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

Report of the Secretary-General

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* A/38/150.

I. INTRODUCTION

1. On 16 December 1982, the General Assembly adopted resolution 37/114, entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization", operative paragraphs 3, 5 and 9 of which read as follows:

"The General Assembly,

"...

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

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

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

"...

"5. Requests the Special Committee at its next session: 1/

"(a) To accord priority in its work to the proposals regarding the question of the maintenance of international peace and security, to document A/AC.182/L.29/Rev.1 2/ as well as to other proposals made in regard to this subject, including those relating to the functioning of the Security Council;

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

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

"...

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

2. Pursuant to paragraph 9 of resolution 37/114, the Secretary-General, in a note dated 24 January 1983, invited Member States to communicate the observations and proposals referred to in that paragraph.

3. As at 16 September 1983, observations and proposals had been received from the Governments of Ecuador, Senegal, Suriname and Uruguay. Those communications had already been made available to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization at its 1983

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session (A/AC.182/1 and Add.1-3). They are reproduced below. Any further observations and proposals will be issued in an addendum to the present report.

II. OBSERVATIONS AND PROPOSALS RECEIVED FROM GOVERNMENTS

ECUADOR

[Original: Spanish]

[12 April 1983]

1. As a member of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, Ecuador has been participating resolutely in the Committee's work which, although successful, was only partially completed when, in its resolution 37/10 of 15 November 1982, the General Assembly adopted the Manila Declaration on the Peaceful Settlement of International Disputes (resolution 37/10, annex). The Manila Declaration embodies many of the most fervent aspirations of the peoples of the world, but what is called for above all is the political will of the States Members of the United Nations to honour the commitment entered into in approving such an important document. Its juridical limitations notwithstanding, that document represents a highly significant contribution to the maintenance of international peace and security, for it elaborates on the general provisions of the Charter, making their implementation feasible in this particular field.
2. At the thirty-sixth session of the General Assembly, Ecuador, as a member of the Movement of Non-Aligned Countries, co-sponsored a draft recommendation contained in document A/AC.182/L.29 3/ which Egypt had submitted to the Special Committee on behalf of the non-aligned countries members of the Committee. The Assembly recommended that the revised version of that draft (A/AC.182/L.29/Rev.1) should be examined by the Special Committee.
3. The Government of Ecuador believes that appropriate machinery must be adopted to enable the Security Council to take effective, prompt and, above all, early action to maintain international peace and security. The maintenance of international peace and security is the primary responsibility of that United Nations organ, all the more so now when it is becoming increasingly difficult to avoid armed conflicts because of the constant tension that exists among the different power blocs and, in particular, between the super-Powers.
4. Ecuador also believes that measures should be taken to expand on Article 25 of the Charter, in order to ensure that it is implemented effectively by States Members of the Organization and to channel those States' political will to honour the obligations which they entered into in acceding to the world Organization, in this particular instance, the obligation to "accept and carry out the decisions of the Security Council" in accordance with the Charter.
5. There are also matters envisaged in the Charter the consideration and solution of which should not be subject to the rule of unanimity within the Security Council, for instance such matters as: ascertaining facts and dispatching United Nations observers; entrusting the Secretary-General with functions in the

settlement of disputes; the adoption of resolutions calling for cease-fire, separation of armed forces and withdrawal behind respective borders in cases of armed conflict; and the admission of new Member States.

SENEGAL

[Original: French]

[27 April 1983]

1. Although it is not a member, Senegal takes a keen interest in the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, the outcome of which will be decisive for the future of the United Nations and the institution of a new order, based on equality, justice and co-operation among nations.
2. In this connection, the Government of Senegal considers the continuation of the Special Committee's work to be a necessity and that it should make it possible to remedy the deficiencies and weaknesses noted in the operations of the world Organization.
3. Senegal therefore welcomes the adoption, at the thirty-seventh session of the General Assembly, of the Manila Declaration on the Peaceful Settlement of International Disputes (resolution 37/10, annex), the text of which was finalized through the work of the Special Committee.
4. There is no doubt that this document constitutes a substantial contribution to the successful accomplishment of the Special Committee's noble task.
5. However, the Senegalese authorities would like priority to be given, in the future work of that subsidiary organ of the General Assembly, to the consideration of proposals that would help to improve the existing United Nations machinery for the maintenance of international peace and security, in view of the deadlocks arising in this area, on certain occasions, in the relevant United Nations bodies.
6. Similarly, the Special Committee should also devote its efforts to seeking the best possible solutions to some no less important problems, such as:
 - (a) Lack of realism in some important decisions of the General Assembly;
 - (b) Rigidity of the Security Council's procedures, which sometimes contributes to the inability of the Organization to carry out its duties regarding the maintenance and preservation of international peace and security;
 - (c) Scarcity of resources needed to ensure the proper functioning of the Organization;
 - (d) Extreme bureaucratization of the specialized agencies, which prevents them from carrying out their tasks effectively;

(e) Inequitable distribution of high-level posts in the Secretariat.

7. In the opinion of the Government of Senegal, the search for solutions to these basic problems should be inspired, throughout the Special Committee's deliberations, by a spirit of dialogue and conciliation of the kind needed for any dynamic compromise.

