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

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTY-THIRD SESSION

SUPPLEMENT No. 33 (A/43/33)

UNITED NATIONS

New York, 1988

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

[Original: Arabic/Chinese/English/
French/Russian/Spanish]

[31 March 1988]

CONTENTS

I. INTRODUCTION

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 42/157 of 7 December 1987 and met at United Nations Headquarters from 22 February to 11 March 1988. 1/

2. In accordance with General Assembly resolutions 3349 (XXIX) of 17 December 1974 and 3499 (XXX) of 15 December 1975, the Special Committee was composed of the following member States: Algeria, Argentina, Barbados, Belgium, Brazil, China, Colombia, Congo, Cyprus, Czechoslovakia, Ecuador, Egypt, El Salvador, Finland, France, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kenya, Liberia, Mexico, Nepal, New Zealand, Nigeria, Pakistan, Philippines, Poland, Romania, Rwanda, Sierra Leone, Spain, Tunisia, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia and Zambia.

3. The session was opened by Mr. Carl-August Fleischhauer, Under-Secretary-General, the Legal Counsel, who represented the Secretary-General and made an introductory statement.

4. Mr. Georgiy F. Kalinkin, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Special Committee and of its Working Group. Mr. Andronico O. Adede, Deputy Director for Research and Studies (Codification Division, Office of Legal Affairs), acted as Deputy Secretary of the Special Committee and of the Working Group; Mr. Manuel Rama-Montaldo, Ms. Sachiko Kuwabara and Mr. Igor G. Fominov, Legal Officers (Codification Division, Office of Legal Affairs), acted as assistant secretaries of the Special Committee and its Working Group.

5. At its 112th meeting, on 22 February 1988, the Special Committee, bearing in mind the terms of the agreement regarding the election of officers reached at its session in 1981 2/ and taking into account the results of the pre-session consultations among its Member States conducted by the Legal Counsel pursuant to the last preambular paragraph of resolution 42/157, agreed upon the composition of the Bureau of the Committee as follows:

Chairman: Mr. Bengt Broms (Finland)

Vice-Chairmen: Mr. Augustus O. Tanoh (Ghana)
Mr. Vaclav Mikulka (Czechoslovakia)
Mr. Omar Zurita (Venezuela)

Rapporteur: Mr. James C. Droushiotis (Cyprus)

6. The Bureau of the Special Committee also served as the Bureau of the Working Group.

7. At its 112th meeting, the Special Committee adopted the following agenda (A/AC.182/L.56):

1. Opening of the session.

2. Election of officers.

3. Adoption of the agenda.

4. Organization of work.

5. Consideration of the questions mentioned in General Assembly resolution 42/157 of 7 December 1987, in accordance with the mandate of the Special Committee as set forth in resolution 41/83.

6. Adoption of the report.

8. In accordance with General Assembly resolution 42/157, the Special Committee agreed to accept the participation of observers of any States Members of the United Nations that so requested. It therefore decided to grant requests to that effect received from the Permanent Missions to the United Nations of Austria, Bangladesh, Bulgaria, the Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Hungary, the Libyan Arab Jamahiriya, Lebanon, Morocco, the Netherlands, Oman, Peru, Senegal, the Syrian Arab Republic, Thailand, Togo, the United Republic of Tanzania, the Ukrainian Soviet Socialist Republic, Uruguay, Viet Nam, Democratic Yemen and Zimbabwe.

9. At its 112th meeting, the Special Committee agreed on the following organization of work for the Working Group: 15 meetings would be devoted to the question of the maintenance of international peace and security, 6 or 7 meetings to the question of the peaceful settlement of disputes between States and 2 meetings to the question of the rationalization of existing procedures of the United Nations. It was understood that this distribution of meetings would be applied with the necessary degree of flexibility, taking account of the progress achieved in the consideration of the items.

10. As regards the draft document on the prevention and removal of threats to peace and of situations that may lead to international friction or give rise to a dispute, the Special Committee, as requested by the General Assembly in paragraph 3 (a) (i) of resolution 42/157, worked on the basis of the provisionally adopted paragraphs as well as other proposals set forth in paragraphs 37, 46 and 102 of the report of the Committee on its work at the 1987 session. 3/ On the question of peaceful settlement of disputes between States, the Committee had before it, as requested in paragraph 3 (b) of resolution 42/157, the text of the working paper set forth in paragraph 15 of the report on its work at the 1987 session. 4/ For its work on rationalization of existing procedures of the United Nations, the Special Committee had before it the text of the proposals set forth under paragraph 34 of the report on its work at the 1987 session. 5/ The Special Committee also had before it a progress report by the Secretary-General on the preparation of a draft handbook on the peaceful settlement of disputes between States 6/ and a note by the Secretariat on the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council. 7/

11. At the end of the session, all the participants expressed their deep gratitude and appreciation to the Chairman of the Special Committee, Mr. Bengt Broms, for his excellent guidance, dedication and outstanding contribution, with the efficient help of the Members of the Bureau and the Secretariat, to the successful outcome of the work.

II. MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

Statement of the Rapporteur

12. As requested by the General Assembly in paragraph 3 (a) of its resolution 42/157, the Working Group accorded priority to the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, in particular, the Security Council.

13. In this context and in accordance with paragraph 3 (a) (i) of General Assembly resolution 42/157, the Working Group considered a draft document on the prevention and removal of threats to peace and of situations that may lead to international friction or give rise to a dispute. It conducted its deliberations on the basis of the paragraphs that had been provisionally adopted at the 1987 session of the Special Committee and of the proposals set forth in paragraphs 37, 46 and 102 of the report of the Special Committee on its work at its 1987 session. 8/ The Working Group also utilized an informal paper presented by its Chairman and various proposals submitted by delegates during the session.

14. As a result of intensive work, the Special Committee completed the draft declaration on the prevention and removal of disputes and situations which may threaten international peace and security and on the role of the United Nations in this field, which it submits to the General Assembly for consideration and adoption:

Declaration on the prevention and removal of disputes and situations which may threaten international peace and security and on the role of the United Nations in this field

"The General Assembly,

"Recognizing the important role that the United Nations and its organs can play in the prevention and removal of international disputes and situations which may lead to international friction or give rise to an international dispute, the continuance of which may threaten the maintenance of international peace and security (hereafter: 'disputes' or 'situations'), within their respective functions and powers under the Charter of the United Nations,

"Convinced that the strengthening of such a role of the United Nations will enhance its effectiveness in dealing with the questions of the maintenance of international peace and security and in promoting the peaceful settlement of international disputes,

"Recognizing the fundamental responsibility of States for the prevention and removal of disputes and situations,

"Recalling that the peoples of the United Nations are determined to practice tolerance and live together in peace with one another as good neighbours,

"Bearing in mind the right of all States to resort to peaceful means of their own choice for the prevention and removal of disputes or situations,

"Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 1/ the Manila Declaration on the Peaceful Settlement of International Disputes 2/ and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, 3/

"Recalling the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed at the political independence or territorial integrity of any State,

"Calling upon States to co-operate fully with the relevant organs of the United Nations and to support actions taken by them in accordance with the Charter, relating to the prevention or removal of disputes and situations,

"Bearing in mind the obligation of States to conduct their relations with other States in accordance with international law, including the principles of the United Nations,

"Reaffirming the principle of equal rights and self-determination of peoples,

"Recalling that the Charter confers on the Security Council the primary responsibility for the maintenance of international peace and security, and that the Member States have agreed to accept and carry out its decisions in accordance with the Charter,

"Recalling also the important role conferred by the Charter on the General Assembly and the Secretary-General in the maintenance of international peace and security,

"Solemnly declares that:

"1. States should act so as to prevent in their international relations the emergence or aggravation of disputes or situations, in particular by fulfilling in good faith their obligations under international law;

"2. In order to prevent disputes or situations, States should develop their relations on the basis of sovereign equality of States and in such a manner as to enhance the effectiveness of the collective security system through the effective implementation of the provisions of the Charter of the United Nations;

"1/ General Assembly resolution 2625 (XXV) of 24 October 1970.

