



Security Council

Fifty-eighth year

Provisional

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New York

<i>President:</i>	Mr. Kasuri	(Pakistan)
<i>Members:</i>	Angola	Mr. Gaspar Martins
	Bulgaria	Mr. Tafrov
	Cameroon	Mr. Belinga-Eboutou
	Chile	Mr. Valdés
	China	Mr. Wang Yingfan
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Guinea	Mr. Traoré
	Mexico	Mr. Aguilar Zinser
	Russian Federation	Mr. Lavrov
	Spain	Mr. Arias
	Syrian Arab Republic	Mr. Wehbe
	United Kingdom of Great Britain and Northern Ireland	Sir Jeremy Greenstock
	United States of America	Mr. Negroponte

Agenda

The role of the Security Council in the pacific settlement of disputes.

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The meeting was called to order at 10.20 a.m.

Adoption of the agenda

The agenda was adopted.

The role of the Security Council in the pacific settlement of disputes

The President: I would like to inform the Council that I have received letters from the representatives of Azerbaijan, Colombia, Ethiopia, Greece, Honduras, India and Indonesia, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Aliyev (Azerbaijan), Mr. Giraldo (Colombia), Mr. Hussein (Ethiopia), Mr. Vassilakis (Greece), Mr. Acosta Bonilla (Honduras), Mr. Nambiar (India) and Mr. Wardono (Indonesia) took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to His Excellency Sir Brian Urquhart, former Under-Secretary-General for Political Affairs.

There being no objection, it is so decided.

I invite Sir Brian Urquhart to take a seat at the Council table.

In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to His Excellency Ambassador Jamsheed Marker, former Personal Representative of the Secretary-General for East Timor.

There being no objection, it is so decided.

I invite Ambassador Jamsheed Marker to take a seat at the Council table.

In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to His Excellency Mr. Nabil Elaraby, judge of the International Court of Justice.

There being no objection, it is so decided.

I invite Mr. Nabil Elaraby to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I welcome the presence of the Secretary-General, Mr. Kofi Annan, and I invite him to take the floor.

The Secretary-General: It is good to see you again in New York, Mr. President.

Chapter VI of the United Nations Charter, on the pacific settlement of disputes, stands at the heart of the Organization's system of collective security. Over the past 10 years, resolutions adopted under Chapter VII have been the better known, but the majority of the Council's work continues to be carried out under Chapter VI. While the framers of the Charter understood clearly the need for an enforcement mechanism and provided for the use of force against threats to international peace and security, their hopes for a better world lay in the peaceful resolution of armed conflicts.

In recent years, the Council has used Chapter VI in various ways. It has entered into direct dialogue with the parties to conflict — for example, through its discussions with the Political Committee of the Lusaka Agreement. It has tried to work more closely with the Economic and Social Council and with regional and subregional organizations to prevent and resolve conflicts in Africa.

The Council frequently calls on me to use my good offices as Secretary-General and has encouraged me to appoint a growing number of special representatives and envoys. And increasingly, Council

members are venturing into the field — as they will later this week in West Africa — for a fact-finding mission, to review implementation of a peace agreement, to deliver messages or even to conduct negotiations.

I think we would all agree that these efforts have achieved mixed results. We have seen both innovation and inertia. We have seen genuine displays of political will and instances where the Council has failed to dissuade the parties to a conflict from using force.

The questions today are: what have we learned from these experiences, and how can we do better?

My report on the prevention of armed conflict (S/2001/574) made a number of recommendations, including the use of regional prevention mechanisms, more frequent resort to the International Court of Justice and increased reporting by the United Nations system to the Security Council about serious violations of international law or of human rights, and about potential conflicts arising from ethnic, religious or territorial disputes, or from poverty or other factors.

While the primary responsibility for the pacific settlement of disputes rests with Governments and the parties to a dispute, the Council has many tools at its disposal and can play a key role, while pressing those directly involved to make peace, as the Council itself recognized in resolution 1366 (2001), on conflict prevention.

The Council can help identify and address root causes early, when opportunities for constructive dialogue and other peaceful means are greatest. It can ensure an integrated approach that brings together all factors and all actors, including civil society. And it can support the other United Nations organs in their efforts to resolve disputes or to address volatile situations before they erupt into full-fledged threats to international peace and security.

Let us be imaginative. Let us use what influence we have. And let us focus on implementation and action.

I would like to thank you, Mr. President, for your initiative in putting this subject on the agenda of the Council during Pakistan's presidency. Recourse to Chapter VII may have increased in the past decade, but that does not lessen the importance of Chapter VI. The processes it sets out for the peaceful settlement of disputes and situations affecting international peace

and security remain as relevant today as they have ever been.

The President: I thank the Secretary-General for his statement and for the kind words he addressed to me.

I shall now give the floor to His Excellency Sir Brian Urquhart, former Under-Secretary-General for Political Affairs.

Sir Brian Urquhart: Mr. President, I am greatly honoured — and somewhat unnerved, I must say — by your invitation to speak today in the Security Council. I attended the first meeting of the Council, in London in January 1946, and in the succeeding years I spent hundreds of hours in this Chamber sitting behind successive Secretaries-General, writing reports and sometimes trying to implement the Council's decisions in the field. I still believe that, for all the ups and downs of its first 57 years, the primary responsibility of the Security Council for international peace and security is as essential a concept as it was in 1946. As I left the Secretariat 18 years ago, my remarks will inevitably be of a rather general nature, which is probably just as well.

During the cold war period, Chapter VI, "Pacific settlement of disputes", was the preferred chapter of the Charter, and Chapter VII — with one or two exceptions — was largely in abeyance. Chapter VI was the basis for most of the important activities of the Council and for all sorts of experiments and improvisations. The list of techniques in Chapter VI — negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies — has been progressively built on and extended. Among such extensions are peacekeeping — sometimes rather glibly referred to as being under "Chapter VI and a half" — a very large expansion of the role of the Secretary-General, United Nations presences, special representatives of the Secretary-General, Security Council commissions, friends of the Secretary-General, and so on. At present, there are, I believe, some 33 special representatives of the Secretary-General engaged in pacific settlement missions in different parts of the world.

As members of the Security Council know better than I do, there are many obstacles to useful international action and the Council has always suffered from the dichotomy between the noble responsibilities imposed on it in the Charter and the

conflict of the national policies of its members and the reservations of national sovereignty. Given these limitations, I think that the record of the Council — indeed, of the United Nations in general — in pacific settlement is a good deal more impressive than is generally admitted. The very existence of the Council and the continuous diplomatic and other exchanges that go on in and around it, combined with the ceaseless peace-seeking activities of the Secretary-General, constitute an essential, ongoing worldwide peace process that is hard to evaluate or to quantify, but is nonetheless extremely important. Without it, I believe that the world would be a much more dangerous and unpredictable place. The Council's role as a last resort — a place where restraint, concession and compromise are a virtue rather than a sign of weakness or a loss of face — has always been a major resource for peace.

Pacific settlement can be a long and untidy process. It is seldom newsworthy, especially when it is successful. A war prevented is not usually news. As Secretary-General U Thant said of the successful good offices mission over the contested future of Bahrain, the best of such missions

“is one which is not heard of until it is successfully concluded or even never heard of at all.”

Much of the Council's and the Secretary-General's work in pacific settlement remains unpublicized. It is no less important for that.

Situations that defy settlement have sometimes been contained by peacekeeping missions or other United Nations instruments, so that violence and the threat to the wider peace are reduced. Some of these missions go back many, many years. This is another activity that attracts little attention unless, of course, the containment mechanism fails and conflict results. In the cold war period, the universal fear of a nuclear confrontation between East and West lent urgency and support to the Council's efforts to contain regional conflicts and to keep them out of the cold war orbit. The cold war political situation also demanded that instruments such as peacekeeping be strictly under the auspices of the United Nations. That incentive and that constraint no longer exist and the instruments of pacific settlement have correspondingly diversified. Sometimes now they are outside the United Nations framework altogether.

Pacific settlement is not an exact science and different problems call for different approaches. The active element and the method will vary according to each situation. In 1949, for example, the Security Council-appointed mediator in Palestine, Ralph Bunche, was able to negotiate the armistice agreements between Israel and its four Arab neighbours in almost complete independence and secrecy, although the authority of the Council was at all times the basis of his mission. In 1955, on the other hand, when Dag Hammarskjöld negotiated the release of 17 American airmen in China — a situation that had become a serious threat to world peace at that time — he was accepted in Beijing solely in his capacity as Secretary-General. Over the years, the Council has shown great flexibility and imagination in devising for each pacific settlement mission the instrument best suited to the particular demands of the problem.

In the last 15 years, the Council has often been called on to deal with problems within the borders of a single State, and it seems likely that this will continue to be one of its main challenges. This is not what the technique of peacekeeping was originally designed for and it is not surprising that many difficulties have arisen. When dealing only with conflicting Governments, the authority of the Council and the support of its members usually give remarkable strength to relatively small and lightly-armed peacekeeping forces. Dealing with non-governmental groups and factions, violent in their very nature and which have little knowledge of — or, indeed, respect for — the Security Council, is a very different matter. We have seen this problem in a number of cases, especially since 1990. It has always seemed to me that in such situations it is essential for the Council to have some reliable and highly-trained capacity for rapid reaction and deployment — the capacity to quell mere brush-fire violence before it develops into conflict or genocide. I know this is an extremely controversial issue, but I have to say — and I have noticed this more since I left the United Nations — that impressive-sounding decisions followed by sluggish or ineffective action both make bad situations worse and also undermine the reputation of and public confidence in the United Nations itself.

There are thousands of studies on the techniques of pacific settlement, but the key elements for success are and have always been the authority and standing of the Security Council, its ability and willingness to take

prompt action, and the skill, ingenuity and determination of those who implement its decisions in the field.

At the beginning, the Council, buoyed by the expectations and the longing for peace of a war-torn world, occupied an almost Olympian position in world politics. Maybe that original optimism and enthusiasm were unrealistic, but in those haunted days the effort to establish an international system that would be an alternative to the arms races, the military alliances, the threats and the aggressions that had always led to war in the past seemed like a blessed, if belated, piece of common sense. That original experiment, pushed aside, diluted and outmoded by revolutionary changes in politics and technology, is still, in the long run, an important concept and pacific settlement under the authority of the Security Council is at the heart of it. The other essential elements of that original vision — disarmament, for instance — have so far fared far less well.

Everyone knows that in its present form the Security Council is the product of another, very different historical period. So far, substantial reform has proved impossible, but that does not detract from the importance of the Council's position and authority and it is extremely important to maintain it. Dag Hammarskjöld once referred to

“those who seem to take special delight in blaming the storms on the ship instead of the weather.”

When, as happened recently, the disagreements of its members — which are, after all, nothing new — are blamed on the institution of the Council itself, the Council's standing in pacific settlement and in other matters is inevitably diminished.

Even in the pristine enthusiasm of 1946, only very few dedicated acolytes believed that the Security Council would immediately work exactly as the Charter prescribed. Most of us saw it as a blueprint for achieving peace in the world that would take generations of trial and error before it became a solid reality. The world was a dangerous, suffering and disorderly place in 1946 and, in a different way, it still is. The United Nations — and I make no apology for quoting Hammarskjöld again — is, in his words,

“a venture in progress towards an international community living in peace under the laws of justice.” (A/PV.690, para. 68)

That is still a very distant objective, but a worthy one. An essential prerequisite for moving forward in this infinitely complex venture is the growing effectiveness of the pacific settlement of disputes. Few activities are more important for the future.

The President: I thank the former Under-Secretary-General for Special Political Affairs for his statement.

I now give the floor to His Excellency Jamsheed Marker, former Personal Representative of the Secretary-General for East Timor.

