



SUMMARY RECORD OF THE 15th MEETING

Chairman: Mr. DENG (Sudan)

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Distr. GENERAL  
A/C.6/43/SR.15  
26 October 1988  
ENGLISH  
ORIGINAL: FRENCH  
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88-56303 0438S (E)

20P.

The meeting was called to order at 3.10 p.m.

AGENDA ITEM 135: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)  
(A/43/33, A/43/209-S/19597, A/43/629)

AGENDA ITEM 120: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)  
(A/43/530 and Add.1 and 2) (see also A/C.6/43/L.1)

1. Mr. VONGSALY (Lao Peoples' Democratic Republic) said that 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, which was to be submitted to the General Assembly for adoption at the current session, would complement such existing juridical instruments as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Manila Declaration on the Peaceful Settlement of International Disputes, and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations and, once adopted, would be a valuable testament to the efforts of the Security Council and the Secretary-General to find solutions to international disputes whose continued existence, in the absence of effective legal provision, could threaten international peace and security.

2. The duty of States to refrain from military, political, economic or any other form of coercion aimed at the political independence or territorial integrity of another State, established in the seventh paragraph of the preamble to the declaration, was of vital importance to a small country such as his own. Since the previous session of the General Assembly, admittedly, the international situation had moved towards greater interdependence and co-operation. The atmosphere of tension and confrontation had given way to détente and negotiation, and the process of peace and disarmament was beginning to bear fruit, as was shown by the signing of a historic agreement between the Soviet Union and the United States of America on the elimination of intermediate-range and shorter-range missiles, the agreement signed in May 1988 between the Council for Mutual Economic Assistance and the European Economic Community on reciprocal recognition, and the recent cease-fire in the Iran-Iraq war brought about thanks to the unflagging efforts of the Security Council and the Secretary-General.

3. As far as South-East Asia was concerned, his delegation welcomed the positive outcome of the first informal meeting of all the parties involved in the Kampuchea problem, held in Jakarta in July 1988 as part of the search for a political solution to the conflict, which had given fresh impetus to the second Jakarta meeting. That represented tangible progress towards the peaceful settlement of the disputes between States in the region.

4. True to its policy of peace, independence, non-alignment and peaceful coexistence, his Government reaffirmed the importance it attached to the settlement

(Mr. Vongsaly, Lao People's  
Democratic Republic)

of disputes through negotiation, and its relations with its neighbours were rooted in that policy. Thus, at the informal Jakarta meeting, it had made a seven-point proposal to transform South-East Asia into a zone of peace, stability, friendship and co-operation that was free of nuclear weapons.

5. On the subject of the border dispute with one of its immediate neighbours, his Government had repeatedly stated that it was willing to enter into a third series of talks in order to arrive at a definitive settlement.

6. In conclusion, his delegation endorsed the working paper on recourse to a commission of good offices, mediation or conciliation within the United Nations which had been submitted by Romania. As regards the confidentiality of the commission's proceedings, referred to in paragraph 13 of that paper, his delegation believed it might be preferable, if the role of the United Nations in good offices was really to be enhanced, to authorise the commission to hold public meetings when it considered either procedural matters or substantive issues in connection with a particular conflict - when, of course, it was certain that the statements made would be timely and constructive and would not in any way harm the States parties to the dispute - because there was a danger that, if the commission was constrained by confidentiality, its task would be made harder.

7. Mr. ZACHMANN (German Democratic Republic) said that the recent encouraging turn in international relations, especially in the field of arms limitation and disarmament and the peaceful settlement of regional conflicts, was abundant proof that peace and disarmament were now central concerns of the international community. People were becoming more and more aware that, with the dawning of the nuclear and space age, international peace and security could only be upheld and reinforced by non-military means. All States, irrespective of their social and political systems or military affiliations, ought therefore to redouble their efforts in order to make life on earth safer and undertake common endeavours in peace. The United Nations, which not only provided a suitable, comprehensive framework for dialogue and understanding but also had the capacity to maintain peace through collective measures and to encourage peaceful co-operation among States and peoples in every respect, had a special task to perform. Hence the importance of the Special Committee on the Charter of the United Nations, which had been mandated to draw up proposals to enable the overall peace-keeping potential of the Organisation to be exploited to the full in every respect, for the benefit of all States.