"2/ General Assembly resolution 37/10 of 15 November 1982.

"3/ General Assembly resolution 42/22 of 18 November 1987.

"3. States should consider the use of bilateral or multilateral consultations in order better to understand each other's views, positions and interests;

"4. States members of regional arrangements or agencies referred to in Article 52 of the Charter should make every effort to prevent or remove local disputes or situations through such arrangements and agencies;

"5. States concerned should consider approaching the relevant organs of the United Nations in order to obtain advice or recommendations on preventive means for dealing with a dispute or situation;

"6. Any State party to a dispute or directly concerned with a situation, particularly if it intends to request a meeting of the Security Council, should approach directly or indirectly the Council at an early stage and, if appropriate, on a confidential basis;

"7. The Security Council should consider holding from time to time meetings, including at a high level with the participation, in particular, of Ministers for Foreign Affairs, or consultations to review the international situation and search for effective ways of improving it;

"8. In the course of the preparation for the prevention or removal of particular disputes or situations, the Security Council should consider making use of the various means at its disposal, including the appointment of the Secretary-General as rapporteur for a specified question;

"9. When a particular dispute or situation is brought to the attention of the Security Council without a meeting being requested, the Council should consider holding consultations with a view to examining the facts of the dispute or situation and keeping it under review, when needed with the assistance of the Secretary-General; the States concerned should have the opportunity of making their views known;

"10. In such consultations, consideration should be given to employing such informal methods as the Security Council deems appropriate, including confidential contacts by its President;

"11. The Security Council should consider in such consultations, inter alia:

"(a) Reminding the States concerned to respect their obligations under the Charter;

"(b) Making an appeal to the States concerned to refrain from any action which might give rise to a dispute or lead to the deterioration of the dispute or situation;

"(c) Making an appeal to the States concerned to take action which might help to remove, or to prevent the continuation or deterioration of, the dispute or situation;

"12. The Security Council should consider sending, at an early stage, fact-finding or good offices missions or establishing appropriate forms of United Nations presence, including observers and peace-keeping operations, as a means of preventing the further deterioration of the dispute or situation in the areas concerned;

"13. The Security Council should consider encouraging and, where appropriate, endorsing efforts at the regional level by the States concerned or by regional arrangements or agencies to prevent or remove a dispute or situation in the region concerned;

"14. Taking into consideration any procedures which have already been adopted by the States directly concerned, the Security Council should consider recommending to them appropriate procedures or methods of settlement of disputes or adjustment of situations, and such terms of settlement as it deems appropriate;

"15. The Security Council, if it is appropriate for promoting the prevention and removal of disputes or situations, should, at an early stage, consider making use of the provisions of the Charter concerning the possibility of requesting the International Court of Justice to give an advisory opinion on any legal question;

"16. The General Assembly should consider making use of the provisions of the Charter in order to discuss disputes or situations, when appropriate, and, in accordance with Article 11 and subject to Article 12 of the Charter, making recommendations;

"17. The General Assembly should consider, where appropriate, supporting efforts undertaken at the regional level by the States concerned or by regional arrangements or agencies, to prevent or remove a dispute or situation in the region concerned;

"18. If a dispute or situation has been brought before it, the General Assembly should consider, in accordance with Article 11 and subject to Article 12 of the Charter, including in its recommendations the making more use of fact-finding capabilities;

"19. The General Assembly, if it is appropriate for promoting the prevention and removal of disputes or situations, should consider making use of the provisions of the Charter concerning the possibility of requesting the International Court of Justice to give an advisory opinion on any legal question;

"20. The Secretary-General, if approached by a State or States directly concerned with a dispute or situation, should respond swiftly by urging the States to seek a solution or adjustment by peaceful means of their own choice under the Charter and by offering his good offices or other means at his disposal, as he deems appropriate;

"21. The Secretary-General should consider approaching the States directly concerned with a dispute or situation in an effort to prevent it from becoming a threat to the maintenance of international peace and security;

"22. The Secretary-General should, where appropriate, consider making full use of fact-finding capabilities, including, with the consent of the host State, the sending of a representative or fact-finding missions to areas where a dispute or a situation exists; where necessary, the Secretary-General should also consider making the appropriate arrangements;

"23. The Secretary-General should be encouraged to consider using, at as early a stage as he deems appropriate, the right that is accorded to him under Article 99 of the Charter;

"24. The Secretary-General should, where appropriate, encourage efforts undertaken at the regional level to prevent or remove a dispute or situation in the region concerned;

"25. Should States fail to prevent the emergence or aggravation of a dispute or situation, they shall continue to seek a settlement by peaceful means in accordance with the Charter;

"Declares that nothing in the present Declaration shall be construed as prejudicing in any manner the provisions of the Charter, including those contained in Article 2, paragraph 7 thereof, or the rights and duties of States, or the scope of the functions and the powers of the United Nations organs under the Charter, in particular those relating to the maintenance of international peace and security;

"Also declares that nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, particularly peoples under colonial or racist régimes or other forms of alien domination."

III. PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

A. Consideration of the proposal contained in the working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations, submitted to the Special Committee by Romania

Statement of the Rapporteur

15. The Working Group devoted a first series of four meetings, held between 26 February and 1 March 1988, to a paragraph-by-paragraph discussion of the above-mentioned proposal, set forth in paragraph 15 of the report of the Special Committee on the work of its 1987 session, which was a revised version introduced by Romania. 9/ Some delegations received the proposal favourably, considered it an improvement and expressed the view that they were ready to accept it in the form contained in paragraph 15 of the report.

16. The text of paragraph 1 read as follows:

> "1. Resort to a commission of good offices, mediation or conciliation within the United Nations is a procedure at the disposal of States and of the competent organs of the Organization for the peaceful settlement of international disputes in accordance with the provisions of the Charter of the United Nations."

17. Paragraph 1, it was observed by the sponsor, was of an introductory character and stated the purpose of the working paper. He made clear that the mechanism envisaged therein should be considered not as a standing organ, but as a procedure within the context of Article 33 and Article 36, paragraph 1, of the Charter. That procedure would only work with the agreement of the States parties to a dispute and was intended to ensure that States would resort more often and more successfully to the peaceful settlement of disputes in accordance with Article 33 of the Charter, expanding the wide range of means at their disposal. Some delegations viewed favourably the optional and strictly voluntary character of the procedure as well as the careful respect for the principle of the free choice of means reflected in paragraph 1. A suggestion was made that the words "within the United Nations" might be interpreted as limiting the wide range of means enumerated in Article 33 of the Charter, which include resort to regional arrangements.