Mr. Marker: Please accept my congratulations, Sir, on your assumption of the presidency of the Security Council for this very important meeting. I am sure that under your able guidance, the outcome of our deliberations will be both productive and significant. Permit me also to commend the Permanent Representative of Pakistan and his colleagues for the initiative that has brought us together here to debate and discuss an issue that is as important as it is timely.

At the outset I wish to state that the views expressed by me during these proceedings are personal and entirely my own. The fact that I have the honour to be a Special Adviser to the Secretary-General makes this a necessary caveat.

In recent years, especially following the end of cold war, there has been an increasing tendency to resort to enforcement measures under Chapter VII of the Charter of the United Nations. This has, on the one hand, led to criticism of the Security Council and, on the other, raised concerns about the utility of methods regarding the pacific settlement of disputes. The complementarity of Chapters VI and VII is unfortunately often obscured in this process.

The Charter emphasizes the pacific settlement of disputes. The concept is rooted in the avoidance of the use of force and the settling of disputes among States without causing excessive disruption. The underlying principle is to foster cooperation and understanding among States.

It is axiomatic that pacific settlement affords better opportunities for the resolution of disputes in a manner which is harmonious and less costly in all

aspects, builds confidence, allows greater respect for the sovereignty of Member States and strengthens the position of weaker nations. The solutions thus achieved are also long term and durable. Enforcement measures, on the other hand, often involve heavy costs in economic, social and political terms, and above all in respect of human life and welfare.

Chapter VII is, of course, the ultimate instrument for the implementation of United Nations resolutions and constitutes in a sense the Organization's iron fist. But its latent efficacy can be considerably enhanced through a timely and judicious application of the velvet glove of Chapter VI. One of our tasks should be to ascertain the best and smoothest method for the glove to fit over the fist. In a lecture to the students of the United States National War College in 1946, the legendary Ambassador George Kennan said, "You have no idea how much it contributes to the general politeness and pleasantness of diplomacy when you have a quiet little armed force in the background."

In my view, the most important working document that we have before us is the Secretary-General's report entitled "An Agenda for Peace". It states that "Between the tasks of seeking to prevent conflict and keeping the peace lies the responsibility to try to bring hostile parties to agreement by peaceful means." (*S/24111, para. 34*)

Chapter VI, Article 33 of the Charter sets forth a comprehensive list of such means for the pacific settlement of disputes: "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice." Article 33 adds that "The Security Council shall, when it deems necessary, call upon parties to settle their dispute by such means."

Chapter VI also enables the Security Council to, in Article 34, "investigate any dispute"; in Article 36, "recommend appropriate procedures or methods of adjustment" and refer a dispute to the International Court of Justice; in Article 37, "recommend ... terms of settlement"; and, in Article 38, "make recommendations to the parties with a view to a pacific settlement of the dispute".

The Chapter VI provisions have since been amplified in a series of declarations and resolutions adopted by the General Assembly, namely, the 1982 Manila Declaration on the Peaceful Settlement of

International Disputes (resolution 37/10); the 1988 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 (resolution 43/51); and the 1989 resolution on enhancing international peace, security and international cooperation in all its aspects in accordance with the Charter of the United Nations (resolution 44/21).

A review of the history of the Security Council reveals both successes and failures in the peaceful settlement of disputes. East Timor is a recent success story. But there are other cases where success has not yet been achieved, such as the Middle East, Jammu and Kashmir, and Western Sahara. In the first two, however, there is reason for some cautious optimism as a result of the recent signals emanating from those troubled regions, and we commend the statesmanship of all concerned. This includes the contribution of your personal efforts, Mr. President, in the directions taken so far, and our hopes that they continue. Perhaps at the appropriate time a way can be found to further this process through the application of the provisions of Chapter VI.

The Security Council, which has the primary responsibility for the maintenance of international peace and security, could do much to promote the pacific settlement of disputes. First, it could ask the parties concerned to negotiate and report agreements for dispute settlement. Secondly, it could authorize the Secretary-General to use his good offices and other possibilities for mediation and conciliation to resolve disputes, directly or through a special representative, and report to the Council. Needless to say, the manifest diplomatic capability of Secretary-General Kofi Annan constitutes a formidable asset in this respect. Thirdly, it could appoint a commission of inquiry, conciliation or determination, which could, after consultations and negotiations with the parties, submit its recommendations. Fourthly, it could refer a dispute to the International Court of Justice for an advisory opinion, if not a legal decision or adjudication.

The Security Council could also utilize its mandatory enforcement authority under Chapter VII of the Charter to persuade parties to disputes to engage in the processes for the peaceful settlement of disputes envisaged under Chapter VI. Moreover, through a decision adopted under Chapter VII, the Council could refer a dispute to the International Court of Justice,

whose determination would thereafter be binding on the parties, irrespective of whether or not they had accepted the jurisdiction of the International Court of Justice.

It is essential that the international community give consideration to the option of a more frequent use of the devices for peaceful settlement of disputes. This would require not only that these methods be strengthened, but also a greater commitment on the part of the international community, as well as the political will to do so.

The challenge is to reinvigorate the role of the United Nations, especially of the Secretary-General and his good offices and of the Security Council, in strengthening the mechanisms for the pacific settlement of disputes. It is a challenge which assumes added significance in the current international milieu, with the discordant voices of the sceptics on the rise. But I remain firmly convinced that, notwithstanding an uncomfortable increase in the climate of unilateralism in international affairs, the Security Council, together with the Secretary-General, can play a crucial role in the peaceful settlement of disputes. Our deliberations today will, I am sure, take us a long way in this important process.

The President: I thank the former Personal Representative of the Secretary-General for East Timor for his statement and for his kind words addressed to me.

I now give the floor to Mr. Nabil Elaraby, judge of the International Court of Justice.

Mr. Elaraby: It is indeed a privilege and a great honour to be invited, under rule 39, to participate in this special event. I would like to thank you, Mr. President, and the Mission of Pakistan for taking the important and timely initiative of convening this meeting.

Due to the constraints of time, I am obliged to limit my modest contribution to some reflections on the Charter design with regard to the pacific settlement of disputes, with special emphasis on the legal dimension. But I would like, at the outset, to make it clear that I am participating in this special event in my own personal capacity and not as a judge of the International Court of Justice. The views I express do not therefore necessarily reflect the position of the Court.

As a point of departure, it may be appropriate to recall that the international community is living through an era of momentous change and is undergoing profound and drastic transformations and modifications. Human values and priorities are constantly evolving. The new realities that at present characterize our contemporary international system are bound to affect the United Nations.

The need to adapt has been considered since the 1950s. As far back as 1959, the late Secretary-General, Dag Hammarskjöld, recognized the need to cope with the dilemma confronting the United Nations. I have a quotation — which I am not going to read — just to underline that he recognized that it is not necessary to regard the working methods indicated in the Charter as limitative in purpose: they may be supplemented by others under the pressure of circumstances. The working methods set out in the Charter have taken many turns. I will touch upon some of them.

I now turn to the Security Council and its role. The Charter assigned the awesome responsibility of resolving disputes to three principal organs — the General Assembly, the Security Council and the International Court of Justice — and it had a role for the Secretary-General. Each organ had its responsibilities clarified in the Charter. The Security Council, as the organ vested with the primary responsibility for the maintenance of international peace and security, enjoys a central position. It has, under Chapter VII, unparalleled power.

Experience, however, has shown that the highly advertised Chapter VII measures do not constitute a panacea for all situations all the time. As Secretary-General U Thant pertinently remarked in 1969,

“The Chapter VII arrangements had been designed ... for situations where aggressors could be easily identified and where the ‘good guys’ of the international world would have no moral doubts about collectively fighting the ‘bad guys’. But the situation that has prevailed since the Second World War defied such simplifications.”

That was written some 35 years ago. It is perhaps more valid today.

The Security Council’s responsibilities extend to all walks of life in our contemporary world. The Council holds the mantle of legitimacy for common efforts to ensure peace and security. It is the

enforcement agency for the international community. The Council is vested with the power to adopt binding decisions. The latter responsibility is exercised through enforcing the judgements of the International Court of Justice and ensuring compliance with various multilateral treaties, whether in the disarmament or human rights fields.

However, the Security Council's decisions are reached on the basis of power politics and accommodation, and not necessarily through the strict application of legal norms. It is therefore of primordial importance that the Security Council and the International Court of Justice, the two principal organs vested with the power to adopt binding decisions, act in tandem. The clarification of legal issues will always be conducive to resolving disputes.

The equation devised by the Charter to ensure the pacific settlement of disputes, in the final analysis, hinges on the ability and willingness of every organ to perform its responsibilities in conformity with the purposes and principles of the Charter and the principles of justice and international law.

To encourage States to submit disputes to the Council, the Council's expected reactions have to be credible, predictable and reliable. The Council's shortcomings in those areas are a matter of record. Criticism, rightly or wrongly, has been levelled against the Council. An analysis of this criticism would reveal that, first, on the conceptual level, the Council does not act in a consistent manner as a norm-setting organ on the basis of a unified — albeit by necessity flexible — yardstick. This explains the many accusations of double standards, even in identical situations, which tend to tarnish the image and prestige of the Council and erode the essence of its authority.

Secondly, on the institutional level, the Council sometimes acts as if it enjoys absolute and unchallengeable power to interpret the rule of law and the rights and obligations of States and resists accountability to any other political or judicial organ.

Thirdly, on the operational level, the Council has been carrying out its responsibilities without the benefit of clearly defined rules. The scope of the veto has never been defined. Parties to a dispute are not enjoined to abstain from participating in decision-making. Rules of procedure are still, after all these years, provisional, never having been finalized. And

the practices of the informal consultations have never been, as far as I know, institutionalized.

In that context, and basing myself on my modest experience in the Council itself and in several United Nations committees dealing with this same subject, I would like to offer the following proposals regarding the work of the Security Council.

The first step is to provide the Council with impartial and accurate up-to-date information. That requires strengthening the early warning information-gathering capabilities of the Secretariat and its fact-finding mechanisms in order to engage more actively in preventive diplomacy. To be effective in this area, the Council's resolutions have to be credible and sustainable. Hence, consideration has to be devoted to ensuring that resolutions authorizing the verification of facts be beyond the scope of the veto.

The Council should consider the strict and faithful application of Article 27, paragraph 3, which provides that "in decisions under Chapter VI ... a party to a dispute shall abstain from voting". A State should not be allowed to be party, judge and jury at the same time.

The Security Council could also consider strict application of the provision of Article 36, paragraph 3: "that legal disputes should, as a general rule, be referred ... to the International Court of Justice". That provision has been used only once, in 1947, in the Corfu Channel case — one resolution out of almost 1,500 resolutions adopted by the Council since its inception.

The Council could also consider, whenever necessary, requesting an advisory opinion from the International Court of Justice to clarify legal questions. This has occurred only once, in 1970, with respect to Namibia.

It is high time for the Council to initiate a process such as the one it is considering right now, which is similar to the proposal that appeared in a letter dated 22 December 1997 (A/53/47), which was submitted by 10 non-permanent members of the Security Council. Due to time constraints, I will not read it.

It is important to point out that the Council is not a free agent acting according to a private agenda outside the scope of international law. It is true that the question of judicial review or accountability of the Council is sensitive and controversial. The Charter

does not contain a direct reference to be used for guidance. Yet, in the light of the gravity of the consequences of some decisions, the matter should be addressed. As Columbia University Professor Oliver Lissitzyn said some time ago,

“The long-range purposes and policies laid down in the Charter must be given some protection against the possible short-range aberrations of the political organs. Power without law is despotism.”

