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REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Report of the Sixth Committee

Rapporteur: Miss Salwa Gabriel BERBERI (Sudan)

I. INTRODUCTION

1. The item entitled:

"Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization:

"(a) Report of the Special Committee;

"(b) Updating of the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs: report of the Secretary-General"

was included in the provisional agenda of the thirty-seventh session of the General Assembly pursuant to paragraph 14 of Assembly resolution 36/122 of 11 December 1981.

2. On the recommendation of the General Committee, the General Assembly decided at its 4th plenary meeting, on 24 September 1982, to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with this item, the Sixth Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; 1/

(b) Report of the Secretary-General containing observations and proposals received from the Government of Egypt (A/37/384);

(c) Report of the Secretary-General on the Repertoire of the Practice of Security Council and Repertory of Practice of United Nations Organs (A/C.6/37/4).

4. The Committee also had before it the following communications:

(a) Letter dated 3 May 1982 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/37/217);

(b) Letter dated 16 August 1982 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/37/392);

(c) Letter dated 12 October 1982 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/37/542).

5. At its 9th meeting, on 5 October 1982, the Sixth Committee agreed on a timetable whereby four meetings were allocated to item 122 (Peaceful settlement of disputes between States) and six to item 127 (Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization), it being understood, in view of the elements common to the two items, that the delegations could deal with the two items in the way which seemed to them to be the most convenient.

6. The Committee considered item 127 at its 20th to 29th meetings, from 18 October to 27 October 1982, and at its 57th to 59th meetings, from 29 November to 2 December 1982. The summary records of those meetings (A/C.6/37/SR.20-29 and 57-60) contain the views of representatives who spoke during the consideration of the item.

II. CONSIDERATION OF PROPOSALS

7. At the 57th meeting, on 29 November, the representative of the Libyan Arab Jamahiriya introduced a draft resolution (A/C.6/37/L.5/Rev.1), sponsored by Benin, Iran (Islamic Republic of), the Libyan Arab Jamahiriya, Mali and Mauritania. 2/
The draft resolution read as follows:

1/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 33 (A/37/33).

2/ Draft resolution A/C.6/37/L.5/Rev.1 replaced draft resolution A/C.6/37/L.5, sponsored by the Libyan Arab Jamahiriya and Mauritania.

"The General Assembly,

"Having considered the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, 1/ in particular concerning the maintenance of international peace and security,

"Noting the increasing co-operation among all nations with the aim of maintaining the interests and aspirations of all members of the international community so as to achieve greater harmony for the United Nations system under the changed and present circumstances,

"Recognizing that the strengthening of confidence in the United Nations organs requires the strengthening of their effectiveness in performing their functions, particularly the role of the Security Council as the organ entrusted with the primary responsibility for the maintenance of international peace and security,

"Expressing its concern that the Security Council has not always been in a position to discharge its responsibilities to ensure implementation of its decisions regarding maintenance of international peace and security, particularly on matters relating to the exercise of the rights of people to self-determination and the struggle against colonialism, all forms of racist policies including apartheid, foreign domination and occupation due to the abuse of the rule which requires the concurring votes of all the permanent members,

"Recognizing that Articles 10 and 11 of the Charter vest the General Assembly with functions and powers in the field of maintaining international peace and security,

"Recalling resolution 486 (XXVI) adopted by the Council of Ministers of the Organization of African Unity at its twenty-seventh session, held in Port Louis from 24 June to 3 July 1976, which calls for finding an effective alternative to the right of veto, resolution 4 (V) of the Fifth Conference of Heads of State or Governments of Non-Aligned Countries of August 1976, resolution 3 (VIII) of the Eighth Islamic Conference of Foreign Ministers of May 1977 and resolution 7 (VI) of the Sixth Conference of Heads of State or Government of Non-Aligned Countries of 1979, which calls for the amendment of the Charter, particularly its provisions relating to the right of veto,

"Taking note of the report of the Secretary-General on the work of the Organization, 3/ with a view that the Organization should develop its capacity as an essential body for the maintenance of international peace and security,

3/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 1 (A/37/1).

"1. Commends the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for the progress made in its valuable work;

"2. Decides that the Special Committee should continue its work according to the relevant resolutions of the General Assembly;

"3. Decides also that the Special Committee shall examine the possibility of eliminating the adverse effects for the maintenance of international peace and security arising out of the abuse of the rule of unanimity, taking into account, inter alia:

"(a) The need to ensure that the rule of unanimity is not resorted to on matters relating to the inalienable rights of peoples struggling for self-determination, against colonialism, apartheid, foreign domination, intervention, aggression and occupation;

"(b) The fact that the maintenance of international peace and security is a common responsibility of all States Members of the United Nations, based on the principle of sovereign equality and democracy;

"(c) The elaboration of proposals made in the Special Committee with a view to strengthening the role of the General Assembly according to Article 11, paragraph 2, of the Charter;

"(d) The undertaking of a study of the possibility that resolutions of the General Assembly relating to the maintenance of international peace and security be considered binding and are to be implemented;

"4. Requests the Special Committee to submit a report on its deliberations concerning paragraph 3 of the present resolution to the General Assembly at its thirty-eighth session."