18. The text of paragraph 2 read as follows:

> "2. Such a commission may be established for each particular case, in accordance with modalities described below, through the agreement of the States parties to a dispute or, with their agreement, on the basis of a recommendation of the Security Council or of the General Assembly or following the contacts of the States parties to a dispute with the Secretary-General. Additional modalities and conditions may also be agreed upon by the States parties to a dispute for the establishment of such a commission."

19. Several delegations found it difficult to differentiate clearly between the four modalities for the establishment of the commission mentioned in the first sentence of paragraph 2. They wondered whether the commission established with "the agreement of the parties to the dispute" first mentioned in the paragraph

would take place within or outside the United Nations system and whether it could, in practice, be distinguished from the commission established following the contacts of the parties to a dispute with the Secretary-General. They also wondered whether in the latter case the Secretary-General, like the Security Council and the General Assembly, would also be expected to make recommendation to the States parties to the dispute. It was suggested that the four modalities mentioned in the paragraph ultimately constituted two, since the agreement of the parties to the dispute was really a pre-condition in each case and that the contact with the Secretary-General was one of the ways to communicate with the General Assembly or the Security Council. Other delegations, however, clearly perceived four modalities for the establishment of the commission, namely by the agreement of the parties themselves at their own initiative, the agreement of the parties following a recommendation either of the Security Council or of the General Assembly in the exercise of their competence established in the Charter or the agreement of the parties as a consequence of their contacts with the Secretary-General. It was suggested that, with respect to the first modality, the paragraph should provide that an appropriate communication be sent to the relevant United Nations organs. As to the second sentence of the paragraph, while some delegations felt that its place could be elsewhere in the document, other delegations were in favour of keeping it within the paragraph, replacing in the English version the word "additional" by the word "other". The sponsor of the proposal stressed the individual character of each of the four hypotheses for the establishment of the commission envisaged in paragraph 2, which had nevertheless an essential common factor: the agreement of the parties to the dispute. It was his view that the modality involving contacts with the Secretary-General was a normal exercise of preventive diplomacy within the purview of the Secretary-General's competence in accordance with the Charter.

20. The text of paragraphs 3 and 4 read as follows:

> "3. When a dispute, the continuance of which is likely to endanger the maintenance of international peace and security, is brought to the attention of the Security Council, the Council may consider, inter alia, the possibility of recommending to the States parties to such a dispute the setting up of a commission of good offices, mediation or conciliation.
>
> "4. When the General Assembly is seized with a dispute, it may consider, inter alia, and subject to the provisions of Articles 12 and 14 of the Charter, the possibility of recommending to the States parties to such a dispute to set up a commission of good offices, mediation or conciliation."

21. Some delegations wondered why the scope of paragraph 3, unlike that of paragraph 4, was limited to disputes the continuance of which was likely to endanger the maintenance of international peace and security. In their view, that distinction was unjustified. Other delegations felt, however, that the distinction actually existed in the Charter. They pointed out that, while Articles 33 and 34, defining the competence of the Security Council, referred only to disputes the continuance of which was likely to endanger international peace and security, Article 14, referred to in paragraph 4, covered a much wider scope in defining the competence of the General Assembly in that area. In the view of some other delegations, the scope of paragraph 3 could be amended so as to refer to "disputes, particularly those likely to endanger the maintenance of international peace and security". It was also suggested that the paragraph should be modified so as to reflect clearly the possibility for the Security Council to act on its own

initiative in a dispute. With respect to paragraph 4, the suggestion was made to amend references to Articles 12 and 14 therein to read as follows: "in accordance with Article 14 of the Charter and subject to the provisions of Article 12".

22. The text of paragraph 5 read as follows:

"5. When the States parties to a dispute accept the recommendation of the Security Council or of the General Assembly, or agree, on their own, or following their contacts with the Secretary-General, to resort to a commission of good offices, mediation or conciliation, the designation of members of the commission is proceeded with."

23. No observations were made on paragraph 5.

24. The text of paragraphs 6 and 7 read as follows:

"6. For each particular case the commission of good offices, mediation or conciliation is constituted by members nominated by up to three States, which are not parties to the dispute concerned.

"Depending on each particular case, the States are designated by the States parties to the dispute or, with their agreement, by the President of the Security Council or by the President of the General Assembly or by the Secretary-General.

"7. The States designated will nominate highly qualified persons, with adequate experience, who will act in the commission in their individual capacity.

"The chairman of the commission is selected by the States parties to the dispute who may also agree in a particular case that the chairman be appointed by the Secretary-General."

25. Paragraphs 6 and 7, it was observed, dealt with the establishment of the commission and were therefore provisions of a technical nature. They were intended to lay down a two-step mechanism whereby up to three States were designated which, in turn, would designate the persons as members of the commission. With respect to paragraph 6, in particular, it was observed that it was intended to offer maximum flexibility designed to avoid any stalemate in the establishment of the commission. Its second sentence was related to the several modalities enumerated in the proposed paragraph 2. Paragraph 6 established a link between the practice of major United Nations organs performing their functions of peaceful settlement and the agreement of the parties to the dispute. It was suggested that the words "by members" in the first sentence of paragraph 6 should be replaced by the words "of persons", to bring it into line with the language of paragraph 7. The clarification was also made that the reference to "States" in paragraph 6 was meant to cover States both Members and not Members of the United Nations. The suggestion was therefore made to start the second sentence of paragraph 6 with the words "Such States will be designated" and to replace the words "depending on each particular case" by the words "as the case may be".

26. With reference to paragraph 7, it was observed that the moment at which the commission might be said to have been established needed to be made more clear. In that connection, the suggestion was made to replace in the English text the words

"will nominate" by the words "will appoint". Some delegations believed it indispensable that the States parties to the dispute always have the final word as to the persons composing the commission. They did not, therefore, accept the approach of paragraph 7, where such a right of the parties to the dispute was not clearly provided. Others were however of the view that the fact that the States parties to the dispute designated third States, who then appointed the members of the commission, was a sufficient indication of the trust of the States parties to the dispute in the persons appointed as members of the commission. It was also suggested that, if the intention was to have a commission composed of not more than three persons, then the paragraph should clearly spell out that "each designated State will appoint a highly qualified person". While a suggestion was made that the choice for each designated State should be limited to persons of its own nationality, there was another view that such a limitation would deprive the procedure of flexibility. With reference to the second subparagraph of paragraph 7, it was suggested that it be spelt out clearly that the chairman of the commission was not a fourth member but was to be selected from among the members of the commission. It was also proposed that the last part of the subparagraph be made into an independent sentence reading: "In case of disagreement between the States parties to the dispute, they may agree that the chairman be appointed by the Secretary-General." Some delegations envisaged the possibility for the President of the Security Council or of the General Assembly to appoint the chairman of the commission. Other delegations found the suggestion impractical.