8. It was in that context that the Manila Declaration on the Peaceful Settlement of International Disputes had been adopted in 1982, and that the General Assembly was at the current session to take up a draft declaration on the prevention and removal of disputes and situations which may threaten international peace and security, and on the role of the United Nations in this field. The declaration, which was the fruit of a spirit of constructive co-operation on the part of all members of the Special Committee and combined the proposals of a great many States or groups of States, showed that opportunities were available to Member States and

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(Mr. Zachmann, German Democratic Republic)

the principal organs of the United Nations for the settlement of international conflicts.

9. Three features of the declaration were, in his delegation's eyes, particularly important. First, it established the decisive principle that, within and outside the United Nations, the primary responsibility for preventing and settling disputes while adhering strictly to the basic principles of international law governing their conduct lay with States, as stated in the preamble and in operative paragraphs 1 to 6. Possible differences of opinion between States should, where possible, be settled amicably by way of bilateral or multilateral consultations which would give a better understanding of the other parties' positions, views and interests, allowing the appropriate conclusions to be drawn. There was where the preventive character of the declaration was clearly to be seen.

10. Secondly, the German Democratic Republic had always asserted that any consideration of ways of enhancing the effectiveness of the United Nations in international relations must in all circumstances be based on strict respect for the provisions of the Charter. For his delegation, it was important to maintain that premise in the sensitive area of conflict prevention. Further, the possibilities listed in the draft declaration, in particular the holding of confidential consultations through the sending of fact-finding missions of the Security Council, the appointment of special representatives of the Secretary-General and greater recourse to advisory opinions of the International Court of Justice, were appropriate and would enable the Organisation to make a contribution to the prevention and removal of conflicts or disputes which might threaten international peace and security.

11. Thirdly, taking into account the need to safeguard peace in the nuclear and space age, the German Democratic Republic, in conjunction with other socialist States, had supported the initiative designed to establish a comprehensive system of international peace and security, enhance the authority of law in international relations and ensure full respect for the purposes and principles of the Charter. The role of the Organisation, which was of particular importance in that context, should be strengthened. Accordingly, his delegation hoped that the draft declaration would be unanimously adopted by the General Assembly at its forty-third session.

12. The search within the United Nations for ways of enhancing the peace-keeping potential of the Organisation was an ongoing task. Hence the need to examine the content of the programme of work of the Special Committee on the Charter. There were two other items on the Special Committee's agenda, namely, peaceful settlement of disputes and rationalisation of existing procedures of the United Nations. His delegation held the view that, at the next session of the Special Committee, every effort should be made to complete work on the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations, as well as on the working paper on the rationalisation of the work of the main organs of the United Nations, so that both proposals could be submitted to the General Assembly for adoption at its forty-fourth session.

(Mr. Zachmann, German Democratic Republic)

