 5/. The last sentence of paragraph 3 (a) should be amended to read: "In so doing, the Special Committee should work expeditiously on the working paper 'Prevention and removal of threats to the peace and of situations that may lead to international friction or give rise to a dispute' 7/ or any revision thereof, as well as other proposals which might be laid on that question with a view to completing its consideration thereof;", the relevant document number being supplied in footnote 7/. Paragraph 3 (b) (i) should read: "To continue consideration of the proposal contained in the working papers on the establishment of a commission for good offices, mediation and conciliation; 8/", the relevant document numbers being supplied in footnote 8/.
61. Mr. SCHRICKE (France), speaking in explanation of vote before the vote, expressed his delegation's satisfaction with the fact that a mandate acceptable to all delegations had once again been drawn up for the Special Committee. His delegation hoped that the agreement achieved on that issue would not be jeopardized by any decision which the Committee might subsequently take in respect of draft resolution A/C.6/40/L.13/Rev.1.
62. Draft resolution A/C.6/40/L.10, as orally revised, was adopted without a vote.
63. Mr. WILLEMARCK (Belgium), speaking on behalf of the 10 members of the European Economic Community, proposed that the Committee should apply rule 131 of the rules of procedure and decide that it would not vote on draft resolution A/C.6/40/L.13/Rev.1 in view of the adoption of draft resolution A/C.6/40/L.10. There were three reasons for that motion. First, the 10 members of the European Economic Community shared the view of a large majority of the Committee's members as to the importance of the work of the Special Committee continuing in a constructive and ordered manner. Second, they considered that the Special Committee's mandate was sufficiently wide to permit the discussion of any constructive proposal concerning the Organization's satisfactory operation and the strengthening of its role. Third, it was obvious that since views on draft resolution A/C.6/40/L.13/Rev.1 were extremely divided, as in previous years, consensus could be reached only in respect of resolution A/C.6/40/L.10.

64. Mr. OMAR (Libyan Arab Jamahiriya) said that the motion introduced by Belgium represented the seventh attempt to prevent the General Assembly from considering a proposal along the lines of draft resolution A/C.6/40/L.13/Rev.1. Such attempts, based on a strategem involving a misuse of the rules of procedure, in fact reflected a wish to maintain United Nations organs in their current state of weakness and partial paralysis. The draft resolution's sponsors had endeavoured to establish fruitful contacts with the text's opponents but had failed to elicit a positive response. Under the circumstances, his delegation could not but oppose the Belgian motion and call for a vote on draft resolution A/C.6/40/L.13/Rev.1.

65. Mr. KAHALEH (Syrian Arab Republic) said that if the Committee was generally opposed to draft resolution A/C.6/40/L.13/Rev.1 that position should be expressed through a vote in the normal democratic manner. The draft resolution was not incompatible with draft resolution A/C.6/40/L.10. The motion introduced on behalf of the members of the European Economic Community represented an unacceptable attempt to prevent the members of the Committee from expressing their views and was inconsistent with the very purpose of the United Nations.

66. Mr. ZAMANINIA (Islamic Republic of Iran) said that draft resolution A/C.6/40/L.13/Rev.1 was a sincere attempt to begin a realistic study of ways and means of strengthening the role of the Organization in general and its capacity to settle conflicts in particular.

67. The Security Council, which had a primary role in conflict settlement, was a paradoxical organ. It had great constitutional power but had achieved very little. His delegation believed that the composition of the Security Council and its decision-making process should be reassessed in the light of past experience and present-day political reality. Each of the permanent members of the Security Council was a party to an international conflict in some part of the world for its own national interests. His delegation believed that the developments of the past 40 years warranted an effective study of the ways and means of eliminating abuse of the unanimity rule by the permanent members of the Security Council. He therefore called on delegations which acknowledged the state of disarray of international relations to vote against the procedural motion proposed by the representative of Belgium.

68. The CHAIRMAN said that the procedural motion under rule 131 had been seconded by the French delegation.

69. At the request of the representative of the Libyan Arab Jamahiriya, a recorded vote was taken on the motion.

In favour: Australia, Barbados, Bulgaria, Byelorussian Soviet Socialist Republic, Central African Republic, Chad, Chile, Colombia, Czechoslovakia, Democratic Kampuchea, Denmark, Dominican Republic, Ecuador, Egypt, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Greece, Grenada, Hungary, Iceland, Ireland, Israel, Italy, Ivory Coast, Japan, Luxembourg, Mongolia, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Portugal, Spain, Sweden, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist

Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Zaire, Zambia.

Against: Albania, Algeria, Angola, Bahrain, Belgium, Benin, Canada, Congo, Cuba, Cyprus, Democratic Yemen, Djibouti, Ethiopia, India, Iran (Islamic Republic of), Iraq, Kenya, Kuwait, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mali, Nicaragua, Oman, Panama, Romania, Saudi Arabia, Sudan, Suriname, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, Yemen, Yugoslavia.

Abstaining: Afghanistan, Argentina, Austria, Bangladesh, Bolivia, Brazil, Brunei Darussalam, Burma, Burundi, Cameroon, China, Equatorial Guinea, Guyana, Indonesia, Jordan, Liberia, Malaysia, Maldives, Mexico, Morocco, Nepal, Niger, Nigeria, Pakistan, Sri Lanka, Swaziland, United Republic of Tanzania, Venezuela, Viet Nam.

70. The motion was adopted by 46 votes to 36, with 29 abstentions.

71. Mr. WILLEMARCK (Belgium) and Mr. GAUDREAU (Canada) said that, no doubt as a result of a mechanical fault, their positive votes had been recorded as negative ones.

72. The CHAIRMAN said that due note would be taken of those statements. In view of the adoption of the Belgian motion, no vote would be taken on draft resolution A/C.6/40/L.13/Rev.1.

#### OTHER MATTERS

73. Mr. KALINKIN (Secretary of the Committee) announced the possible dates for the 1986 sessions of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations: from 20 January to 14 February, from 7 April to 2 May, and from 4 to 29 August. While it would also be possible for meeting services to be provided from 16 June to 11 July, the substantive services of the Codification Division could be provided during that period only for the Ad Hoc Committee on mercenaries.

74. Mr. OUEDRAOGO (Burkina Faso) said that had his delegation been present during the voting, it would have voted in favour of draft resolutions A/C.6/40/L.15 and L.14. It also supported draft decision A/C.6/40/L.26.

The meeting rose at 5.30 p.m.