27. The text of paragraph 8 read as follows:

"8. The proceedings of the commission will take place at United Nations Headquarters in New York, or in any other place agreed upon by the States parties to the dispute."

28. No observations were made with regard to paragraph 8.

29. The text of paragraphs 9, 10 and 11 read as follows:

"9. After taking note of the elements of the respective dispute, on the basis of submissions made by the States parties, as well as of information provided by the Secretary-General, the commission in performing its good offices functions will seek to bring the parties to enter immediately into direct negotiations for the settlement of the dispute or to resume such negotiations.

"In case the States parties to the dispute so request, the commission will seek to establish the aspects on which the States parties agree, as well as their differences of opinion and perception, and to elucidate the elements related to the dispute with a view to making suggestions for the beginning or the resuming of negotiations including their framework and stages as well as problems to solve.

"10. If direct negotiations do not begin within a reasonable time and if the States parties to a dispute request it at any time, the commission will offer to the parties proposals which it deems adequate for facilitating the beginning of such negotiations and seeking through mediation to bring closer their positions until an agreement is reached.

"11. The States parties to a dispute may agree at any moment of the procedure to entrust the commission with functions of conciliation. The States parties to a dispute determine the basis on which the commission should perform its functions. If such a basis is not determined, the commission should be guided mainly by the rights and duties of States resulting from the Charter of the United Nations. In performing its functions the commission formulates the terms which it deems adequate for the amicable settlement of the dispute and submits them to the parties.

"The States parties to a dispute will be requested to pronounce themselves on these terms within a period of time established by the commission, which may be prolonged if the States parties to the dispute deem it necessary."

30. A question was raised by some delegations as to what kind of link or relationship was envisaged between the three procedures (good offices, mediation and conciliation) provided for in paragraphs 9, 10 and 11. In response, the sponsor explained that the link was a functional one. Thus, in his view, if the dispute had not yet been solved by one procedure, then another procedure could be tried, not necessarily in the order in which they were enumerated in the paper but in accordance with the agreement of the States parties to the dispute. In that connection, the suggestion was made by one delegation that the words "or resort to another means of peaceful settlement" should be added at the end of the first sentence of paragraph 9. The same delegation proposed that in the same sentence the words "as well as" be replaced by the words "and, as appropriate".

31. In view of the comments related in the preceding paragraph on the link or relationship between the various procedures envisaged in the working paper, the proposal was also made to delete the first words of paragraph 10, starting the paragraph with the words "If the States parties to a dispute request the commission at any time to mediate". The clarification was made, in that connection, that the request was a joint one, as the paragraph referred to the "States parties". The suggestion was also made to delete the words "beginning of such" from the paragraph.

32. In connection with paragraph 11, subparagraph 1, it was regretted by some delegations that, unlike previous versions of the subparagraph, the present one did not contain any reference to international law as a basis on which the commission should perform its functions. It was suggested that the commission should be guided "by the rights and duties of States resulting from the Charter of the United Nations and by the applicable principles of international law". It was also suggested that the word "basis" in the subparagraph should be qualified by the word "legal", as the purpose was the determination of the legal rules and principles applicable to the dispute. The words "terms of reference" suggested by one delegation to replace the words "legal basis" were considered as either too broad or too imprecise. With regard to the second subparagraph of paragraph 11, a proposal was made to replace the words "to pronounce themselves on" by the words "to abide by". That proposal was viewed by other delegations as running against the voluntary character of the procedure of conciliation and as being more in line with the characteristics of arbitration.

33. The text of paragraph 12 read as follows:

"12. The States parties to an international dispute, as well as other States, shall refrain from any action whatsoever which may aggravate the situation so

as to endanger the maintenance of international peace and security and make more difficult or impede the peaceful settlement of the dispute, and shall act in this respect in accordance with the purposes and principles of the United Nations."

34. Several delegations felt that a provision of the nature of paragraph 12 would be better placed towards the end of the document. On the substance of the paragraph, some delegations were of the view that its present drafting might give the impression that the parties to a dispute could undertake actions aggravating the situation, provided that those actions did not endanger the maintenance of international peace and security. They also felt that compliance with the purposes and principles of the United Nations should be mentioned at the beginning of the paragraph and that the different actions from which the parties to a dispute should refrain should be enumerated in an alternative rather than a cumulative manner. Various formulations were suggested corresponding to those observations. A suggestion was also made that it should simply be stated in the paragraph that States parties to a dispute shall not act in such a manner that might alter the status quo ante of a dispute. Other delegations instead favoured keeping the text of paragraph 12 as close as possible to that of paragraph 8 (I) of the Manila Declaration on the Peaceful Settlement of International Disputes, contained in General Assembly resolution 37/10 of 15 November 1982. The deletion of the word "international" before the word "dispute" was also proposed. It was accordingly suggested that a reformulation of the paragraph could provide that "the States parties to a dispute, as well as other States, shall act in accordance with the purposes and principles of the United Nations and shall refrain from any action whatsoever which may aggravate the situation, endanger the maintenance of international peace and security or make more difficult or impede the peaceful settlement of the dispute".

35. The text of paragraph 13 read as follows:

"13. The Security Council or the General Assembly may, when recommending the setting up of the commission, propose a period of time during which it should act for the solution of the respective dispute. Such a period of time may be also established by the States parties to the dispute themselves or following their contacts with the Secretary-General."

36. With reference to paragraph 13, it was observed by several delegations that the Security Council or the General Assembly should "establish" rather than "propose" a period of time during which the Commission should "discharge its mission". In that connection, it was stressed that the period of time could be established only with the agreement of the States parties to the dispute so that the voluntary nature of the procedure would be kept throughout all its stages. The expression "discharge its mission" was also considered more accurate than the words "act for the solution of the respective dispute". Some reservations were expressed regarding the words "or following their contacts with the Secretary-General" contained in the second sentence of the paragraph. It was explained by the sponsor that those words corresponded to the various modalities for the establishment of a commission referred to in paragraph 2. It was suggested in that connection that the addition of the words "where appropriate" before the words "following their contacts with the Secretary-General" would clarify the meaning of the sentence.

37. The text of paragraph 14 read as follows:

"14. The commission will work in confidentiality.

"As long as the efforts of good offices, mediation or conciliation continue, no statement will be made public on the activity of the commission without the agreement of the States parties to the dispute."

38. The suggestion was made that the two subparagraphs of paragraph 14 could be merged into one. It was also proposed that the second sentence be shortened by redrafting it as follows: "As long as the commission continues its efforts, no statement will be made public on its activity without the agreement of the States parties to the dispute". In the view of one delegation, the confidentiality of the procedure should also extend to efforts deployed before the establishment of the commission.

39. The text of paragraph 15 read as follows:

"15. Upon conclusion of its activity, the commission will prepare its report and communicate it to the States parties to the dispute and to the United Nations organ concerned.

"The States parties to the dispute decide if a report is to be made public."