13. The Special Committee, having been asked to consider the question of the maintenance of international peace and security "in all its aspects", could deal with a number of other issues. In that connection, his delegation proposed that the Special Committee should consider the questions of enhancing the effectiveness of international agreements, enhancing the authority of documents adopted without a vote (by consensus), and enhancing the effectiveness of the entire mechanism of fact-finding missions, questions whose consideration would help to strengthen the role of the United Nations and its contribution to international peace and security.
14. Mr. KOZUBEK (Czechoslovakia) said that the change for the better in the climate of international relations had made itself felt in the work of the Organisation. The United Nations and its principal organs had played an important part in resolving a number of issues. Yet the potential of what was the most universal international organisation was still not being fully realised. For that reason, Czechoslovakia attached great importance to the work of the Special Committee, which, at its most recent session, had proved that progress could be rapid given goodwill, readiness to compromise and an interest in reaching agreement.
15. The draft declaration which had emerged from the work of the Special Committee was an important document covering, in some depth, areas which had so far escaped more detailed regulation. Czechoslovakia particularly appreciated the fact that due regard had been paid to the preventive diplomacy of United Nations organs and to the role of States in preventing conflicts. Recent developments had convincingly proved that the role of the United Nations in eliminating conflicts could be further enhanced. Thus the role of the Security Council in situations that might pose a threat to international peace and security should be considerably strengthened. As soon as a dispute arose, the Council must assess the situation in the most expeditious, responsible and objective manner and produce an appropriate solution.
16. Further, the role of the Secretary-General of the United Nations, who had recently made a significant contribution to the settlement of various conflicts, would benefit by being strengthened in accordance with the provisions of the Charter. It was encouraging that the declaration entrusted the Secretary-General with extensive authority in that respect.
17. While the draft declaration represented a compromise, reflected the interests of all groups of States and would undoubtedly be adopted by consensus by the Sixth Committee and by the General Assembly, the objectives of the declaration, once it had been adopted, would be attained only if States demonstrated the necessary political will.
18. The Special Committee had made little progress in its consideration of the working paper on a commission of good offices, mediation or conciliation. His delegation deemed it useful to continue work on the question, and was gratified

(Mr. Kozubak, Czechoslovakia)

that the Romanian delegation had taken account of the comments made by a number of delegations in revising the paper it had submitted; the original text had been considerably improved. The Special Committee should make renewed efforts at its next session to finalize the document.

19. His delegation also valued the preparation by the Secretariat of the draft Handbook on the peaceful settlement of disputes between States, and hoped that the Secretariat would intensify its endeavours in that connection. His Government expected the Secretary-General, at the next session of the Special Committee, to report on the other chapters in preparation.

20. In connection with the peaceful settlement of disputes, Czechoslovakia had already welcomed the initiative by the Soviet Union relating to better utilization of the International Court of Justice. His Government was now studying the possibility of making its own contribution to strengthening the role of the Court.

21. It would be useful for the Special Committee to continue its work on the rationalisation of United Nations procedures. The proposal put forward by France and the United Kingdom was a modest yet interesting contribution, and continued consideration of it might result in a number of recommendations that could increase the effectiveness of the work of the General Assembly. Rationalisation should be viewed, not simply in the narrow sense of the word, but also in the light of the need to further strengthen the influence of the United Nations in resolving acute international problems. In that area a great deal of work still lay ahead of the Special Committee.

22. With regard to the Special Committee's future programme of work, his delegation, in common with many others, felt that for the time being the Committee should continue to accord priority to the question of the maintenance of international peace and security. Nevertheless the time had come to include in the Special Committee's programme a topic that was acceptable to all groups of States. In that connection, the aide-mémoire from the Soviet Union entitled "Towards comprehensive security through the enhancement of the role of the United Nations" contained many interesting ideas.

23. Mr. TANASIE (Romania) said that he would deal separately with agenda item 129 on the peaceful settlement of disputes between States. In a second statement his delegation would analyse the report of the Special Committee on the Charter (item 135).

24. Most of the speakers in the general debate in the General Assembly had stressed the direct connection between the peaceful settlement of disputes and the maintenance of international peace and security, which was the Organisation's fundamental objective and *raison d'être*. All had welcomed the progress made in the peaceful solution of a number of regional conflicts. The essential condition for a just and lasting solution to international problems and for the maintenance of international peace and security was the unshakeable adherence of all States to the fundamental principles of international law. His country was constantly taking

(Mr. Tanasie, Romania)

action to encourage the cessation of conflicts and the peaceful settlement of disputes, in particular through negotiations.

25. Romania thought that the peaceful settlement of disputes was a matter of greater urgency now than ever before in modern international life. It would be of particular importance for improvement of the situation in the Middle East to organize as early as possible a conference sponsored by the United Nations with the participation of all the parties concerned, including the Palestine Liberation Organisation and Israel, as well as the permanent members of the Security Council. Romania had also welcomed with satisfaction the cessation of hostilities between Iran and Iraq and it hoped that, within the framework of the negotiations initiated under the auspices of the United Nations, the parties would make the necessary efforts to find mutually acceptable solutions with a view to a final settlement of the Gulf conflict. Lastly, his country actively supported the struggle of peoples for liberation and it backed in particular the efforts made under Security Council resolution 435 (1978) to achieve Namibia's accession to independence.