At this juncture, before concluding my comments on the Charter, I would like to say a word about Security Council enlargement. The matter has been under consideration throughout the last decade. It has various aspects; I will refer to only two.

Mathematically, an increase of the non-permanent category is long overdue. It must be considered. However, politically, the topic of permanent membership is fraught with unforeseen consequences and unanswered questions. Let me touch on two of these.

First, which criteria should be followed in selecting permanent members? Size, population, military might, nuclear capabilities, or wealth? Secondly, how can the United Nations membership be required to sign off on a plan to increase the number of permanent members while the rights and obligations of the existing five are not defined and clarified?

The matter must be addressed. Any enlargement of the permanent category is, in fact, a restructuring of the fabric and nature of international relations as a whole.

I will now turn briefly to the International Court of Justice. As the principal judicial organ of the United Nations, it bears a heavy responsibility for legality in the whole world. It is considered the guardian of legality. The first point to be made is that, at the present stage of the evolution of the contemporary international legal system, the role of international tribunals in general, and notably that of the Court, is dependent on the consent of States. The jurisdiction of the Court is anchored in the acceptance of States.

The consensual nature of jurisdiction no doubt is completely different in nature and scope than the role of courts of law in municipal systems, in which an individual can take another to court without the consent of the other party. Under the international system, a

State must accept the jurisdiction of the Court. The Court has been handling many cases, but its jurisdiction is, unfortunately, accepted by only 63 States. Many other States, however, have entered into compromissory clauses in multilateral treaties, which allow a State to refer a dispute to the Court on the basis of the prior acceptance of its jurisdiction. To date the court has delivered 76 judgements and rendered 24 Advisory Opinions. Only in a handful of cases were there any problems, and they were resolved at the end.

It would therefore indeed be desirable to increase the acceptance by States of the compulsory jurisdiction of the Court.

The Agenda for Peace contained three important proposals aimed at enhancing the role of the International Court: first, that all States should accept the compulsory jurisdiction of the Court; secondly, that, when submission of a dispute to the full Court is not practical, the Chambers could be used; and thirdly, that authority should be conferred on the Secretary-General to request Advisory Opinions from the International Court of Justice.

The Assembly established a Working Group of the whole to work towards their implementation; I presided over for that exercise for four years. Regrettably, in the end, all that could be agreed upon, in resolution 47/120 B, was to keep under examination all the recommendations of the Secretary-General concerning the International Court of Justice.

I have some comments on the Office of the Secretary-General that are extremely important, but I will conclude, due to time constraints, by saying that the real challenge which the Council has to meet is how to adapt a 1945 design to the realities of the twenty-first century. The world faces a long road ahead, with many challenges which necessitate constant review and modification of practices and priorities, as well as flexible and innovative responses to new situations. Regrettably, our contemporary world is a far cry from being relaxed or balanced. States, therefore, have to be satisfied with a slow process of evolution, and not revolution.

The purpose of this special event is to enhance the role of the Security Council in the pacific settlement of disputes. This is a tall order. It is to be hoped that the outcome will trigger a genuine process of evolution worthy of the magnitude of the challenges facing the international community.

Mr. Aguilar Zinser (Mexico) (*spoke in Spanish*): Allow me at the outset, Mr. President, to congratulate you and your delegation for having taken the initiative of holding this meeting on the peaceful settlement of disputes. Allow me also to tell you how gratified my delegation is to see you, in your capacity as Foreign Minister of Pakistan, presiding over our debate this morning.

I should like to start by saying that the principle of the peaceful settlement of disputes is enshrined in Mexico's Constitution, and that it is one of the focal points guiding our foreign policy.

The peaceful settlement of disputes is, indeed, the main principle on which the United Nations is built. Article 2, paragraph 3, of the Charter of the United Nations establishes that the Members of the Organization shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

This is not only an obligation enshrined in the Charter, but also a general obligation that arises from customary international law. Additionally, Article 2, paragraph 4, of the Charter asks the Members to refrain in their international relations from the threat or use of force. This is a binding standard in international law. It states also that the use of force is restricted to the situations described in Chapter VII.

The International Court of Justice is an instrument on which the parties must rely when a dispute has a legal dimension or context. The obligation to rely on the peaceful settlement of disputes is an essential prerequisite to coexistence, friendship and cooperation among nations. The basis of this obligation is, quite simply, the observance of and respect for international law.

In this context, Mexico has always preferred to exhaust all possible means of avoiding the use of force. Exhausting all possible peaceful solutions is, from our perspective, not only a legal obligation but also a moral one as regards international relations.

It is also incumbent upon the General Assembly to act, as it has, through declarations and resolutions that contribute to reaffirming the fundamental nature of the general obligation of all States to settle their disputes in a peaceful way. In that regard, we would like to recall the importance and applicability of the Manila Declaration on the Pacific Settlement of

International Disputes, as well as of other declarations adopted by the Assembly. It should also be pointed out that the General Assembly recently adopted its resolution 57/26, concerning the prevention and peaceful settlement of disputes.

Nevertheless, there is no doubt that Chapter VI is the fundamental instrument provided by the Charter of the United Nations for the pacific settlement of disputes. Fundamentally, the responsibility to resolve conflicts and disputes rests, first and foremost, with the parties. As provided for in Chapter VI of the Charter, the responsibilities of the General Assembly and the Security Council in that regard are subsidiary in nature. The will of the parties to come forward to engage in negotiations to find a pacific solution to a conflict is paramount. We nevertheless believe that both the General Assembly and the Security Council could play a far more active role in peacefully preventing and resolving conflicts. Chapter VI provides a legal framework within which the Security Council could play a much more active part. Although the Council has leeway with regard to exercising its functions, the maintenance of international peace and security would undoubtedly be strengthened if the Council and its members were to resort more often to Chapter VI of the Charter when promoting peace negotiations.

Beyond the procedures and means set out in Chapter VI, the pacific settlement of disputes and the prevention of conflict are today consistent with the capacity of the Organization and of the international community as a whole to specifically address conflict situations, to go to the aid of populations affected by conflict and to contain the effects of violence. In that regard, peacekeeping operations have proven to be very useful in preventing future conflicts, addressing underlying causes, creating confidence-building mechanisms and bringing parties to the negotiating table. Even when a conflict has already broken out, the United Nations can make a significant contribution to preventing a conflict from becoming protracted. The United Nations Development Programme, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights and the World Food Programme — in a word, the tools available to the Organization and the operational mechanisms employed in specific situations of violence and conflict — should be the best methods, tools and recourse to peacefully resolve

disputes and to prevent future conflicts. The post of Representative of the Secretary-General has also become an effective and very powerful tool in promoting the pacific settlement of disputes.

In that light, my delegation would like to underscore a valuable lesson learned from the United Nations. The involvement of women has proven to be particularly useful and effective in peacekeeping operations and in promoting the pacific settlement of disputes. Women make a difference in finding and consolidating peace. My country therefore urges the Secretariat once again to achieve its gender policy goals and commitments by involving many more women in the Organization's most important tasks.

The Security Council continues to focus almost exclusively on crises and emergencies after they have broken out. In order to prevent conflict, the Security Council could establish a series of practical measures, such as calling on the Secretariat to produce periodic regional or subregional reports on threats to international peace and security. It could also study the possibility of implementing the proposals made by the Secretary-General in his millennium report (A/54/2000) and establishing an informal ad hoc working group, a subsidiary body or an informal technical arrangement to discuss measures for the pacific settlement of disputes that could be implemented for conflicts that are already on the Council's agenda or that will soon to be added to it. It could also look into the possibility of using the Arria formula or another similar arrangement to hold informal debates outside the Council Chamber in order to exchange views on possible means to settle a dispute with those most closely involved. In that regard, my delegation welcomes today's meeting as a particularly useful exercise.

We believe that the Security Council should also turn more often to the provisions of paragraph 3 of Article 36 of the Charter, which states that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court. To that end, it is essential that States that have not yet done so make a declaration in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice in which they recognize as compulsory the jurisdiction of the Court with respect to any other State accepting the same obligation. That

invitation applies also to States that have withdrawn their declarations.

My delegation is pleased with the role played by the International Tribunal for the Law of the Sea, which we believe will be increasingly important in the pacific settlement of conflicts pertaining to the Convention on the Law of the Sea, and generally as regards ocean affairs.

We would also like to highlight the growing possibilities that exist for the pacific settlement of disputes as a result of the proliferation of international courts and tribunals. This illustrates the international community's desire to have various alternative means at hand to resolve its differences in the spirit of Chapter VI of the Charter.

Before I conclude my statement, my delegation would like to underscore the fact that, as regards reforming the Organization, we must carefully examine and critically review the legal instruments available to us in order to adapt them and bring them into line with current circumstances. We must work ambitiously and creatively. We must commit the highest political levels of the Governments represented at the United Nations to carrying out a thorough review of the mechanisms at the disposal of the Organization — as well as those that it will have to build and the institutional arrangements it will have to establish — so that we may be more effective at preventing conflict and finding pacific settlements to disputes; so that States will more unequivocally commit themselves to complying with the decisions of the Security Council and to respecting the norms of international law; and so that we may realize the dream of the Organization, namely, to eliminate the use of force.

The President: I thank the representative of Mexico for the kind words he addressed to me.

Mr. Arias (Spain) (*spoke in Spanish*): I am grateful, Sir, for your presence here among us, and I congratulate your delegation on having chosen this important subject.

The Charter of the United Nations gives the Security Council a mandate concerning the pacific settlement of disputes and mentions a number of mechanisms that we must utilize to that end. In addition, at the Millennium Summit, held in 2000, the heads of State of States Members of the United Nations committed themselves to enhancing the Organization's

effectiveness in the maintenance of international peace and security. I shall mention five elements that, in our view, will enable us to improve the Council's effectiveness in that regard.

The first is the need for political will. The 1992 document "An Agenda for Peace" (S/24111) rightly pointed out that the Organization's possible failures with regard to the settlement of disputes have been caused largely by an absence of political will on the part of States and not because United Nations measures were insufficient or inadequate. That 1992 affirmation retains its full validity.

The second element is the interaction among the various organs of the system. Although the Security Council, through a 2001 presidential statement (S/PRST/2001/5), affirmed its readiness to consider ways to improve its cooperation with other organs of the system — in particular the General Assembly and the Economic and Social Council — at times there is not enough synergy between the Council and other organs, and when such cooperation exists, it often comes too late.

Thirdly, as Judge Elaraby mentioned, there is a need for adequate analysis of information. In order to have an effective conflict prevention policy, we need — in addition to enhancing the Council's authority, established in Article 34 of the Charter — adequate analysis of information originating from other sources.

The fourth element is cooperation with regional organizations and arrangements. In both Chapter VII and Article 33 of the Charter, it is established that Member States must utilize existing regional organizations, among other means of peaceful settlement. The Security Council must therefore promote measures undertaken at the very important regional level.

The fifth aspect is the need to coordinate peacemaking initiatives. The Secretary-General, in a 1998 report on the causes of conflict and the promotion of durable peace and sustainable development in Africa (S/1998/318), made a universally applicable statement when he pointed out that peacemaking efforts need to be well coordinated and well prepared. We must avoid situations in which international actors undertake rival or competing efforts, which would do nothing except make finding a solution even more difficult.

From all of the foregoing, we may draw a series of conclusions about the improvements needed in the Security Council's work. It is not possible to speak of the pacific settlement of disputes without attaching equal importance to measures of preventive diplomacy. The Council must do more to prevent conflict. It does not do so because of, among other things, the power relationship within it, which sometimes prevents the consensus needed to deal with an issue. In addition, sometimes there is excessive caution, and problems are allowed to develop in the belief that the conflicts will solve themselves, which is not the case. We also need more synergy between the work of the Council and that of other regional and subregional organizations and bodies.