40. Paragraph 15 gave rise to a lengthy discussion regarding the kind of report or reports to be made by the commission and the addressees of the report or reports. There was general agreement that upon conclusion of its activity the commission should prepare a complete report of its proceedings and recommendations and communicate it to the States parties to the dispute. It was also generally agreed that the report should be confidential and that making it public should be subject to the decision of the States parties to the dispute. In recognition of the need to maintain the confidentiality of the report, it was suggested that two types of reports could be envisaged: a complete one to be sent by the commission to the States parties to the dispute, and a short one containing the recommendations of the commission to be sent to the relevant organ of the United Nations. A reformulation of the paragraph was accordingly suggested to read as follows:

"Upon conclusion of its activity, the commission will prepare a report and communicate it to the States parties to the dispute, which will decide if the report is to be made public. Where appropriate, the Commission will also make a report to the United Nations organ concerned in the form accepted by the States parties to the dispute."

41. The text of paragraph 16 read as follows:

"16. In order to facilitate the exercise by the peoples concerned of the right to self-determination, as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the States concerned, as well as other parties to a dispute involving the exercise of such a right, may agree to have recourse to a commission of good offices, mediation or conciliation under the conditions described above."

42. The need for and usefulness of paragraph 16 were questioned by some delegations. It was observed that, while the Manila Declaration dealt primarily with obligations of States, thus making the presence of a paragraph of such nature more understandable, the document before the Working Group referred mainly to facilities at the disposal of States for dealing with problems, which made paragraph 16 unnecessary. Doubts were also expressed about the need for singling out a specific type of dispute, already covered by the general character of the paper, as the object of a specific paragraph. The question was raised as to how the proposed commission could facilitate the exercise of the right to self-determination. The departure of the proposed formulation from the text contained in the Manila Declaration was also considered inadvisable by some delegations. It was stated that paragraph 16 was useful for reasons similar to those which justified the inclusion of a corresponding paragraph in the Manila Declaration on the Peaceful Settlement of International Disputes.

43. The text of paragraph 17 read as follows:

> "17. Nothing in the present document shall be construed as prejudicing in any manner the relevant provisions of the Charter or the rights and duties of States, or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the peaceful settlement of disputes."

44. The suggestion was made to delete the word "relevant" in paragraph 17.

45. The sponsor of the proposal read out the following additional paragraph for inclusion in the working paper:

> "The Secretary-General shall provide the commission with such assistance and facilities as it may require. Unless otherwise provided, the expenses of the commission shall be borne by the States parties to a dispute."

Although welcoming in general the intentions behind the newly-proposed paragraph, some delegations expressed reservations regarding some of its aspects. It was suggested that the words "assistance and facilities" in the first sentence be qualified by the words "reasonable" or "within the existing resources" or "without financial implications". It was suggested that the words "unless otherwise provided" be deleted. The suggestion was also made to replace the words "the expenses" by the words "any expense". It was stated that the financing of the commission should pose no practical difficulties; solutions would vary according to the characteristics of each specific case.

46. The sponsor of the proposal expressed his satisfaction with the constructive and in-depth discussion that had taken place and with the interest in the working paper that had been evidenced by delegations, showing that the paper had gone beyond the stage of a document sponsored by a single delegation and had become a collective work of the Special Committee. In the course of the discussion, he had already sought to answer many queries of delegations on various aspects of the proposal. The sponsor stressed again that the commission was a procedure and not an organ and that there was thus no need to enter into details, as the commission would function only in casu as defined in the working paper. He had taken due note of all observations and agreed to the reformulation of some paragraphs, which would be incorporated into a revised version of the proposal which he would present to the Working Group in the course of the session. He explained that, in his view and

in the view of some other delegations, the revised version would be considered as a collective work emerging from the drafting process undertaken in the Working Group.

47. The Working Group devoted a second series of two meetings held on 9 and 10 March 1988, to the consideration of an informal revised version of the proposal introduced by Romania.

48. That version read as follows:

"Resort to a commission of good offices, mediation or conciliation within the United Nations

"1. Resort to a commission of good offices, mediation or conciliation within the United Nations is a procedure at the disposal of States and of the competent organs of the Organization for the peaceful settlement of international disputes in accordance with the provisions of the Charter of the United Nations.

"2. Such a commission may be established for each particular case, in accordance with modalities described below, through the agreement of the States parties to a dispute, or, with their agreement, on the basis of a recommendation of the Security Council or of the General Assembly, or following the contacts of the States parties to a dispute with the Secretary-General. Other modalities and conditions may also be agreed upon by the States parties to a dispute for the establishment of such a commission.

"3. When the Security Council is seized with a dispute, particularly if its continuance is likely to endanger the maintenance of international peace and security, it may consider, inter alia, the possibility of recommending to the States parties to such a dispute the setting up of a commission of good offices, mediation or conciliation.

"4. When the General Assembly is seized with a dispute, it may consider, inter alia, in accordance with Article 14 of the Charter and subject to the provisions of Article 12, the possibility of recommending to the States parties to such a dispute to set up a commission of good offices, mediation or conciliation.

"5. When the States parties to a dispute accept the recommendation of the Security Council or of the General Assembly, or agree, on their own, or following their contacts with the Secretary-General, to resort to a commission of good offices, mediation or conciliation, the designation of members of the commission is proceeded with.

"6. For each particular case, the commission of good offices, mediation or conciliation is composed of persons nominated by up to three States, which are not parties to the dispute concerned.

"Such States will be designated by the States parties to the dispute or, with their agreement, as the case may be, by the President of the Security Council or by the President of the General Assembly or by the Secretary-General.

"7. Each designated State will appoint, upon approval by the States parties to the dispute, a highly qualified person, with adequate experience, who will act in the commission in his individual capacity.

"The chairman of the commission will be selected from among its members by the States parties to the dispute. They may also agree in a particular case that the chairman be appointed by the Secretary-General.

"8. The proceedings of the commission will take place at United Nations Headquarters in New York, or in any other place agreed upon by the States parties to the dispute.

"9. After taking note of the elements of the respective dispute, on the basis of submissions made by the States parties, and, as appropriate, of information provided by the Secretary-General, the commission in performing its good offices functions will seek to bring the parties to enter immediately into direct negotiations for the settlement of the dispute, or to resume such negotiations, or to resort to another means of peaceful settlement.

"In case the States parties to the dispute so request, the commission will seek to establish the aspects on which the States parties agree, as well as their differences of opinion and perception, and to elucidate the elements related to the dispute with a view to making suggestions for the beginning or the resuming of negotiations, including their framework and stages, as well as problems to be solved.

"10. If the States parties to a dispute request the commission, at any time, to mediate, the commission will offer to the parties proposals which it deems adequate for facilitating the negotiations and seeking through mediation, to bring closer their positions until an agreement is reached.

"11. The States parties to a dispute may agree at any moment of the procedure to entrust the commission with functions of conciliation. The States parties to a dispute determine the legal basis on which the commission should perform its functions. If such a basis is not determined, the commission should be guided mainly by the rights and duties of States resulting from the Charter of the United Nations and by the applicable principles of international law. In performing its functions, the commission formulates then terms which it deems adequate for the amicable settlement of the dispute and submits them to the parties.

"The States parties to a dispute will be requested to pronounce themselves on these terms within a period of time established by the commission, which may be prolonged if the States parties to the dispute deem it necessary.