26. His delegation thought that the consideration of the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes was an opportunity for analysis of the existing machinery for the settlement of disputes by peaceful means, in particular the machinery available to the United Nations for that purpose. It should be remembered in that connection that Romania had put forward in 1975 the idea of the creation of a United Nations commission on good offices, mediation and conciliation for the settlement of disputes and the prevention of conflicts among States. That idea had been supported by the representatives of other countries and officially presented in 1983 in a working paper submitted to the General Assembly (A/38/343). His delegation would return to that question in its statement on the report of the Special Committee on the Charter. However, it must be stressed that the availability of recourse to a commission on good offices, mediation and conciliation would improve the United Nations machinery, facilitate the peaceful settlement of all international disputes, and enhance the Organization's capacity to perform its essential function.

27. The United Nations must not serve only as a political forum when disputes had already reached a certain level of seriousness, but it must also, and if possible above all else, serve as a forum for preventative diplomacy by means of which disputes could be avoided and mutually acceptable solutions sought at a stage when that was still possible. The peaceful settlement of disputes must be seen not just as an abstract principle or a theoretical problem but as a practical activity, involving the effective use of various ways and means of implementing the principle in all its aspects. It was with that in mind that Romania and more than 50 other countries had requested, as sponsors of resolution 42/150 of 7 December 1987, that the Organization should consider the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes and ways and means of increasing that instrument's effectiveness.

28. His delegation believed that the United Nations, its principal organs and its Secretary-General must bring an increased contribution to the peaceful settlement

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(Mr. Tanasie, Romania)

of disputes. The Secretary-General had stressed the importance of the participation of all States in the solution of international problems in his report on the work of the Organisation (A/43/1, p. 8). Furthermore, the report of the Secretary-General on the peaceful settlement of disputes between States (A/43/530 and Add.1) showed that efforts were needed at the world level if the peaceful settlement of disputes was to become a tangible reality in the modern world.

29. There were some considerations of a practical nature which warranted emphasis. In resolution 42/150 the General Assembly had stressed the need to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law and through enhancing the effectiveness of the United Nations in that field. The persistence of a number of conflicts in various parts of the world demonstrated that the peaceful settlement of disputes had not yet become a truly universal practice. Some progress had nevertheless been made in that area and some positive steps had been taken. Furthermore, the current efforts within the United Nations showed that States were more aware of the need to comply with the principle of the peaceful settlement of disputes.

30. In resolution 42/150 the General Assembly had also requested the Secretary-General to submit to it a report containing the replies of Member States on ways and means of increasing the effectiveness of the Manila Declaration. In that connection his delegation drew the Committee's attention to the concrete suggestions made by Romania in paragraph 28 of document A/43/530. It wished to thank the many delegations which had supported its proposals. It had held consultations with interested delegations with a view to preparing a draft resolution on the implementation of the Manila Declaration. It was convinced that the Declaration had a very special political, legal and practical importance, for it sought to ensure respect for the purposes and principles of the Charter of the United Nations, strengthen multilateralism and increase peoples' confidence in the capacity of the Organisation and the validity of the hopes which they placed in it.

31. Mr. RAKOTOZAFY (Madagascar) said that the consideration of the report of the Special Committee, in particular the draft declaration on the prevention and removal of disputes and situations which may threaten international peace and security and on the role of the United Nations in that field, which was recommended for adoption, offered an opportunity for evaluation of the Organisation's activities with respect to the maintenance of international peace and security. The first problem which came to mind did not concern so much the success or failure of the United Nations in the maintenance of international peace and security as the effectiveness of the legal and material means available to it in the performance of its essential function, i.e. the maintenance of international peace and security.