In conclusion, as ways to improve, I should like to emphasize that the Security Council must make greater use of its prerogative under Article 34 of the Charter and to investigate any dispute, or any situation which might lead to international friction. It must make more use of Council missions in conflict zones, which enable it to obtain information first-hand while exerting pressure on the parties. In order to have an effective conflict prevention policy, we also need to analyse information originating from other sources, such as the media or civil society. Finally, as our Mexican colleague just pointed out, the Council should consider — as established in Article 36 of the Charter — initiatives employed by the parties to settle a conflict.

Sir Jeremy Greenstock (United Kingdom): We are delighted to see you in New York, Sir, chairing our meeting today. The United Kingdom is very grateful to the delegation of Pakistan for the initiative taken to bring to the Council's agenda the question of the role of the Security Council in the pacific settlement of disputes. We heard three very thought-provoking speeches at the beginning of today's meeting, and I am very grateful to our three guests for that. I think the Council needs to listen with great attention to the combined depth and breadth of their perspective and their wisdom.

There is often — rightly — much focus on the powers and responsibilities of the Council when it is taking action under Chapter VII of the Charter with respect to threats to the peace, breaches of the peace and acts of aggression. But the provisions of Chapter VI, dealing with the pacific settlement of disputes, are every bit as important. The prevention of disputes is,

after all, more important than trying to find a cure to conflicts that are already running. But prevention is difficult; early action can be taken as interference. It means the United Nations having a voice, having a record, having an authority that is respected widely enough for behaviour that might lead to conflict to change. I think Sir Brian Urquhart brought out that point very succinctly in his introduction, and we in the Council know that we have been having difficulties in that respect.

In Chapter VI of the Charter, as in so many other parts, the founding fathers of the United Nations set out a flexible and quite far-sighted mechanism that brings together several components. The Council can act on its own initiative or on that of the Secretary-General or of others outside the Council. There are many tools at its disposal: commissions of enquiry; the Secretary-General's good offices; missions to places where conflicts are taking place or where conflicts are threatened. The Council can facilitate or moderate peace processes; it can facilitate or provide a framework for the arbitration of factual disputes or for conciliation mechanisms.

Do we use all those instruments to the full? I think our speakers have asked us that question. Ambassador Marker said it is essential that the international community give consideration to the more frequent use of the devices for the peaceful settlement of disputes, requiring not just a strengthening of those methods but a greater commitment on the part of the international community and the political will to do so. The words "political will" are coming up in our interventions.

Whatever the assessment, in fact the Council can do even more than is set out in the Charter as examples. I start with prevention. The Council needs to raise questions earlier about deteriorating situations. To do this objectively, it has to be provided with better access to early-warning information and conflict analysis. The Council needs to apply lessons learned from previous conflicts; to ensure that mandates are clear and realistic and that peacekeeping operations are sufficiently strong and robust; to address the root causes of the conflict; and to provide lasting and sustainable settlements.

The Council needs to draw on the resources of the United Nations and the international community as a whole, the Secretary-General, the Secretariat, the

Member States, the regional organizations and, more widely, those non-governmental organizations and other international actors that play such a vital role in supporting the United Nations work. I entirely agree with the Ambassador of Mexico that women could play a more pronounced peace-building role. Do we really use the potential of all these players to the full?

Judge Elaraby has, in addition, drawn our attention to the scarce use of the International Court of Justice. It is a remarkable fact that we have only used it once in each of those two categories that he mentioned.

It would be easy — and it is often too easily or thoughtlessly done — to blame the United Nations, and particularly the Security Council, when situations deteriorate into disputes and then finally into conflict or unrest. But we also have to remember that the United Nations is not — and, in the United Kingdom's view, should seldom be — the only or even the primary actor in the pacific settlement of disputes. The opening article of Chapter VI places the responsibility where it ought to lie in the first instance. That article makes clear that it is "the parties to any dispute" that must assume their responsibilities to settle their disputes peacefully and that are therefore, under the Charter, obliged to seek a solution to their problems by peaceful means — that is to say,

"by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice".

Only if parties to disputes — only if the Members of the United Nations — are ready to face their responsibilities in this regard can the Security Council itself discharge fully and effectively, and with consistent success, the role it has been given. Only then can it bring its powerful resources, legal and political, to bear on the disputes which are so commonplace in relations between States and which have produced so much conflict and suffering over the years.

We are learning the hard way that the best way of dealing with difficult issues of peace and security is to combine the lawful authority of the United Nations with the political will and resources of individual Powers. How that combination can be more effectively utilized in the future should be a major item of discussion for the Council from now on.

The President: I thank the representative of the United Kingdom for his kind words addressed to me.

Mr. Wang Yingfan (China) (*spoke in Chinese*): At the outset, I should like to thank Pakistan for its initiative to hold this open meeting. I should also like to welcome Foreign Minister Kasuri and to thank him for presiding over this meeting.

I also thank Secretary-General Kofi Annan and the other guests for their statements.

The pacific settlement of disputes to promote international peace and security is one of the principles of the United Nations Charter. It is also the primary responsibility of the Security Council. As compared with Chapter VII, the various provisions of Chapter VI regarding the pacific settlement of disputes provide the Security Council with a broader scope of action and more flexible approaches to choose from as it plays its role in maintaining international peace and security.

History shows that the use of force does not resolve disputes and conflicts at their roots. An ever-increasing number of countries and peoples have come to see that the use or threat of use of force is incapable of establishing and sustaining long-term peace and security. The new security concept, which is primarily based on dialogue and cooperation, is becoming one of the most important current trends. The pacific settlement of disputes gives specific expression to that new concept of security. Experience in settling disputes throughout the world demonstrates that most disputes are solved by such peaceful means as dialogue, negotiation and consultation.

When the Security Council can play a more positive role, in accordance with Chapter VI of the Charter, in ending conflicts, promoting peaceful reconciliation and restoring regional peace and security, the international community will undoubtedly be able to entertain greater hopes for the pacific settlement of disputes. The success or failure of the Security Council in the pacific settlement of disputes hinges on the political will of the parties to a conflict to seek a peaceful settlement. The Council should objectively and accurately assess and evaluate a conflict situation in a timely fashion and offer proposals for settlement and subsequent procedures. It should also enhance its coordination with various United Nations agencies and avail itself of various ways and means, including authorizing the Secretary-General to conduct good offices and mediation, to take

full advantage of the Organization's comprehensive strengths.

For years, the United Nations has dispatched numerous peacekeeping operations to conflict regions throughout the world. Such operations have played positive roles in easing tensions, promoting peaceful reconciliation and restoring regional peace and security. As for those hotspots that have defied efforts to find solutions, the Security Council should enhance its labours.

It should also be pointed out that States Members of the United Nations are at all times obligated to cooperate with the Security Council in its varied efforts to find peaceful solutions to disputes. Within their own capacities, they should also use their influence in various ways to find definitive peaceful solutions to disputes. The countries involved in disputes have made numerous diplomatic efforts that are useful complements to the Security Council's work to promote peace.

The President: I thank the representative of China for his kind words to the Pakistan delegation and to me.

Mr. Pleuger (Germany): I would like to join other delegations in welcoming you, Sir, to the chair of the Security Council today. I thank your delegation for convening this important meeting.

I would like to make this statement in addition to the statement that Greece will deliver later at this meeting on behalf of the European Union. Germany fully endorses that forthcoming statement.

Efforts to prevent or remove threats to the peace and to adjust or settle international disputes by peaceful means, in conformity with the principles of justice and international law, are among the first of the purposes of the United Nations, as defined in Article 1 of the Charter.

Germany is committed to moving the United Nations, in the words of the Secretary-General, "from a culture of reaction to a culture of prevention" (A/54/I, para. 61). It is therefore important that the Security Council periodically revisit its role in the pacific settlement of disputes — an area in which, pursuant to Chapter VI of the Charter, the Security Council is vested with a primary, though not exclusive, role. As stipulated by the Charter and reaffirmed by the Manila Declaration, other actors, notably the Secretary-

General, the General Assembly and regional organizations, as well as judicial institutions and mechanisms, have an important role to play.

The role of the Security Council in the pacific settlement of disputes has been outlined in particular by the provisions of Chapter VI of the Charter. Unlike situations that fall under Chapter VII, where the Council is Charter-bound to determine precisely whether the prerequisites for its invocation are met, Chapter VI provides the Council with a certain latitude in the evaluation of a situation and in the use of the most appropriate means. It goes without saying that the Council's ability to anticipate emerging disputes and conflicts, and to react to them in the most appropriate way, depends to a significant extent on an early and solid knowledge of the situation. Furthermore, the importance of early warning for the peaceful settlement of disputes cannot be overemphasized — although we realize, of course, that the political will to follow up early warning with concrete action is equally indispensable.

When looking at ways and means to enhance the Council's ability to react in the most appropriate manner, it is not necessary to reinvent the wheel. Indeed, certain lessons from the experience of the United Nations in the field of post-conflict peace-building may well be suited to being applied also to pre-conflict situations or to situations of emerging conflict. The reason is simple: the management of pre- and post-conflict situations requires some identical ingredients necessary to produce sustained peace and stability. Let me give three examples. First, the root causes of conflicts must be addressed and, whenever possible, removed. This may not always be an easy task, as the complex economic and social factors underlying the conflicts in Western Africa demonstrate. Regional organizations and States in the region play a crucial role in assisting the Council in understanding the root causes of conflict and in advising on the best ways to cope with a situation. The advice of local communities is equally important. Addressing the political and socio-economic root causes of a conflict, and involving all local stakeholders, has been the trump card for the United Nations in its more successful post-conflict management experiences, such as those in Central America.

Secondly, I would like to point out that the interrelationship of peace and security, the rule of law, human rights and the enhancement of the material well-

being of people must be taken into account. The Millennium Declaration and the goals contained therein, which address all of those interrelated aspects, have reaffirmed that holistic view. A few days ago, on 8 May, the African Union reconfirmed this view in the Kigali Declaration — the document resulting from its recent human rights conference. The European Union has been very effective in applying these ideas to the stabilization and the advancement of South-Eastern Europe, notably through the Stability Pact. We now face the challenge of reconstructing a democratic, human-rights-abiding and peaceful Iraq, whose authorities should enjoy legitimacy and respond to the political, social and cultural aspirations of their people. The guarantees for this project must be provided by the United Nations, the feasibility by the international community, and the legitimacy — and thus the sustainability — by the Iraqi people themselves.

Thirdly, whatever the specific settlement plan for a dispute may be, it must be endowed with a high degree of predictability for all parties to the dispute, as well as with credible guarantees. Such confidence can be inspired by legitimate national institutions, by international judicial mechanisms and by an unequivocal political commitment by the international community, including, notably, the Council itself. Let me recall that the idea underlying the road map for the resolution of the conflict between Israel and the Palestinians is precisely to give both sides a sense of predictability on their road to peaceful and harmonious coexistence. A clear sense of direction may also be a recipe for success in other situations — and this may still be true for the situation in Cyprus, in spite of recent setbacks.

Germany welcomes efforts undertaken by the President of the General Assembly to consolidate the various aspects of conflict prevention into a single resolution. This is a useful and timely exercise that Germany wholeheartedly supports.

Some of the means available to the Council in addressing disputes and conflicts have been thoroughly explored. Others — for example the investigative powers enshrined in Article 34 of the Charter — might benefit from some reinvigoration, through the establishment of special missions or commissions of investigation, as appropriate. Germany welcomes the Council's practice of dispatching fact-finding missions to fragile situations, but believes that this instrument could benefit from some intensification. Special

missions, either by the Council itself or by appointed experts, not only convey the clear message that a situation is under observation and a matter of concern, but also help to prepare for adequate solutions. They are a means of both dissuasion and encouragement.