"12. The Security Council or the General Assembly may, when recommending the setting up of a commission, establish, with the agreement of the States parties to the dispute, a period of time during which it should discharge its mission. Such period of time may be also established by the States parties to the dispute themselves or, where appropriate, following their contacts with the Secretary-General.

"13. The commission will work in confidentiality. As long as the commission continues its efforts, no statement will be made public on its activity without the agreement of the States parties to the dispute.

"14. Upon conclusion of its activity, the commission will prepare a report and communicate it to the States parties to the dispute. The States parties to the dispute will decide if the report is to be made public.

"Where appropriate, the commission will make a report to the United Nations organ concerned in the form accepted by the States parties to the dispute.

"15. The Secretary-General shall provide the commission with reasonable assistance and facilities as it may require. Unless otherwise provided, any expenses of the commission shall be borne by the States parties to the dispute.

"16. The States parties to the dispute, as well as other States, shall act in accordance with the purposes and principles of the United Nations and shall refrain from any action whatsoever which may aggravate the situation, endanger the maintenance of international peace and security or make more difficult or impede the peaceful settlement of the dispute.

"17. In order to facilitate the exercise by the peoples concerned of the right to self-determination, as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the States concerned, as well as other parties to a dispute involving the exercise of such a right, may agree to have recourse to a commission of good offices, mediation or conciliation under the conditions described above.

"18. Nothing in the present document shall be construed as prejudicing in any manner the [relevant] provisions of the Charter or the rights and duties of States, or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the peaceful settlement of disputes."

49. Upon introducing the informal revised version of the proposal, the sponsor stated that it was in compliance with the mandate of the Special Committee as stated in paragraph 3 (b) (1) of General Assembly resolution 42/157, and that it was to be regarded as a collective contribution made by delegations when they had engaged in a detailed paragraph-by-paragraph discussion of the earlier version of the proposal, which constituted a drafting exercise. The discussion of the previous version of the proposal had shown that many paragraphs had reached the stage where their provisional adoption was possible. He suggested that the Working Group proceed with a paragraph-by-paragraph consideration of the new text, to be followed by the provisional adoption of those paragraphs which raised no objections and on which general agreement appeared to exist.

50. In the course of a general exchange of views on the working paper, some delegations, while appreciating the efforts made by the sponsor in the preparation of the proposal, expressed doubts about the advisability of the proposal as such. In their view, it was not appropriate to proceed with the provisional adoption of any paragraph as long as the end-product being pursued had not been clarified. They believed, in this connection, that the mandate of the Special Committee, as

defined in General Assembly resolution 42/157, rather spoke of completing the consideration of the working paper than completing the working paper itself, as the resolution left open a wide range of possibilities as to the eventual conclusions to be submitted to the General Assembly. The paragraphs contained in the working paper were of a mixed nature, some more appropriate for a handbook on the peaceful settlement of disputes between States, others more appropriate for a declaration. Moreover, the work on the proposal had not yet reached the stage of drafting.

51. Other delegations did not share the above interpretation of the mandate and praised the efforts made by the sponsor to incorporate in the revised version of the proposal the observations and suggestions put forward by delegations, as a result of which the proposal could be considered as a collective product of the working group. In their view, the basis of support for the proposal had been broadened and the revised version could serve as a point of departure for the elaboration of appropriate conclusions to be submitted to the General Assembly in accordance with its resolution 42/157. In its present version, the proposal followed a flexible approach, and was fully in compliance with the provisions of the Charter of the United Nations and with the principle of the free choice of means. They believed that it was wrong to reopen at this stage the question of the advisability of the proposal. A paragraph-by-paragraph examination followed by the provisional adoption of those on which there might be general agreement seemed an appropriate procedure, and would be in line with the established procedures in the work of the Special Committee.

52. Some other delegations expressed their concern about the reservations of some delegations to the idea of proceeding to a provisional adoption of the paragraphs not raising substantive objections, and, particularly, at their reservations touching on the advisability of the proposal as such. In this connection, it was suggested that paragraph 19 of the 1987 report of the Special Committee had clearly recorded the consensus in the Working Group that tangible progress on the topic had been achieved and that concrete work on the proposal should continue at the 1988 session of the Special Committee on the basis of document A/AC.182/L.52/Rev.1, with a view to reaching a general agreement on appropriate conclusions to be submitted to the General Assembly. This evaluation had been shared by a number of delegations in the Sixth Committee which had stated that the proposal was ripe for decision and had been reflected in the mandate given to the Special Committee by General Assembly resolution 42/157. The new version of the proposal had incorporated scores of observations made by delegations, and its provisional adoption could be effected with parts of the paragraphs being put, if necessary, into square brackets. The proposal was not intended to draft a declaration of the General Assembly nor a formal statute for a commission on good offices, mediation or conciliation, but only offered general guidelines to States to facilitate the peaceful settlement of their disputes in case they freely decided to resort to the commission. Some delegations felt that, after the necessary amendments were made to them, these guidelines could be submitted to the Sixth Committee for their adoption by the General Assembly as a recommendation addressed to Member States.

53. Other delegations, considering reservations already made regarding the possible outcome of the consideration of the proposal, maintained that the Special Committee was not in a position to take a decision on the matter at this stage. Moreover, in their view, the conclusions to be submitted to the General Assembly could consist of two parts: (a) a reminder to States of the convenience of solving peacefully their disputes through the procedure of good offices, mediation and conciliation; and (b) the incorporation of the guidelines contained in the revised

proposal into the handbook on the peaceful settlement of disputes between States being prepared by the Secretariat.

54. According to the sponsor, the position reflected in the above paragraph was not entirely appropriate. While a handbook was descriptive in nature, the concept of "guidelines" implied a kind of non-compulsory orientation to be given to States for the settlement of their disputes. The guidelines constituted a practical way to help States to resort to already existing means of peaceful settlement in accordance with the provisions of the Charter of the United Nations and with the principle of the free choice of means.

55. In connection with paragraph 1 of the revised version, doubts were expressed as to whether the proposal would add anything new to the existing procedures of peaceful settlement of disputes. It was pointed out that the proposal, as drafted, might create the impression that any commission on good offices, mediation or conciliation to be established by States in the future would necessarily fall within the framework of the United Nations system. The view was also expressed that, while there might not be disagreement on the substance of paragraph 1, no agreement existed on the utility of reiterating its present contents.

56. Moreover, it was stated that paragraph 1 was quite acceptable and fully in line with Article 33 of the Charter of the United Nations. The paragraph made clear that the proposed procedure was to be added to the existing means of peaceful settlement already at the disposal of States, as a supplement to the various procedures provided for in Article 33 of the Charter of the United Nations, in the 1907 Hague Convention and in the 1928 General Act, as revised in 1948. The paragraph made it clear that the link of the proposal with the United Nations was twofold: (a) if the States parties to a dispute decided on their own to use the procedure envisaged in the proposal and failed to settle the dispute by those means, then subsequent action by the Security Council or by the General Assembly would be required; (b) at any stage of a dispute United Nations organs could make a recommendation for the creation of the proposed commission.