32. Before answering that question, it was important to note the repeatedly reaffirmed commitment of Member States to act in all places and at all times strictly in accordance with the Charter and to make full use of the possibilities which it offered in the conduct of their international relations. However, positions differed considerably on the question of how to render the Organisation



(Mr. Rakotosafy, Madagascar)

more effective. Some wanted to preserve the privileges and advantages conferred by the established order and supported the framework established by the Charter; others wanted gradually to adapt the Organisation to the new international realities, in particular to take into account the interdependent nature of the contemporary world.

33. The draft declaration was a compromise between those two positions and served as an addition to the various declarations already adopted by the General Assembly on the maintenance of peace and the peaceful settlement of disputes between States, of which the main three were reaffirmed in the sixth paragraph of the preamble. The authors of the draft had sought to provide a realistic definition of the role and the responsibility of States and the principal organs of the United Nations in regard to the prevention of disputes which might threaten international peace and security.

34. As far as the obligations of Member States were concerned, his delegation noted with satisfaction the reaffirmation of the equal rights of nations and respect for international obligations in operative paragraphs 1 and 2 of the draft declaration. In its opinion, those two principles were the central pillar of the international legal order. Similarly, the encouragement of bilateral or multilateral consultations in paragraph 3 was essential to promote the spirit of conciliation, which was itself vital for the prevention or removal of disputes. That was what the Secretary-General had always advocated in his annual reports on the work of the Organisation, in particular his 1984 report.

35. It was also encouraging to note that the provisions of Article 52 of the Charter on the validity and viability of regional arrangements had been reaffirmed in articles 4, 13 and 24 of the draft declaration. The recent successes of the Organisation of African Unity, with the active collaboration of the Secretary-General, in respect of Western Sahara and the dispute between Chad and Libya were concrete examples in that area. The Minister for Foreign Affairs of the Democratic Republic of Madagascar had also emphasized the point in his statement to the General Assembly.

36. To make a system for the prevention and removal of disputes effective, all States must assume their obligations under the Charter in good faith and allow their relations to be governed by respect for the sovereignty and territorial integrity of States, non-interference, mutual respect, mutual benefit, non-recourse to the threat or use of force and the peaceful settlement of disputes. They must also be encouraged to have recourse to the machinery of the United Nations system, as advocated in paragraph 6 of the draft declaration.

37. The Charter designed the main responsibility for the maintenance of international peace and security to the Security Council. Nevertheless, the General Assembly, under Article 11 of the Charter, and the Secretary-General, by virtue of Article 99, also had a part to play.

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(Mr. Rakotosafy, Madagascar)

38. Articles 7 to 15 of the draft declaration dealt with the role of the Security Council in preparing for the prevention or removal of disputes or situations. According to the Charter, in the case of threats to the peace, breaches of the peace or acts of aggression, it was the Council's task to determine when action should be taken, to call upon the parties concerned to comply with provisional measures and, lastly, to decide on the measures to be employed, including the use of armed force. On analysis, the Council's performance in the field of the maintenance of international peace and security must be recognized as not having been wholly successful. The Organisation, which was made up of sovereign States, inevitably reflected the ideological, political, economic and social divergencies of the modern world. However, many positive and constructive Council decisions had served and could serve as a basis for the search for solutions to certain current problems, in particular resolution 598 (1987) on the situation between Iran and Iraq, resolution 435 (1978) on Namibia and resolution 242 (1967) on the Middle East. To render its action more effective, the Council should make more use of preventive diplomacy, as envisaged in paragraphs 11 and 12 of the draft declaration. In other words, the Council should intervene earlier in disputes, using the various means at its disposal to bring about a reduction of tension. To that end, the members of the Council, in particular the permanent members, should rise above their ideological and political differences and encourage first the search for consensus.

39. Articles 16 to 19 of the draft declaration defined the role and the field of action of the General Assembly in the maintenance of international peace and security. Even though that field was limited, his delegation considered that, as the Organisation's legislative body, the Assembly could pronounce and if necessary make recommendations on all the subjects envisaged in the Charter. In recent years, the General Assembly had adopted a number of important resolutions on the maintenance of international peace and security.