SURINAME

[Original: English]

[7 March 1983]

1. Suriname is of the view that Chapter VII is the cornerstone of the Charter of the United Nations for the maintenance of international peace and security.
2. The drafters of the Charter intended to dissuade States from threats to peace, breaches of peace and acts of aggression. The international community is facing the facts that such acts have been increasing as from the date of adoption of the Charter.
3. It is erroneous to think that the Security Council has done its duty when it adopts a resolution after an act of aggression has been committed although the aggression continues.
4. Suriname wonders whether the Security Council's reluctance to apply Chapter VII in flagrant cases of aggression and breaches of the peace is the result of a diplomatic preference to make verbal sanctions rather than take the actions provided for in Chapter VII of the Charter.
5. In Suriname's view, it is unrealistic to expect the Security Council to maintain international peace and security and to halt acts of aggression when its members are in fact encouraging aggression by the misuse of the principle of unanimity. It is a well-known fact that members of the Security Council are using the principle of unanimity to protect their allies and to further their own political and strategic interests.
6. In such a situation it is clear that the role of the Security Council as the guardian of international peace and security is perverted and that, as in 1982, States that respected the decisions of neither the Security Council nor the international community can commit acts of aggression with impunity.
7. Unless the members of the Security Council are prepared to observe the principle of unanimity in good faith, the role of the United Nations and the Security Council for the maintenance of international peace and security, as provided for in Chapter VII of the Charter, will become unworthy.
8. In Suriname's view, the international community is then in a state of permanent danger.

URUGUAY

[Original: Spanish]

[21 April 1983]

1. Uruguay expresses its resolute support for the strengthening of the role of the United Nations in general and, in particular, its role of maintaining international peace and security.
2. To that end, it reiterates its unswerving adherence to the Charter and believes that new, timely measures to achieve that objective can be devised within the framework of the Charter and in strict compliance with it.
3. The foregoing is without prejudice to any revisions which the international community might consider or decide to make to the Charter. To that end, Uruguay reserves its right to promote, in the appropriate instance, full respect for the principle of the legal equality of States; its full application in all organs and mechanisms of the United Nations system, including the Security Council; and maximum representativeness of the international community in those organs.
4. In accordance with those terms of reference, we shall now make some observations with regard to the Security Council, the General Assembly, the Secretariat and the peaceful settlement of disputes. We shall also make a number of general comments.

The Security Council

Preventive action

5. International machinery should be established to organize the Security Council's preventive action, in co-ordination with the Secretary-General's powers, in particular the power deriving from Article 99.

Decision-making

6. The voting procedure should be organized in such a way that the Council's constitutional capacity to act to maintain international peace and security is preserved.
7. To that end, the following solution should be considered among others: the prior adoption of a system of measures to deal with critical situations, the application of which would be decided upon in each case in accordance with Article 27, paragraph 2, which deals with matters, or by consensus, on the basis of a firm commitment of permanent members to a range of previously agreed emergency measures to avoid or stop hostilities.
8. The rules of procedure should be revised to accommodate appropriate solutions.

Implementation of decisions

9. Machinery should be established to ensure full respect for the Council's resolutions, in accordance with Article 25, including through the adoption of measures described in Chapter VII.
10. Procedures should be devised to give practical force to Member States' political support for the Council's decisions.
11. The rules of procedure should be revised in order to accommodate appropriate solutions.

Negotiation

12. The Council's capacity as a forum for formal negotiations on substantive aspects of matters affecting international peace and security should be enhanced.
13. Appropriate rules of procedure should be drafted so that this task may be performed practically and efficiently.

The General Assembly

14. The role of this organ in the maintenance of international peace and security should be strengthened, bearing in mind the powers vested in it by Articles 10, 11 and 14 of the Charter.
15. In particular, the work being done to rationalize the functioning of the General Assembly, including the efforts made to co-ordinate its resolutions and the mandates that it entrusts to the Secretariat, should be continued. In that connection, account must be taken in such work of the financial resources actually available and the need to use existing machinery fully rather than create new machinery.

The Secretary-General

16. The Secretary-General's functions should be expanded by virtue of Article 98 and should include a definite institutional role in the peaceful settlement of disputes.
17. The functions entrusted to him must be accompanied in all cases by suitable legal and material means to carry them out.
18. Means must also be provided for co-ordinating the political support of Member States.
19. The powers implicit in Article 99, in particular those of gathering information on a dispute, should be expanded.
20. The suggested expansion of activities is without prejudice to the activities currently carried out by the Secretary-General.

Peaceful settlement of disputes

21. The means of peaceful settlement of disputes are essential for peace.
22. Chapter VI of the Charter, as supplemented by the Manila Declaration on the Peaceful Settlement of International Disputes (General Assembly resolution 37/10, annex), provides a valuable set of norms for this purpose.
23. This system must be expanded so that, without prejudice to the free choice of means, time-limits might be set for arriving at solutions and a sequence might be established for such means that would culminate in jurisdictional procedures.
24. The system should envisage an institutional role for the Secretary-General in this area.
25. The achievement represented by the Manila Declaration should be backed up by fully binding conventional instruments covering the area of peaceful settlement of disputes.

General comments

26. Uruguay believes that every possible effort must be made in the field of the maintenance of international peace and security, as indicated in paragraph 5 (a) of General Assembly resolution 37/114 of 16 December 1982.
27. To this end, sharing the views expressed by the Secretary-General in his report to the thirty-seventh session of the General Assembly, ^{4/} Uruguay believes that the machinery for collective security must once again be made to function fully. It is essential that the Security Council be strengthened for this purpose.
28. In view of the provisions of paragraph 3 of resolution 37/114, we should at this time work on drafting specific recommendations that could ultimately be adopted by the General Assembly.

Notes

- 1/ The session was held in New York from 11 April to 6 May 1983.
- 2/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 33 (A/37/33), para. 254.
- 3/ Ibid., para. 188.
- 4/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 1 (A/37/1).