57. The Working Group, for lack of time, could not continue with further examination of the proposal.

58. Following the consideration of the informal proposal, the delegation of Romania formally submitted a revised version of the proposal, contained in document A/AC.182/L.52/Rev.2. The text of the proposal was identical to that set out in paragraph 2 above, with the following exceptions: (a) It contained a footnote added by the sponsor; and (b) It omitted the word "relevant" in paragraph 18. Several delegations pointed out that document A/AC.182/L.52/Rev.2 was not the outcome of collective drafting but only corresponded to the conclusions drawn by the delegation of Romania from the discussion of the earlier versions of the working paper.

59. The consensus in the Working Group was that further tangible progress on the topic had been achieved in the course of the present session and that concrete work on the proposal should continue at the next session of the Special Committee on th basis of document A/AC.182/L.52/Rev.2, with a view to reaching a general agreement on appropriate conclusions to be submitted to the General Assembly at its forty-fourth session.

B. Examination of the report of the Secretary-General on the progress of work on the draft handbook on the peaceful settlement of disputes between States

Statement of the Rapporteur

60. The Working Group had before it, as requested in paragraph 8 of General Assembly resolution 42/157 of 7 December 1987, the Secretary-General's progress report on the draft handbook on the peaceful settlement of disputes between States, 10/ which updates information on the preparation by the Secretariat of the draft handbook. In particular, the progress report informs of the meeting of the Consultative Group composed of competent individuals from among the members of the permanent missions of the States Members of the United Nations, held on 19 February and 7 March 1988 under the chairmanship of the Under-Secretary-General, the Legal Counsel, which reviewed further portions of the draft handbook prepared by the Secretariat, dealing with inquiry, mediation and conciliation.

61. The Working Group examined the progress report, in accordance with paragraph 3 (b) (ii) of General Assembly resolution 42/157, and took note of it.

IV. RATIONALIZATION OF EXISTING PROCEDURES OF THE UNITED NATIONS

Statement of the Rapporteur

62. In connection with the topic, the Working Group had before it a revised working paper entitled "Rationalization of existing United Nations procedures" submitted at the previous session by France and the United Kingdom of Great Britain and Northern Ireland, which is set forth in paragraph 34 of the report of the Special Committee on the work of its 1987 session.

63. In presenting the paper, one of the co-sponsors indicated that, if annexed to the rules of procedure of the General Assembly, it would contribute to the efficiency of the work of the General Assembly.

64. In the assessment of a number of representatives who spoke, the new working paper was an improvement over the preceding versions.

65. In connection with the suggestion to increase the scope of the working paper so that it would include other bodies of the United Nations, it was stated on behalf of the co-sponsors that the scope of the working paper should not be extended to include other bodies of the United Nations, as in some cases there were separate organs working on rationalization of their procedures. Referring to a suggestion to bring the title in line with the contents of the working paper, the co-sponsors felt that the title could be adjusted along the lines of the title of annex VII of the rules of procedure of the General Assembly to begin with the words "further conclusions". It was also pointed out that it would be advisable to proceed with the consideration of all the paragraphs of the working paper and then decide on its title.

66. The debate then proceeded on the articles of the revised working paper.

67. The text of paragraph 1 read as follows:

> "Without prejudice to the provisions of the Charter of the United Nations on voting, resolutions and decisions of the General Assembly should be adopted whenever possible by consensus, on the understanding that such a procedure should not restrict the right of every Member State to make its views fully known. Consultations should be carried out informally, or within subsidiary bodies of ad hoc working groups, with the widest possible participation of Member States, in order to facilitate the adotpion by the General Assembly of substantive conclusions and solutions which are generally acceptable, therefore most likely to be implemented and would thus contribute to strengthening the authority of the Organization."

68. This paragraph in its present form gave rise to objections in the light of Article 18 of the Charter of the United Nations. The right to vote in accordance with that article of the Charter constituted, as was stressed, the most potent way for a State to indicate its views. The view was also held that the mechanism stipulated in the second sentence of the paragraph was affecting a Member State's right to vote.

69. It was pointed out, however, that it remained hard to perceive in the suggested paragraph any threat to the right of anyone to vote.

70. Objections were expressed about references to consensus. It was noted that the notion of consensus was not defined and that various States approached it differently. Furthermore, doubts were raised as to whether the adoption of resolutions by consensus facilitated their implementation and whether such resolutions were binding on States. It was observed that the rule of majority was the most democratic way of taking decisions and that the strengthening of the Organization represented a question of the political will of States, rather than a change in the rules of procedure of the General Assembly and in the Charter of the United Nations.

71. It was stated that the concept of consensus had become a part of the procedure of any forum and that its uses contributed to a more efficient implementation of decisions taken. It was furthermore stressed that the formulation of paragraph 1 represented the ultimate aim of rationalizing procedures.

72. It was suggested that a practical solution to the difficulties surrounding the concept of consensus would be to study the practice of its uses, especially in cases when no objections had been raised to it.

73. The view was expressed that the method of consensus constituted the most acceptable way of achieving a balance of national interests, with the right to take decisions by vote remaining unaffected. An increase in the number of decisions adopted by consensus, it was pointed out, represented a tendency in the practice of decision-making and the use of consensus should be approached in an unbiased way. The view was held that it would be productive to search for ways to implement decisions adopted by consensus, in order to enhance the morally and politically binding nature of the important policy instruments adopted in the United Nations by consensus.

74. Reference was also made to paragraph 17 of the recommendations of the Working Group of the Whole of the Asian-African Legal Consultative Committee on the improvement of the functioning of the General Assembly (A/41/437), which stated that "every effort should be made to reach general agreement on resolutions in order to facilitate their implementation". Nevertheless, other delegations pointed out that this wording was part of the proposal made during the fortieth anniversary of the United Nations and had not been adopted.

75. In the course of the exchange of views, a number of specific suggestions were made with regard to paragraph 1.

76. Following the exchange of views, the text of paragraph 1 was provisionally accepted in the following form: "In order to facilitate the adoption of resolutions and decisions by the General Assembly whenever possible without a vote, informal consultations should be carried out with the widest possible participation of Member States."

77. In connection with the provisional acceptance of this proposal, it was stated by one delegation that, while this text did not generate objections, the mandate of the Special Committee specified only that the question of rationalization of the procedures of the United Nations should be kept under active review during the present session.

78. For paragraph 2, the Working Group provisionally accepted without any discussion the formulation proposed in the working paper, which read as follows:

"When an electronic voting system is available for recording votes, a roll-call vote should as far as possible not be requested."

79. The text of paragraph 3 read as follows:

"Before the end of each General Assembly session, the General Committee should use its experience and expertise to draw up, for the attention of the next General Committee, its observations on the proceedings of the current session in order to facilitate the organization and rationalization of the work of the next session."

80. With regard to paragraph 3, a number of questions were raised pertaining to the status, character and form of the envisaged recommendations of the General Committee as well as to the problem of allocating time in the course of General Assembly sessions for the formulation of such recommendations.

81. It was remarked that the use of the word "expertise" needed clarification. The expression "observations on the proceedings" was referred to as being at variance with the language of rule 40 of the rules of procedure of the General Assembly.

82. The view was expressed that rule 40 as well as annexes V and VII of the rules of procedure spelled out in full the functions of the General Committee. In addition, under rule 40 the General Committee was not supposed to discuss the substance of any item.