8. At the 58th meeting, on 30 November, the representative of the Philippines introduced a draft resolution (A/C.6/37/L.19), sponsored by Argentina, the Bahamas, Barbados, Bolivia, Brazil, Chile, Colombia, the Congo, Cyprus, Ecuador, Egypt, El Salvador, Germany, Federal Republic of, Ghana, Guyana, Indonesia, Italy, Jamaica, Japan, Kenya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Nepal, New Zealand, Nigeria, Papua New Guinea, Paraguay, the Philippines, Romania, Rwanda, Senegal, Singapore, Somalia, Spain, Suriname, Thailand, Trinidad and Tobago, Tunisia, Uruguay, Venezuela, Yugoslavia, Zaire and Zambia, later joined by Australia, Benin and Sierra Leone (for the text of the resolution, see para. 17).

9. The Committee had before it a statement submitted by the Secretary-General (A/C.6/37/L.20) on the administrative and financial implications of draft resolution A/C.6/37/L.19.

10. At the 59th meeting, on 1 December, the representative of the United States of America introduced an amendment (A/C.6/37/L.21) to draft resolution A/C.6/37/L.19. The amendment read as follows:

"Add the following operative paragraph to the draft resolution:

"13. Authorizes the Secretary-General to implement the activities approved under the present resolution only to the extent that they can be financed without exceeding the level of resources approved in the programme budget for the biennium 1982-1983 (General Assembly resolution 36/240 A)."

11. At the same meeting, the representative of Ghana submitted an oral subamendment to the amendment of the United States which he subsequently withdrew.

12. Also at the 59th meeting, the representative of Australia moved, under rule 116 of the rules of procedure, that the Committee should not pronounce itself on draft resolution A/C.6/37/L.5/Rev.1. The representatives of the Libyan Arab Jamahiriya and Benin spoke against the motion. The motion was adopted by a recorded vote of 52 to 32, with 24 abstentions. The voting was as follows:

In favour: Australia, Austria, Bahamas, Barbados, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Chile, Colombia, Czechoslovakia, Denmark, Egypt, Equatorial Guinea, Fiji, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Hungary, Iceland, Ireland, Israel, Italy, Ivory Coast, Japan, Lao People's Democratic Republic, Luxembourg, Malaysia, Mongolia, Nepal, Netherlands, New Zealand, Norway, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Samoa, Singapore, Solomon Islands, Spain, Sweden, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United States of America, Uruguay.

Against: Algeria, Bahrain, Benin, Burundi, Central African Republic, Chad, Congo, Democratic Yemen, Ethiopia, Guyana, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kuwait, Libyan Arab Jamahiriya, Madagascar, Mali, Nigeria, Oman, Panama, Qatar, Romania, Rwanda, Sudan, Syrian Arab Republic, Trinidad and Tobago, Tunisia, United Arab Emirates, Venezuela, Yemen, Yugoslavia.

Abstaining: Argentina, Brazil, Burma, China, Cuba, Democratic Kampuchea, Ecuador, Ghana, India, Indonesia, Kenya, Mexico, Morocco, Niger, Pakistan, Peru, Senegal, Somalia, Suriname, Swaziland, Uganda, United Republic of Tanzania, Zaire, Zambia.

13. The Committee then rejected the amendment of the United States (A/C.6/37/L.21) by a recorded vote of 85 to 12, with 11 abstentions. The voting was as follows: 4/

4/ At the 60th meeting, on 2 December 1982, the delegation of Norway indicated that it had intended to vote against the amendment of the United States.

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In favour: Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, France, German Democratic Republic, Hungary, Israel, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Benin, Brazil, Burundi, Central African Republic, Chile, China, Colombia, Congo, Cuba, Cyprus, Democratic Yemen, Denmark, Ecuador, Egypt, Ethiopia, Fiji, Finland, Germany, Federal Republic of, Ghana, Greece, Guinea, Guyana, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, New Zealand, Niger, Nigeria, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Romania, Rwanda, Samoa, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Abstaining: Afghanistan, Belgium, Canada, Equatorial Guinea, Ivory Coast, Lao People's Democratic Republic, Luxembourg, Netherlands, Norway, Portugal, Zaire.

14. At the same meeting, the representative of Romania, in relation to operative paragraph 10, indicated that the co-sponsors expected the Secretariat to make available to the Special Committee at its next session an informal index to the statements made in the course of the thirty-seventh session of the General Assembly both in plenary and in the Sixth Committee regarding the strengthening of the role of the Organization in the areas of the peaceful settlement of international disputes and the maintenance of international peace and security.

15. The Committee then proceeded to vote on draft resolution A/C.6/37/L.19 as follows:

(a) The words "and to make recommendations thereon" in operative paragraph 3 (b) were adopted by a recorded vote of 94 to 16, with 3 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Benin, Brazil, Burma, Burundi, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Cyprus, Democratic Kampuchea, Democratic Yemen, Denmark, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Germany, Federal Republic of, Ghana, Greece, Guinea, Guyana, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal,

Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Qatar, Romania, Rwanda, Samoa, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Tunisia, Uganda, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

Against: Afghanistan, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, German Democratic Republic, Hungary, Lao People's Democratic Republic, Mongolia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam.