Another dormant Article of the Charter which may well prove its usefulness in the context of conflict prevention is Article 26, authorizing the Council, in the interest of maintaining peace and security, to establish tailor-made systems for the regulation of armaments. Germany recognizes that threats posed by terrorism and excessive armament may constitute a threat to international peace and security. That is precisely why Council interventions aimed at reducing excessive armament, imposed under the Council's prerogative to maintain peace and security, could be an important policy tool below the threshold of armed intervention.

A further area that may deserve more attention is recourse to judicial mechanisms. Here, I fully agree with Sir Brian Urquhart, quoting Dag Hammarskjöld in his statement. The Charter calls upon parties to a dispute to seek judicial settlements and encourages the Council to cooperate with them. No mechanism of dispute settlement can match the impartiality, and thus the acceptance, of judicial mechanisms. Against the backdrop of the widely recognized role played by judicial mechanisms, in particular the International Court of Justice and the International Tribunal for the Law of the Sea, it is somewhat surprising that the Council, throughout its history, proceeded only once to recommend, by virtue of Article 36, paragraph 3, of the Charter, that the parties refer their case to the International Court of Justice, while two other proposals to that effect, presented by Colombia and the United States respectively, were defeated. It would be interesting to hear whether Judge Elaraby might have any suggestions on how to make better use of that potential tool for the peaceful settlement of conflicts.

Before I conclude, let me stress one more point that in our view merits further attention: strengthening cooperation between the Council and regional organizations in the peaceful settlement of disputes. The Charter confers on such organizations a special role in this regard by inviting parties to a dispute to resolve their differences, first of all, by resorting to regional organizations. Indeed, owing to their closer knowledge of the political, social and cultural context of a dispute, regional organizations are particularly well placed to provide early warning and to maintain political

mechanisms for the settlement of disputes. Experiences in Europe, Africa and the Americas are encouraging. Further, judicial mechanisms to resolve existing disputes can in some instances be found at the regional level. Another interesting regional contribution to the prevention of conflicts is the decision by the Organization of American States to discourage undemocratic changes of Government by refusing to recognize them.

Far from attempting to review the issue of this meeting in an exhaustive manner, I have instead tried to highlight a few points on which Germany would be happy to engage in a closer discussion with Council members, with the United Nations membership in general and with the invited eminent personalities.

The President: I thank the representative of Germany for the kind words he addressed to me and to our delegation.

Mr. Negroponte (United States of America): Welcome back to New York, Sir, and thank you for presiding over this discussion of a topic that is important to the work of the Council and to the United Nations as a whole.

May I begin by expressing my appreciation for the thought-provoking presentations by the distinguished experts who have shared reflections on the Council's role in the peaceful settlement of disputes. In the near future, members of the Council will depart on a mission to West Africa to witness first-hand the situation in several areas where peace is precarious. The trip should deepen the Council's understanding of the factors that give rise to the dispute in Côte d'Ivoire and will hopefully lead to progress in resolving it. It is also an opportunity to learn what has gone right in Sierra Leone, where concerted United Nations and international interventions have produced progress in building lasting peace.

The Council has often stated its concerns about the threat posed by Liberian support to elements of the Revolutionary United Front and other rebel groups in Côte d'Ivoire and Sierra Leone. It did so again last week when it renewed sanctions on the regime of President Taylor. The Council mission will travel to Monrovia and meet with regional leaders who, with help from the Economic Community of West African States, are working to end Liberian-produced instability in the region. The mission will examine how regional mediation and sanctions are working to

change Liberia's behaviour and end threats to security in the region.

That is a very current example of the Council's implementation of Chapter VI of the Charter, which provides that the Council may investigate any dispute, or situation that might give rise to a dispute, in order to determine whether it is likely to endanger international peace and security. The United Nations Charter gives the Security Council primary responsibility for the maintenance of international peace and security and sets forth a formula for fulfilling that charge, which focuses on the core chapters, Chapters VI and VII.

The link between the peaceful settlement of disputes and the maintenance of international peace and security is obvious. There is a logical progression from Chapter VI, which provides for the use of peaceful means such as negotiation, mediation and judicial settlement to deal with disputes that may endanger the peace, to Chapter VII, which provides for measures taken to restore it.

We might ask whether that sequence is being followed or whether there is a tendency to react to events rather than make a more proactive use of preventive diplomacy in order to defuse disputes during their early stages. It is interesting to note that Chapter VII was invoked in only a handful of situations during the Organization's first 45 years. Today, it is frequently cited in Council resolutions.

This does not, however, signal that the Council has abandoned Chapter VI. The actions prescribed in Chapter VI are less likely to require robust measures. Much has been achieved through the efforts of the Secretary-General's envoys and representatives in hot spots around the world, through the work of the United Nations Political Office in Bougainville and through the combined efforts of the Secretary-General and the International Court of Justice to bring peace to the Bakassi peninsula, among recent examples. Over the years, mechanisms have been developed to enable the Council to prevent some disputes from reaching the stage where Chapter VII action is required. Chapter VI has stretched to accommodate the emergence of peacekeeping, a concept not mentioned in the Charter but one which has been a valuable tool in dispute settlement.

Earlier missions in which unarmed military observers monitored international disputes have been expanded to include armed infantry to provide force

protection and logistical support and to carry out specific tasks such as disarmament and demobilization.

A very significant contribution to the Secretary-General's good offices role has been through his appointment of special representatives, who remain on the ground to work with the involved parties to find and implement peaceful solutions. More recently, special representatives have taken on staff to assist their activities and to coordinate the range of United Nations activities in the target countries. Strong, capable and experienced special representatives can provide an extremely important link between peacemaking, peacekeeping and peace-building as a country moves from conflict to ceasefire and, finally, to reconstruction.

The legal Committee of the General Assembly — the Sixth Committee — has considered the subject of the peaceful settlement of disputes for many years and has produced a number of important resolutions related to the topic, including the Manila Declaration on the Peaceful Settlement of International Disputes and the 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 latter Declaration, adopted in 1988, includes specific suggestions for Security Council action, such as sending fact-finding or good offices missions at an early stage and encouraging efforts at the regional level by concerned States, regional arrangements or agencies to prevent or remove a dispute. The Declaration also recognizes the roles played by the Secretary-General and the General Assembly in preventing and removing disputes.

From the examples that I have mentioned, it seems that the Security Council is frequently faced with the choice of whether to act alone or to act in concert with another body. The Council has cooperated with regional organizations and with other United Nations organs. In one case, a group of States comprising the Friends of Haiti worked through the Security Council with the Organization of American States, the General Assembly and the Economic and Social Council in the process that restored stability in Haiti following a period of intense crisis.

Last July, the Economic and Social Council established a mechanism to set up ad hoc advisory groups for African countries emerging from conflict. The United States supported the establishment of such

a group for Guinea-Bissau and sent observers from our embassy in Dakar to join with the group in November. We believe that such a mechanism, if requested by a State which has actually emerged from conflict, can help to bridge the gap between relief and reconstruction and thus enable the United Nations system to respond coherently to conflict. It can be an important element in the complete dispute-settlement process.

Finally, I should like to stress that full and effective implementation of the Charter provisions related to the peaceful settlement of disputes requires an approach tailored to the needs of each situation that recognizes the potential contributions and utilizes, as appropriate, the capabilities of all United Nations bodies.

The President: I thank the representative of the United States of America for the kind words he addressed to me and to my delegation.

Mr. Valdés (Chile) (*spoke in Spanish*): Allow me at the outset, Sir, to thank the Pakistan presidency for having convened this meeting. We are honoured to have you presiding over our debate.

This is an opportunity for us to discuss in the Security Council a topic of ongoing importance and relevance: the role of the Council in the peaceful settlement of disputes. I wish to welcome and thank for their participation the eminent personalities who have joined us today.

Two weeks ago, under the Mexican presidency, we had an opportunity to share our views on the role of the Organization in post-conflict situations. Today we are looking at the other side of the coin: the peaceful settlement of disputes, in other words, principles and mechanisms designed to counter or prevent recourse to force.

One of the most cherished principles of the San Francisco Conference, later enshrined in the Charter, is the obligation of the Members to settle their disputes by peaceful means, so as not to endanger international peace and security or justice. This is one of the bases of universal scope that underpin contemporary international law. As a result, a State may not have recourse to force, not even in the form of threats, to resolve disputes in which its interests are affected, nor is it permissible to fight to impose one's own solution in a dispute.

It is true that the United Nations was crafted by its founders, which included my country, as an Organization primarily committed to maintaining and restoring peace. This principle is in perfect harmony with the key responsibility of the Security Council under the Charter to promote and maintain international peace and security.

Since the post-cold-war period, the international community has seen a clear trend developing in the Council to make greater and more effective use of the mechanisms and means enshrined in the provisions of Chapter VI of the Charter, with the help of the Secretariat, the other organs of the United Nations and the specialized agencies.

We have noted, also in harmony with that trend, the crafting during that period of doctrines and principles — based on the concept of preventive diplomacy — aimed at enhancing collective international action in this field. However, despite these principles and standards and despite the efforts made in recent years and the growing general recognition of the importance of the peaceful settlement of disputes, the results we have obtained, as we all know, are still far from satisfactory.

Mechanisms for the peaceful solution of disputes set out in the Charter are often not respected and have not been used as often or with the intensity and effectiveness required. The practice of the Council reveals that the maintenance or restoration of peace is given pride of place over the resolution of disputes or the prevention of conflicts. This is probably due partly to the vicious circle resulting from the persistence of many serious conflicts in various regions of the planet that must be dealt with on an emergency basis.

The Security Council, as the organ charged with the primary responsibility for the maintenance of international peace and security, has been entrusted, as has already been said, with an important role in conflict settlement. It has the power to investigate any disputes or situation that might give rise to international tensions or to a conflict. It can urge the parties, as required, to resolve a dispute through the peaceful means set out in Article 33 of the Charter. It may, at any stage of a dispute that could endanger international peace and security, once it has reviewed the means already used, recommend suitable solutions or arrangements. In doing so, the Security Council must take due account of the general rule according to which

disputes of a legal nature should be referred by the parties to the International Court of Justice. This is the inescapable responsibility of Security Council and a major political responsibility of its members.

The Council, in addition to promoting open debate and discussions, should, on the basis of the political will of its members, intensify the use of all diplomatic means to resolve disputes, be it by promoting direct negotiations, by urging parties to have recourse to negotiations or to resume them, by offering its good offices or by acting as a mediator.

Today, when it so generally asserted that the Council should be reformed, it should be recalled that the first reform should be the development of means that enable us to discharge these responsibilities.

As we have heard this morning, this means making use of the experience gained by the Council, examining the roots and causes of conflicts and finding remedies whenever possible, and dealing with disputes at an early stage, before they become a threat to international peace and security.

Similarly, as international law requires, we have to keep in mind the various procedures and methods for the conflict prevention that are available to States themselves, which have the primary responsibility for the prevention of disputes. These include goodwill missions, special envoys, observers, good offices, mediation or conciliation, arbitration, adjudication, and recourse to international organs or regional arrangements, or any other method that is agreeable to the parties to the dispute.

Along these lines, it is essential for the Council to promote reliance on regional or subregional organs and mechanisms to bring about the peaceful settlement of local disputes. Our Latin American region has experience in this field that is worthy of consideration.

The great North American George Kennan once said:

“When we are full of uncertainty and unease facing the often brutal development of history, it is only by sticking to principles and believing even more in them that we can be helped.”