83. It was stated in response that the idea of paragraph 3, which was of a recommendatory nature, was to invite the General Committee to use the accumulated experience of the previous session of the General Assembly. Besides, the General Committee was not obliged to make observations referred to in the paragraph. Rule 40 of the rules of procedure, as was pointed out, dealt with the organization of the current session, while paragraph 3 of the working paper was designed to use the experience acquired in the past for the benefit of the General Committee at the time of the next session to ensure, among other things, continuity.

84. In regard to the question of the use of the word "observations", it was said on behalf of the co-sponsors that, since the word "suggestions" contained in the previous draft had been objected to, the co-sponsors had introduced the word "observations". It was further suggested on behalf of the co-sponsors that the word "proceedings" be replaced by "organization of work". The suggestion was also made to insert the word "improved" after the word "facilitate".

85. Doubts were then raised as to the advisability of the inclusion of such a paragraph at all, because, as was pointed out, it would add little to what had already been provided for in annexes V and VII of the rules of procedure. Moreover, it was also said, such a paragraph might only complicate the work of the General Committee since a new session would have to take into account newly-arisen questions rather than the old ones.

86. The text of paragraph 4 read as follows:

"The agenda of the General Assembly should, in the light of consultations with interested delegations, be rationalized as much as possible by grouping or merging related items, and by fixing an interval of two or more years for

the discussion of certain items. Furthermore, when the discussion of an item has been postponed on several occasions, its removal should be envisaged."

87. As stated previously, paragraph 4 of the working paper was based on paragraphs 20 and 21 of annex V to the rules of procedure of the General Assembly as well as on recommendation 3 (b) of the Group of High-level Intergovernmental experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations. 11/

88. With regard to the last sentence of paragraph 4, the view was expressed that its scope was too broad. It was further pointed out that, if the discussion of an agenda item had been postponed, it did not necessarily mean that there was a lack of interest on the part of the General Assembly. Sometimes, as had been stated, there were serious reasons for postponing the discussion of items. A question was raised as to how a decision for removal of an item could be envisaged. Such a decision, as was stressed, constituted a political decision.

89. A reference was made to paragraph 1 of annex VII of the rules of procedure and it was suggested in that connection that the words "and with the agreement of the delegations concerned" or "and with their consent" be added to the paragraph under consideration.

90. It was remarked that, in the last sentence of the paragraph concerned, the interconnection between a decision to remove an item from the agenda and the position of co-sponsors of the respective item had not been established.

91. It was indicated on behalf of the co-sponsors of the working paper that the last sentence of the paragraph could be deleted. The first part of paragraph 4 could be replaced by the text contained in recommendation 3 (b) of the report of the Group of High-level Intergovernmental Experts, which read:

> "The agenda of the General Assembly should be rationalized by grouping or merging, to the extent possible, related items and by setting an interval of two or more years for the discussion of certain items",

and which had been approved by the General Assembly in its resolution 41/213 of 19 December 1986. The view was expressed, however, that the addition of the words "and with the agreement of the delegations concerned" would in effect constitute a right of a blocking vote for the co-sponsors of an item.

92. The text of paragraph 5 read as follows:

> "The General Committee should consider, at the beginning of each session of the General Assembly, the possibility of convening certain Main Committees successively, taking into account the foreseeable number of meetings necessary for the consideration of the questions with which they are charged and the organization of the work of the whole session."

93. As regards paragraph 5, it was observed that paragraph 3 (c) of the report of the Group of High-level Intergovernmental Experts already contained a reference to the possibility of holding the meetings of the Fourth Committee and the Special Political Committee in sequential order. It was also pointed out that a similar reference to those Committees had been made in paragraph 12 of the recommendations of the Working Group of the Whole of the Asian-African Legal Consultative

Committee. The co-sponsors agreed that the word "successively" in paragraph 5 might be replaced by the words "in sequential order".

94. It was stated that the phrase "convening certain Main Committees" raised certain doubts. Besides, that issue had already been addressed on a broader scale in annex VII of the rules of procedure. A suggestion was made to mention the Special Political Committee and the Fourth Committee in the paragraph under consideration instead of a reference to "certain Main Committees" in order to avoid any misunderstandings. In response, an objection was raised and it was pointed out, among other things, that in future a possibility should not be excluded that other Main Committees could be convened successively.

95. It was also recalled that in paragraph 34 of the Conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly (annex V of the rules of procedure of the General Assembly) it had been recommended that one or two items usually considered by other Committees should be transferred to the Special Political Committee. The point was made that, in view of the fact that the number of agenda items have been changing year by year and of the possibility that the agenda of certain committees would be overburdened in the future, the thrust of the paragraph under consideration should be directed towards equal distribution of items among the Main Committees.

96. It was stated in response that the language of paragraphs 5 and 6 of the working paper was designed to address the concern about a better distribution of items. It was pointed out further that such a concern had already been dealt with by the Group of High-level Intergovernmental Experts and by the Fifth Committee. Moreover, General Assembly resolution 41/213 constituted a broad "package" to that effect, as was stressed. It was pointed out that paragraph 5 could, for example, include a reference to paragraph 6.

97. Doubts were expressed, furthermore, as to how the General Committee could determine a required number of meetings for a Main Committee without substantive consideration of the respective item.

98. It was suggested that the Secretariat study the question of whether any savings had been made by convening the Special Political Committee and the Fourth Committee in sequential order or by not holding concurrent meetings.

99. It was proposed that the words "at that session" and the words "including the distribution of work among the Main Committees" be inserted in paragraph 5 so that the paragraph would read: "The General Committee should consider, at the beginning of each session of the General Assembly, the possibility of convening certain Main Committees in sequential order, taking into account the foreseeable number of meetings necessary for the consideration of the questions with which they are charged at that session and the organization of the work of the whole session, including the distribution of work among the Main Committees."

100. The text of paragraph 6 read as follows:

> "In allocating agenda items to the Main Committees of the General Assembly and to the Plenary of the General Assembly, the General Committee should ensure the best use of the expertise of the Committees and of the time and resources available."

101. With respect to paragraph 6, a comment was made about the advisability of better allocation of items so that, for example, the report of the International Court of Justice, which was considered by the Plenary of the General Assembly, could be allocated to the Sixth Committee.

102. It was suggested that the words "taking into account the nature of the items" be added before the words "the General Committee should". It was also suggested that provisions be made for consultations to take place in case of transferral of an item from one Main Committee to another.

103. The consideration of paragraph 6 was suspended.

Notes

1/ For the list of members of the Committee at its 1988 session, see A/AC.182/INF/13/Rev.1.

2/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 33 (A/36/33), para. 7.

3/ Ibid., Forty-second Session, Supplement No. 33 (A/42/33), sect. IV.

4/ Ibid., sect. II.

5/ Ibid., sect. III.

6/ A/AC.182/L.58.

7/ A/AC.182/L.57.

8/ Official Records of the General Assembly, Forty-second Session, Supplement No. 33 (A/42/33), sect. IV.

9/ Ibid., Supplement No. 33, para. 15.

10/ A/AC.182/L.58.

11/ Official Records of the General Assembly, Forty-first Session, Supplement No. 49 (A/42/49).