Abstaining: Finland, Israel, Trinidad and Tobago.

(b) Operative paragraph 5 (a) was adopted by a recorded vote of 87 to 14, with 11 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Benin, Brazil, Burma, Burundi, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Cyprus, Democratic Kampuchea, Democratic Yemen, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Germany, Federal Republic of, Ghana, Greece, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, New Zealand, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Romania, Rwanda, Samoa, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

Against: Afghanistan, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, France, German Democratic Republic, Hungary, Lao People's Democratic Republic, Mongolia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Belgium, Cuba, Denmark, Finland, Iceland, Israel, Luxembourg, Netherlands, Norway, Portugal, Sweden.

(c) Draft resolution A/C.6/37/L.19 as a whole was adopted by a recorded vote of 99 to none, with 15 abstentions (see para. 17). The voting was as follows:

In favour: Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Benin, Brazil, Burma, Burundi, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Cyprus, Democratic Kampuchea, Democratic Yemen, Denmark, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Finland, Germany, Federal Republic of, Ghana, Greece, Guinea, Guyana, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Qatar, Romania, Rwanda, Samoa, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia.

Against: None.

Abstaining: Afghanistan, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, German Democratic Republic, Hungary, Lao People's Democratic Republic, Mongolia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.

16. Statements in explanation of vote were made by the representatives of the United States of America, the Netherlands, China, France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the German Democratic Republic.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

17. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Special Committee on the Charter of the
United Nations and on the Strengthening of the Role
of the Organization

The General Assembly,

Reaffirming its support for the purposes and principles set forth in the Charter of the United Nations,

Recalling its resolutions 686 (VII) of 5 December 1952, 992 (X) of 21 November 1955, 2285 (XXII) of 5 December 1967, 2552 (XXIV) of 12 December 1969, 2697 (XXV) of 11 December 1970, 2968 (XXVII) of 14 December 1972 and 3349 (XXIX) of 17 December 1974,

Recalling also its resolutions 2925 (XXVII) of 27 November 1972, 3073 (XXVIII) of 30 November 1973 and 3282 (XXIX) of 12 December 1974 on the strengthening of the role of the United Nations,

Recalling especially its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its resolutions 31/28 of 29 November 1976, 32/45 of 8 December 1977, 33/94 of 16 December 1978, 34/147 of 17 December 1979, 35/164 of 15 December 1980 and 36/122 of 11 December 1981,

Welcoming the report of the Secretary-General on the work of the Organization, 5/

Having considered the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of the session it held in 1982, 6/

Noting that significant progress has been made in fulfilling the mandate of the Special Committee,

Noting the importance that pre-session consultations among the members of the Special Committee and other interested States may have in facilitating the fulfilment of its task,

Considering that the Special Committee has not yet completed the mandate entrusted to it,

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; 6/

2. Welcomes the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes by the General Assembly at its thirty-seventh session as a significant achievement of the Special Committee; 7/

3. Decides that the Special Committee should continue its work in pursuance of the following tasks with which it is entrusted:

(a) To list the proposals which have been made or will be made in the Committee and to identify those which have awakened special interest;

(b) To examine proposals which have been made or will be made in the Committee with a view to according priority to the consideration of those on which agreement seems possible and to make recommendations thereon;

5/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 1 (A/37/1).

6/ Ibid., Supplement No. 33 (A/37/33).

7/ Resolution 37/10.

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4. Also decides that the Special Committee shall convene its next session from 11 April to 6 May 1983;

5. Requests the Special Committee at its next session:

(a) To accord priority in its work to the proposals regarding the question of the maintenance of international peace and security, to section III E of the report of the Special Committee 8/ and to other proposals made in regard to this subject, including those relating to the functioning of the Security Council;

(b) To continue its work on the question of the peaceful settlement of disputes by considering the remaining proposals contained in the list prepared by the Committee in accordance with General Assembly resolution 33/94; 9/

(c) To consider proposals made by Member States on the question of rationalization of existing procedures of the United Nations, as agreed by the Special Committee at its session in 1982, and to consider any proposals under other relevant topics;

6. Requests the Special Committee to be mindful of the importance of reaching general agreement whenever that has significance for the outcome of its work;

7. Urges members of the Special Committee to participate fully in its work in fulfilment of the mandate entrusted to it;

8. Decides that the Special Committee shall accept the participation in its meetings of observers of Member States and, paying due regard to its efficiency and the time at its disposal, allow their participation in the meetings of its working groups;

9. Invites Governments to submit or to bring up to date, if they deem it necessary, their observations and proposals in accordance with General Assembly resolution 3499 (XXX);

10. Requests the Secretary-General to render all assistance to the Special Committee;

11. Requests the Special Committee to submit a report on its work to the General Assembly at its thirty-eighth session;

12. Decides to include in the provisional agenda of its thirty-eighth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

8/ Document A/AC.182/L.29/Rev.1.

9/ Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 33 (A/34/33), para.13.