The principles that guide us and in which we will continue to strongly believe appear in the many resolutions and declarations adopted by this Organization since its creation. Many of these have

been referred to this morning. These are the instruments that are useful and relevant today when we try to move towards a set of concrete proposals that will genuinely improve the work of the Security Council in this key field, which is of the greatest relevance to the United Nations.

The President: I thank the representative of Chile for the kind words he addressed to me.

Mr. Tafrov (Bulgaria) (*spoke in French*): Allow me to express my delegation's gratitude to this month's Pakistani presidency of the Council for organizing this brainstorming session on such an important matter. I would also like to thank the prominent individuals who were so kind as to participate in our meeting today for their extremely interesting and valuable contributions to our debate.

As a country associated with the European Union, Bulgaria fully endorses the statement to be made by the representative of Greece on behalf of the European Union.

As Secretary-General Kofi Annan said a moment ago — and I fully agree with him — the principle of the pacific settlement of disputes stands at the heart of the Organization's Charter. Bulgaria is dedicated to this guiding principle of the United Nations and of Bulgaria's diplomacy.

Chapter VI of the Charter empowers the Security Council to play an important though not exclusive role in the pacific settlement of disputes. The primary responsibility for the pacific settlement of disputes rests with the parties to a dispute or conflict themselves. As some speakers who have spoken before me have said, the prestige and the very image of the United Nations are very important in efforts to encourage parties to a conflict to embark upon the path of negotiation and peace. The role of the Security Council within the United Nations system is, of course, central in this regard. However, experience has shown that the Council has succeeded when it has acted in cooperation with other United Nations organs, namely, the General Assembly and the Economic and Social Council.

We believe that the relationship that has been established over the years between the Secretary-General and the Security Council is very important. In this connection, the Council's major role is to set out clear-cut mandates for the Secretary-General, enabling

him to make the best possible use of all the diplomatic tools at his disposal. I would also like to point out the importance and invaluable part played throughout the years by special representatives of the Secretary-General, who quite often represent to many countries and local communities the very embodiment of the spirit of peace.

Other speakers before me have said that, for historical and political reasons, the Security Council has not made equal use of all the tools available to it under Chapter VI. We must point out that, while some diversification in the use of those instruments may perhaps be necessary, a spirit of pragmatism and common sense should nevertheless always prevail in the face of the very varied situations confronting the Council. In that connection, the formulas utilized by the Security Council should be diverse. I believe that routine and inertia are two dangers for the Council. I would also like to emphasize the importance of Article 35 of the Charter, which enables States to have greater recourse to the Council.

The role of cooperation between the Council and regional organizations has increased throughout the years. Such partnerships enhance the capacity of both the Council and the organizations concerned to contribute to the pacific settlement of conflicts. In 2004 Bulgaria will chair the most important and inclusive European security organization: the Organization for Security and Cooperation in Europe (OSCE). Obviously, the principle of the pacific settlement of disputes, which is at the very heart of that important body, will be the guiding spirit of Bulgaria's chairmanship of the OSCE. As I have said before, our chairmanship will attempt to highlight cooperation with the United Nations and the Security Council, in accordance with the framework for cooperation and coordination signed by the OSCE and the United Nations on 26 May 1993 and the relevant resolutions of the Security Council and the General Assembly, including Assembly resolution 57/298.

In conclusion, I believe that one cannot speak about the pacific settlement of disputes without mentioning the growing importance of the Security Council's relations with non-governmental organizations in this field. Their early warning role in alerting the Security Council is often crucial, enabling the Council to give early consideration to conflicts and enhancing its effectiveness.

The President: I thank the representative of Bulgaria for his kind words addressed to my delegation and to me.

Mr. Traoré (Guinea) (*spoke in French*): At the outset, I should like to express to you, Mr. President, and to the delegation of Pakistan my delegation's gratitude for the organization of this meeting on the role of the Security Council in the pacific settlement of disputes. Despite your busy calendar, you have found the time to preside. That confirms, if that were necessary, the importance of the topic that we are considering today. My gratitude goes also to the Secretary-General for his very instructive introductory statement. In addition, I should like to welcome the presence among us of eminent personalities whose rich experience in the service of the international community will, I am convinced, help to enhance the quality of our debate.

It should be recalled that one of the primary objectives that the United Nations set for itself is the establishment of a climate of trust and peace among States. In order to accomplish that, the Organization offers vast possibilities. Therefore, by virtue of Chapter VI of the Charter, it has defined ways to prevent war and to create understanding and harmony among nations. In that context, many mediation efforts have been undertaken at the bilateral, subregional, regional and multilateral levels.

We must acknowledge, however, that several conflicts of diverse natures have developed to the point where they jeopardize the regional and even international balance. The pacific settlement of such conflicts is incumbent on all of us. In that arduous task, the Security Council, for its part, has a crucial role to play by virtue of its mandate. It must try to prevent potential sources of tension by extolling the virtues of dialogue — direct or indirect — because it is from such dialogue, with an underlying spirit of tolerance, that enlightening ideas that might enable us to transcend differences can arise.

Beyond that preventive role, this body is called upon to intervene with a view to facilitating negotiations among the parties once a conflict has erupted. It goes without saying that such negotiations require a spirit of compromise and responsibility on the part of the parties involved, in conformity with the provisions of Chapter VI of the Charter.

My delegation emphasizes, furthermore, that subregional and regional organizations are appropriate channels for the prevention, management and settlement of conflicts. The mechanisms created for that purpose by the African Union and the Economic Community of West African States, which have often shown themselves to be active and useful, are there to prove that. In order to lend greater effectiveness to the actions of those organizations, it would be desirable to convene a permanent evaluation and coordination mechanism based on strengthening the partnership with the Security Council.

Experience teaches us, moreover, that civil society actors can play an important role in the settlement of disputes. In that context, the action of women of the Mano River Union deserves more attention.

If there is no doubt that the quest for and maintenance of international peace and security are incumbent primarily on the Security Council, we must recognize that other United Nations bodies play a role that is no less important. Many legal disputes arising from the interpretation of treaties have caused differences of evaluation as to their implementation. We are pleased to note that more and more parties to an emerging conflict are resorting to the International Court of Justice to find a peaceful settlement to their disputes, thereby sparing themselves an overt confrontation with unforeseeable consequences.

In conclusion, my delegation would like to reaffirm its conviction that the preservation of international peace and security is a long-standing task that challenges all of us. At a time when humanity faces many threats, we should, in the last analysis, further coordinate our efforts with a view to finding, on a case-by-case basis, the best ways to avoid confrontation and to create conditions for a better world.

The President: I thank the representative of Guinea for the kind words he addressed to me and to my delegation.

Mr. De La Sablière (France) (*spoke in French*): At the outset, I should like to tell you, Sir, how pleased I am to be at this meeting under your presidency. I should also like to take this opportunity to congratulate you and Pakistan on the particularly distinguished way in which Ambassador Akram and the Pakistani

delegation are conducting the presidency of the Security Council this month.

We live today in a globalized world where all threats are linked. In that context, the importance of the peaceful settlement of disputes is as crucial as it was when the Charter of the United Nations was adopted. Each dispute can, in fact, quickly degenerate, engulf an entire region and even give rise to brinksmanship.

Chapter VI of the Charter clearly sets forth the ways that the parties should use, on a priority basis, to find peaceful settlements to their disputes: negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or any other peaceful means of their choice. We must be aware of the fact that Chapter VI establishes a balance among the role of the parties, that of the Council and, eventually, those of other actors. That balance, it must be said, places principal responsibility with the parties themselves, even if they can appeal for external intervention to help them to settle their disputes. I am thinking, for example, of the good offices exercised by France to help solve the dispute between Yemen and Eritrea on the Hanish islands.

In practice, the implementation of the peaceful settlement of disputes has given rise, for a number of years, to two developments on which it would be interesting to focus.

The first development is that the Secretary-General or his envoys and special representatives have been compelled to play an increasingly significant role in the peaceful settlement of conflicts. That is the case in a preventive role before a dispute degenerates into an armed conflict; it is also the case when a lasting solution is sought to a conflict that has already led to armed confrontation. Here, I am thinking of the efforts of the Envoys or Special Representatives of the Secretary-General for Cyprus, for Western Sahara or for Abkhazia. In all of those situations, the qualities of patience, discretion, persistence, impartiality and imagination which have been employed by the Secretary-General, together with the moral and political authority conferred on him by the Charter, enable him to make a decisive contribution.

A second development is the growing role of regional organizations or integrated groups. For example, that is the case in Africa at the continental and subregional levels. Such organizations often have more direct knowledge of the actors and the stakes in a

crisis and can apply more leverage. The Organization for Security and Cooperation in Europe (OSCE) has thus done useful work to help settle conflicts in Upper Karabakh, in Transdniestria or in South Ossetia. I should also like to note, as a representative of a European country, the remarkable action taken by the European Union to help Macedonia by combining political and economic instruments — and now military ones — during a period of crisis that could have had a destabilizing effect on the Balkans.

We all, of course, have in mind a case in which there has been a combination of both elements — the roles of the Secretary-General and of regional organizations — in a conflict of particular significance to peace throughout the world. I am talking about the Middle East and the endeavour which has united the United Nations, the European Union, the United States and Russia in a quartet. A great deal of our hope resides in the implementation of the road map designed by that body.

In the modern version of the concept of the settlement of disputes, what is the role of the Security Council? In our view, there is no call to tamper with the balance defined by the Charter, but within the system established under Chapter VI the Security Council can make a major contribution in various ways: by defining the principal parameters for the settlement of a conflict; by giving political support for the action of the Secretary-General or of regional organizations; by deciding on peacekeeping operations and observer missions to stabilize a military situation, such as the United Nations Disengagement Observer Force, the United Nations Interim Force in Lebanon, the United Nations Peacekeeping Force in Cyprus, the United Nations Organization Mission in the Democratic Republic of the Congo or the United Nations Mission for the Referendum in Western Sahara; and, in broader terms, by facilitating the implementation of an agreement between the parties or by sending them the message that they must find a negotiated solution. This, I believe, is what the Council does every day in its work in New York, in particular with regard to African issues, and occasionally in its travels, as with the imminent missions to West Africa and to Central Africa.

In conclusion, I would reiterate my country's deep commitment to the pacific settlement of disputes. We are very grateful to Pakistan for having organized this meeting and we support the terms of the draft

presidential statement. More than ever, if it is to have any hope of success the pacific settlement of disputes must be based on the cooperation of all parties involved: the parties themselves, other States with particular influence, and the various bodies of the international community to which I have referred. Action can be effective only if there is a commonality of thinking among the principal actors involved in any given situation.

Our Council cannot stand in for those actors, but it must and can, wherever possible, try to be the catalyst for a meeting of minds and wills that will allow for the implementation of a pacific settlement of disputes.

The President: I thank the representative of France for his kind words addressed to me and to my delegation.

Mr. Gaspar Martins (Angola): Allow me first of all, Sir, to welcome you again to our midst as you preside over this open meeting. Allow me to commend you for the far-reaching choice of the theme "The role of the Security Council in the pacific settlement of disputes".

The pacific settlement of disputes has constituted and continues to be one of the greatest challenges of our time. The rich reservoir of options contained in Chapter VI of the Charter is still unexplored and remains to be fully tapped by the Member States. Thus, the theme proposed by the Pakistani presidency for this public meeting constitutes a coherent and somehow good opportunity for our Council to continue the debate pursued during the Mexican presidency last month, covering three topics: the pacific settlement of disputes, the role of regional organizations in the maintenance of peace and security, and the role of the United Nations in post-conflict situations. The three are organically linked and, together with the provisions of Chapter VII of the Charter, form the core of the Security Council's mandate in dealing with threats to international peace and security and actions to prevent such threats.

Your initiative, Sir, is particularly timely and apt. Important developments that we welcome are taking place in South Asia, leading to the establishment of full diplomatic relations between India and Pakistan and creating favourable conditions for solving a long-standing dispute through bilateral dialogue and pacific

means. Angola commends and encourages the two nations to forge ahead.

The world is still living through a complex process of global transition, unsettled as it is by enormous political, technological and civilizational changes that have occurred during the past decade. Great hopes were raised when this process was unleashed for the possibilities for a renewed role of the United Nations in promoting cooperation for peace and in ensuring a more stable and secure world. However, such changes added new risks to old ones, which remained embedded in international life and are still the main sources of threat to peace. Such issues as poverty, disease, famine, oppression and the growing disparity between rich and poor have not been solved and require the greatest attention from us all if the world is to be spared permanent conflict and insecurity.

The United Nations, by gathering the world community of sovereign States in a common endeavour of cooperating for the preservation of peace and security and by benefiting from its operational experience in dealing with critical situations, remains a unique and indispensable tool for facing the threats to peace and building a more secure world.

States are the foundation stones of the United Nations, in that they bear the primary responsibility for contributing to the objective of developing the Organization's potential to achieve international cooperation for peace. It is up to the States to recognize the validity and relevance of the United Nations Charter by abiding by it, refraining from actions inconsistent with its principles and complying in good faith with their obligations in the pacific settlement of disputes.

The Charter is very clear in imposing on States the obligation to resort to negotiated solutions when they are party to any dispute likely to endanger peace and security. The conceptual and practical approaches to fulfilling these provisions of the Charter have been defined and put into practice. Preventive diplomacy is the most suitable way to resolve disputes before conflict breaks out; it is possible to apply, however, only when the good faith and political will exist among the States concerned to solve a dispute by peaceful means and when the parties are ready to engage in meaningful negotiations.

My delegation wishes to underline the paragraph contained in the draft presidential statement to be

adopted later, relating to the commitment of the Security Council to make wider and more effective use of the procedures and means enshrined in the provisions of the Charter for the pacific settlement of disputes as essential components of its work to promote and maintain international peace and security.

A number of conflicts could have been prevented in the past — or at least action could have been taken with a view to their prevention. But too often in the past the inaction of the international community and the United Nations allowed situations to grow to uncontrollable proportions. In our view, when the Security Council receives reports of mounting conflict in certain countries or regions, it should engage in immediate action and put in place the instruments at its disposal to prevent the deterioration of the situation and any conflict that might ensue.

In this connection, regional organizations are particularly well suited to working with the Secretary-General and the Security Council to provide accurate assessments of crisis situations. Regional organizations can engage in preventive diplomacy and take political decisions whenever a situation is at risk of becoming a crisis for the region concerned. It is our shared view that regional organizations can play a fundamental role in the maintenance of peace and stability. The meeting held by the Council last month, with the participation of the heads of the main regional organizations, reiterated the important role played by them. This meeting today reinforces that point.

I would like to conclude by reiterating my delegation's great appreciation to the Pakistani presidency for having taken this initiative to invite to the Council three eminent, experienced personalities to share their reflections. They have enriched our debate, inviting the Council to tap more fully into the reservoir of preventive diplomacy, which renders the Council more effective and its solutions more responsive to the problems we face in the world today.

The President: I thank the representative of Angola for his kind words addressed to me.

Mr. Wehbe (Syrian Arab Republic) (*spoke in Arabic*): My delegation would like at the outset to express its satisfaction at seeing you, Sir, presiding over this meeting of the Council. We welcome you once again to New York. We extend our thanks to your friendly country, Pakistan, and to your delegation for having included this important item on the agenda of

the Council this month. It is a subject of great importance, particularly at this juncture.

My delegation would also like to welcome the Secretary-General and the eminent personalities who participated in our discussion. They have very rich experience of the work of the United Nations, especially in the field under consideration today.

The Security Council has the greatest authority of any United Nations organ. It is mandated to maintain international peace and security. While the General Assembly may make recommendations to Member States and adopt resolutions, the Security Council has the authority to adopt resolutions whose implementation is compulsory, in accordance with the Charter, in particular its Chapters VI and VII. The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute. The Council can also recommend any measures or actions with a view to resolving such conflicts, if it considers them to constitute a threat to international peace and security.

The Security Council can also refer any matter relating to international conflict to the International Court of Justice for its consideration. It can also rely upon the legal advice of the International Court of Justice. That has happened only once, as we heard from one of our guests this morning. The Security Council has broad authority that allows it to decide on measures to be taken in situations that pose a threat to international peace and security or that risk degenerating into aggression. In such cases the Security Council can resort to the use of armed force in order to maintain peace and security.

We have heard many speakers today state that the provisions of Chapter VI were frequently applied during the cold war. In the past decade, however, the focus has been more on Chapter VII — as if there were a clear dividing line between the two chapters. Of course, if the Security Council relied only on Chapter VII and completely ignored Chapter VI, that might move the Council away from the main purpose for which it was originally established.

The role of the United Nations in preserving collective security is defined in the Charter, and the Security Council has the authority to look into any situation that may threaten international peace and security. It has the authority to make appropriate recommendations for the pacific settlement of disputes.

The Council also has the authority to impose economic or diplomatic sanctions against countries that act in a manner that threatens international peace and security. The Council also has the authority to call for the use of armed force if need be.

For more than 50 years, the United Nations in general and the Security Council in particular have assisted in preventing many local and international conflicts, through the diplomacy of dialogue and pacific settlement based on negotiation. They have also resolved many conflicts and made, kept and built peace in many regions of the world.

Regrettably, however, some major problems remain, in particular the Middle East problem, one of the oldest conflicts before the Security Council. It has been on the General Assembly and Council agendas for more than half a century. We wish to point out that all Security Council resolutions on the Arab-Israeli conflict were adopted under Chapter VI of the Charter. The Council has not taken the appropriate measures to achieve a peaceful settlement of that conflict, which continues to rage despite the Madrid conference, with its background of negotiations and its basis in Security Council resolutions 242 (1967) and 338 (1973). Despite all of this, the problem remains unresolved.

The principles set out in the Millennium Declaration and in Security Council statements on the need for the Council to take an active role in resolving international conflicts underline the importance of avoiding the use of force in international relations in any way running counter to the purposes of the United Nations. They also stress the importance of settling international disputes by peaceful means.

The role of the Security Council is not limited to the use of peaceful means. It also includes using all other possible measures to prevent a situation from becoming a conflict threatening international peace and security. That can be achieved by developing the capability of the United Nations effectively to deal with all issues related to possible conflicts, such as by enhancing mechanisms of cooperation in the field of information and planning, by adopting preventive measures and by formulating a general plan to establish a better early warning system and to improve the effectiveness of the United Nations.

The Security Council has the mandate to settle conflicts by peaceful means, and must therefore take into consideration the transformations that have taken

place in our world today. The Council should also take into consideration the feelings and reactions of the peoples of the world, for whose security and peace the Council is responsible. Those peoples believe that the use of Chapter VII is not in their interest. That concurs with the opinion of many legal experts, who favour friendly, diplomatic instruments and solutions based on peaceful negotiations and the provisions of Article 33 and other articles of the Charter that refer to peaceful solutions.

We believe that improving the working methods of the Council would make the Council more effective and just. In order to achieve justice in its resolutions and effectiveness in the implementation of those resolutions, we believe that double standards should be avoided in both the adoption and the implementation of resolutions. Such double standards are no longer understandable or acceptable, particular now that the cold war has ended.

Secondly, reform of the Council's working methods and reform to make the Council more democratic should receive greater attention and should be carried out in accordance with current developments in the world.

Thirdly, the necessary increase in the membership of the Council in both the permanent and non-permanent categories should be made in accordance with the request of the Non-Aligned Movement.

Fourthly, the veto power should be used less often, since it is a tool that — to say the least — is not in keeping with the spirit of democracy.

Fifthly, there should be close cooperation with other organs and bodies of the United Nations system, in particular with the Secretary-General, the General Assembly and the International Court of Justice.

Sixthly, there should be close cooperation with regional organizations, which can effectively contribute to the pacific settlement of disputes. The desirability of that approach has become very clear in the African region.

Finally, all resolutions remain dead letters without the clear and serious political will to implement them.

The President: I thank the representative of the Syrian Arab Republic for his kind words addressed to me.

Mr. Lavrov (Russian Federation) (*spoke in Russian*): We are glad to welcome you, Mr. Minister, as you preside over this meeting, at which, at your initiative, we are considering a very important and multi-faceted topic.

We are also grateful to the Secretary-General for his statement and to our distinguished guests, Mr. Nabil Elaraby, Mr. Jamsheed Marker and Sir Brian Urquhart, for their contributions to our work. I hope that their experience, their wisdom and the arguments that they have made for the pacific settlement of disputes and conflicts will help us to find the right solutions in these difficult times.

The Security Council has an important role in the pacific settlement of disputes and armed conflicts. It is an organ with a unique international legal legitimacy. It has a wealth of experience in peacekeeping and in the mobilization and coordination of international and national resources, and it has a broad range of resources in this area. I would like to say that this machinery can also be fully applied to the prevention of conflicts and disputes. In that context, it is important to observe the generally accepted norms and principles of international law, including the decisions of the Security Council, which lay the foundation for a comprehensive strategy to prevent disputes and armed conflicts. Foremost among those decisions is resolution 1366 (2001).

We also note what is taking place now in the General Assembly. The final touches are being scrupulously applied to a draft resolution on the same question. The approval of the draft presidential statement prepared for today's meeting at the initiative of Pakistan is intended as a substantial contribution to our joint efforts in carrying out one of the major Charter tasks of the Organization as a whole and in particular of the Security Council: the peaceful settlement of disputes and armed conflicts and the prevention and elimination of threats to peace and other violations of the peace.

Recent events have once again reaffirmed the importance of all States showing political will and consistently being guided by the tenets of the Charter. These include the observance of the principle of the non-use of force in international relations, except as provided for in the Charter. The international community has a heightened understanding of the nature of current threats and challenges and of the

imperative need for multilateral efforts to overcome them, and of the unprecedented scope of the tasks facing the United Nations and its Security Council in this sphere. As never before, the Council's ability to produce a quick and adequate response to emerging threats to global peace is of enormous significance. An important role is played by the Secretary-General and his representatives in various regions and by special missions of the Security Council, as well as by regional organizations.

A vital and capable United Nations is a key instrument for collectively working on joint measures to confront the threats on the basis of strengthening and developing a collective security system as set forth in the Charter. In this connection, the main responsibility for the settlement of disputes lies with the parties themselves, and no one can replace them in that regard.

The Russian Federation, fully realizing its responsibility as a permanent member of the Security Council, is prepared to continue to promote the search for ways to enhance the effectiveness of the Council's efforts to prevent, and find peaceful settlements to, disputes and armed conflicts. The evolution of peace processes will dictate the need to develop norms of international law and adapt them to new realities. However, such work must be carried out collectively, on the solid base of the United Nations Charter, which will enable us to come up with agreed-upon decisions whose legitimacy would not be in doubt. We are firmly convinced that the future lies in collective efforts to solve problems of general concern to today's world.

The President: I thank the representative of the Russian Federation for his kind words addressed to me and to my delegation.

Mr. Belinga-Eboutu (Cameroon) (*spoke in French*): A month ago the Security Council had a precursor debate on the subject of the Security Council and regional organizations: facing the new challenges to international peace and security. Among these challenges, there is the imbalance in international economic relations, with the worsening of poverty, terrorism, and, above all, the persistence of conflicts. This meeting devoted to the Council's role in the pacific settlement of conflicts is an extension of that exercise.

I would like to commend Pakistan — your country, Mr. President — for choosing this topic and to thank you, Sir, for taking your valuable time to

personally lead our work at this important meeting. I wish to welcome the outstanding personalities present who have helped us with their thoughts and experience as their contribution to the role of the Security Council in the pacific settlement of disputes.

Finally, last but not least, I would like to welcome the presence of the Secretary-General, Mr. Kofi Annan, at the beginning of our meeting and his important statement.

The Preamble of the Charter gives the general principles, establishes standards and proclaims the maintenance of peace as a priority concern, a fundamental base for the United Nations. This proclamation determines the profound philosophy of the Charter: to prevent war, to maintain peace. How is this to be done, and in what way? The essential role in this regard was entrusted to the Security Council, in Articles 25 and 33 to 44 in particular. The Council therefore appears to be the cornerstone of the system for maintaining peace — the indisputable cornerstone, because it remains the depositary of both preventive action and coercive action. However, it is not an unshakeable cornerstone, nor is it one which cannot be ignored, because the lack of means and especially the absence of political will on the part of its members drastically limit its actions. This is why our current debate is timely and important.

The peaceful settlement of disputes is not a new issue. Already, in 1907, Article 1 of The Hague Convention for the Peaceful Settlement of International Disputes, signed on 17 October at The Hague, provided that "With a view to obviating as far as possible recourse to force in relations between States, the Contracting Parties agree to use their best efforts to ensure the pacific settlement of their international differences."

Other initiatives and other resolutions adopted within the United Nations reinforce this dynamic. This is the case with the resolution on principles for the prevention and peaceful settlement of disputes adopted in 2002. This is the case with the Declaration on the Prevention and Elimination of Disputes adopted in 1998. This is the case with the Manila Declaration on the Peaceful Settlement of International Disputes of 1982. Finally, this is the case with the 1970 declaration on principles of international law concerning friendly relations and cooperation among States.

The pacific settlement of disputes would thus seem to be an imperative norm reaffirmed by the Charter in Article 2, paragraph 3. The obligation for States to settle their disputes by peaceful means now should have a deeper impact on their behaviour. In other words, this obligation should encourage States to give preference to negotiation over war. That is the price of international peace and security.

With this in view, the Charter gives to the Security Council a pre-eminent role, as set out in Article 24, paragraph 1. This is a responsibility fraught with consequences. It means, *inter alia*, that the Council must in all circumstances act in a resolute and preventive manner in order to forestall the guns from sounding. This, for my delegation, is the thrust of Chapter VI of the Charter of the United Nations.

The Manila Declaration got it right in inviting the Council and its members, as well as the Members of the Organization, to make use of every possibility to achieve the peaceful settlement of disputes with a view to averting breaches of the peace. In order effectively to discharge this role, the Council has at its disposal a range of instruments and mechanisms that together help in the peaceful settlement of disputes. Here I am thinking of missions of inquiry, good offices and cooperation with regional organizations, which have established expertise with regard to their regions, experience as to the cause of conflicts and the ability, perhaps, to put an end to them. I am thinking also of the various decisions that might be taken at any time to force States to resort strictly to peaceful means in order to prevent or resolve problems that may have arisen among them.

That any Member of the United Nations has the option of bringing a dispute to the Security Council, if it is a party to a conflict, and that it must assume the obligations stemming from a peaceful settlement constitutes, as we see it, one of the most important contributions of our Charter in this field.

The Charter also extends this privilege to the General Assembly and to the Secretary-General when a dispute has the potential to endanger international peace and security. This openness in the jurisdiction of the Council allows it to use its competence in any warlike situation and to show the firm determination of the founders of the United Nations to discharge its full responsibility in this regard. Moreover, the Council has the ability to refer States to the International Court of

Justice. This without doubt represents major progress in the promotion of international peace and security through peaceful means, usefully supplemented by mediation and conciliation, as provided for in Articles 37 and 38 of the Charter.

The instruments available to the Council can be effective only if States cooperate fully, and for good reason. That is because States have a key responsibility in the prevention and settlement of conflicts. Today more than ever before, the international community is called upon to strengthen methods for the peaceful settlement of disputes. There can be no doubt that all of humankind in solidarity can win the battle for peace if guns give way to negotiations and international legal bodies.

Formerly a ward of the United Nations, Cameroon is deeply dedicated to the Organization, to the principles that are its bedrock and to the peaceful settlement of disputes. We demonstrated this once again most recently, both in principle and in our convictions. Cameroon is indeed convinced, as President Paul Biya consistently emphasizes, that there is no crisis involving two States, and in particular no internal crisis, that cannot be resolved peacefully.

Above and beyond dialogue, the major tool in this regard is, no doubt, reliance on law. Cameroon welcomes the sound steps taken along the path to peace by the Security Council. This progress, however, should not make us forget the deadly conflicts that continue to claim the lives of civilians and combatants throughout the world or the grave threat posed to the world today by the spread of weapons of mass destruction, the resurgence of terrorist activities and, as has been said, the persistence of poverty.

In order to avert or overcome such dangers, we must join forces and practice tolerance and dialogue. We must vigorously reaffirm our dedication to the primacy of law in relations among States and, hence, to the pacific settlement of disputes, including the resort to the courts of law.

The pacific settlement of disputes would entail adoption by the Security Council and the United Nations, whenever circumstances so dictate, of any measure to compel States, if necessary, to implement forthwith and without equivocation the decisions established for peaceful procedures. This is even more fundamental when it comes to the decisions of the International Court of Justice. At stake is the

credibility of the machinery established in the Charter. At stake is the credibility of the Security Council in exercising its essential role in the pacific settlement of disputes.

This debate has given us an opportunity for fruitful consideration of the future role of the Security Council in the pacific settlement of disputes. In future, we must be even more innovative and creative in making our Council more capable of facing the challenges to peace and security posed by conflict.

The President: I thank the representative of Cameroon for his kind words addressed to me.

I shall now make a statement in my capacity as Minister for Foreign Affairs of Pakistan.

At the outset, I would like to express my appreciation to the Secretary-General and to the experts invited to this meeting — Sir Brian Urquhart, Ambassador Jamsheed Marker and Judge Nabil Elaraby — for their important statements.

The United Nations Charter begins with the words:

“We the peoples of the United Nations determined to save succeeding generations from the scourge of war...”.

The central purpose of the United Nations is therefore to promote and preserve peace. Yet peace, as the Charter recognizes, is to be based on justice.

The Charter charges the Security Council with the primary responsibility for the maintenance of international peace and security. In this regard, Chapter VI of the Charter defines the Council's role in the pacific settlement of disputes. We have heard this morning thoughtful statements from eminent experts and Council members on the successes and failures of the Security Council and the United Nations in maintaining and promoting peace and security and the extent to which the provisions of Chapter VI have been fully implemented.

This meeting was designed to discuss how the Security Council could do more to promote peaceful solutions in accordance with its Charter obligations. We have a long and abiding association with the Security Council in this regard. Our involvement with the Council came very early in the history of the United Nations. It was intensified when the dispute

over Jammu and Kashmir was referred to the Security Council.

The Prime Ministers of Pakistan and India have recently taken the initiative to reduce tension in South Asia and reverse the negative trends of the recent past. Today, therefore, I do not wish to say anything that would vitiate the atmosphere for the resumption of bilateral talks with our neighbour, India. However, it is a historical fact that one of the earliest applications of Chapter VI of the United Nations Charter was in the Kashmir dispute.

Following negotiations and agreements among the parties, the Security Council adopted resolution 47 (1948), of 21 April 1948, which promised a free and fair plebiscite under United Nations auspices to enable the people of Jammu and Kashmir to determine whether they wished to join India or Pakistan. Before and after that resolution, the Security Council instituted a series of mechanisms — including the establishment of the United Nations Commission for India and Pakistan, the deployment of a military observer group and the appointment of eminent special representatives of the United Nations, who consulted the two parties and submitted extensive reports on how to resolve the dispute in accordance with provisions of the Security Council resolutions.

The process ran aground due to the cold war, when the Security Council could no longer act to persuade the parties to implement its resolutions. The Simla Agreement and the Lahore Declaration support solutions through bilateral discussions. At the Agra summit, in July 2001, Pakistan and India almost succeeded in launching a framework for revived talks.

Today, despite the discouraging record, Pakistan is hopeful that we can revive the process of dialogue for which we have been pressing consistently, before and after the Agra summit. A peaceful solution to Jammu and Kashmir is possible if both sides display flexibility, goodwill and wisdom. It is, however, obvious that there can be no durable solution unless the aspirations of the people of Jammu and Kashmir are taken into consideration. We are confident that the international community, and especially the Security Council and the Secretary-General, will extend their full support to Pakistan and India in their fresh endeavours for peace.

Palestine is another historical issue that remains outstanding on the Council's agenda. On this issue, the

Council has acted under both Chapter VI and Chapter VII of the Charter. In recent years, efforts for peace in the Middle East have proceeded mostly outside the Council. These endeavours, including the mechanism of the Quartet, reflect the spirit and substance of Chapter VI of the Charter. The Quartet has proposed a road map for steps towards durable peace based on Security Council resolutions 242 (1967), 338 (1973) and 1397 (2002) and aimed at the creation of two States — Palestine and Israel — living side by side within secure and recognized borders. What is now required are determined measures to implement the road map. The Security Council can support and strengthen the process of implementation.

Some commentators have proclaimed that the Security Council “failed” when it could not agree to a resolution to authorize the use of force against Iraq. On the contrary, the outcome emphasized that the Security Council sets a very high bar for the authorization of enforcement action in accordance with Article 42, Chapter VII, of the Charter. Efforts at conflict resolution must go through the stages of pacific settlement encouraged in Chapter VI, and thereafter to the more coercive measures outlined in Articles 40 and 41 of the Charter under Chapter VII, before any final recourse to Article-42-type enforcement action. The Security Council’s demurral with respect to authorizing force against Iraq notwithstanding, the previous regime’s flagrant violations highlight the need to do everything possible to succeed in resolving conflicts through the processes set out in Chapter VI of the Charter.

In this debate we have heard many different suggestions on how the Security Council can more efficiently utilize and support such Chapter VI instrumentalities for peace. These include calling on parties to negotiate agreements for dispute settlement; authorizing the Secretary-General to increasingly utilize all the modalities at his disposal for the peaceful resolution of disputes; the appointment of commissions of inquiry and conciliation; and more frequent requests to the International Court of Justice for advisory opinions.

The Security Council could also use its mandatory enforcement authority under Chapter VII to persuade parties to disputes to engage in the processes for the peaceful settlement of disputes envisaged under Chapter VI of the Charter. The Council could, moreover, through a decision adopted under Chapter VII, refer a dispute to the International Court of Justice, whose determination would thereafter be binding on the parties, irrespective of whether or not they had accepted the jurisdiction of the Court.

The United Nations remains an indispensable forum in spite of the enormous asymmetry of power among its Member States. It is in the interest of all Member States, including those that have the capacity for unilateral action, to address issues through the Security Council and the United Nations. This is the only institution that offers international legitimacy, credibility and acceptability for the actions and policies of individual Member States or groups of States. Those assets of legitimacy, credibility and acceptability must be more vigorously utilized by the Security Council to prevent armed conflicts and to settle disputes peacefully. In this age of nuclear weapons and advanced conventional means of destruction, the Security Council must give life to the central obligation of Member States under the Charter to refrain from the threat or use of force, to avoid war and to seek and build peace, if necessary slowly and peacefully, through the vast spectrum of modalities envisaged in Chapter VI and other provisions of the Charter.

I now resume my functions as President of the Security Council.

There are still a number of speakers remaining on my list for this meeting. I intend, with the concurrence of the members of the Council, to suspend the meeting until 3.15 p.m.

The meeting was suspended at 1.30 p.m.