40. Articles 20 to 24 of the draft declaration dealt with the responsibilities entrusted to the Secretary-General under Article 99 of the Charter. His delegation welcomed the fact that the Secretary-General had been given a degree of latitude to allow him to play his preventive role and to defuse potential crises. It was essential, for that purpose, that Member States in general, and the parties concerned in particular, should give him all the necessary political and material support.

41. The draft declaration prepared by the Special Committee was being considered at a time when the international political climate was improving. His delegation hoped that the Sixth Committee, and later the General Assembly, would adopt it.

42. Mr. KAGAMI (Japan) said that he was convinced that the contents of the draft declaration on the prevention and removal of disputes, being the consensus product of careful negotiations in the Special Committee, would meet with the unanimous support of the General Assembly. As was the case with any consensus instrument, the recommendations contained in the declaration were only the common denominators among the divergent views of Member States. His delegation had hoped that the

(Mr. Kagami, Japan)

recommendations would be much bolder, but at least a foundation had been laid. It was to be hoped that each of the addressees of the recommendations - the Security Council, the General Assembly, the Secretary-General and Member States - would make every effort to co-operate so that the purposes of the declaration could be realized in a dynamic and effective manner.

43. Since the Special Committee had successfully discharged a main portion of its mandate in the field of international peace and security, it was time for the Sixth Committee to turn its attention to the new mandate of the Special Committee for its 1989 session. His delegation believed that the new mandate should be based on the same criteria as at the thirty-eighth session of the Assembly: its work should focus on certain specific aspects of international peace and security and its aim should be to formulate a series of concrete recommendations for enhancing the capabilities of the relevant United Nations organs. The recommendations should be action-oriented and the measures to be recommended should be relatively easy to implement.

44. One of the most promising areas to explore was that of fact-finding, an area in which needs had grown in recent years and which therefore deserved priority attention. Fact-finding was not a new topic for the United Nations: it had been discussed on several occasions by the General Assembly and its subsidiary bodies and some recommendations had been incorporated in a number of instruments, such as resolution 1967 (XVIII) of 1963, in response to which the Secretary-General had submitted an excellent report, contained in document A/5694; resolution 2329 (XXII), adopted in 1967; the Manila Declaration on the Peaceful Settlement of International Disputes, adopted in 1982, which recommended that Member States should "consider making greater use of the fact-finding capacity of the Security Council in accordance with the Charter"; the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, adopted in 1987, which recommended that "the fact-finding capacity of the Security Council should be enhanced on an ad hoc basis, in accordance with the Charter"; and finally, the draft declaration on the prevention and removal of disputes, prepared by the Special Committee, which contained three similar provisions (paras. 8, 12 and 22).

45. It should be noted that the recommendations contained in the latter three instruments had obvious limitations, stemming from the scope and purpose of those instruments. In any event, it was clear that no systematic recommendations had been drafted covering all aspects of fact-finding in the area of the maintenance of international peace and security.

46. On several occasions his Government had stressed the importance of the fact-finding role of the Organization and the need to enhance it. In particular, his delegation had submitted a working paper at the Manila session of the Special Committee on the Charter, containing a series of specific suggestions to that end. However, no action had been taken on those suggestions, except that certain aspects had been incorporated, in very general terms, into the three instruments he had mentioned.

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(Mr. Kagami, Japan)

47. It was essential for United Nations organs to have the objective facts and the relevant information in order for them to act, particularly in the areas of international peace and security and the peaceful settlement of disputes. Dispatching a fact-finding mission might, by itself, prevent a conflict or stop it from escalating. Moreover, fact finding and broader information gathering on potential or existing conflicts would greatly aid the Secretary-General and the Security Council in the exercise of their early warning or mediating functions.

48. It was particularly encouraging that the Secretary-General was keenly aware of the importance of fact-finding. He had taken several initiatives in that area, and had launched appeals for the further enhancement of the fact-finding and information-gathering capabilities of the United Nations. It was a subject that he had stressed, for example, in his annual reports on the work of the Organization and in various statements, emphasizing the need to strengthen the institutional basis of his preventive diplomacy.

49. Japan was convinced that the Special Committee on the Charter was the most appropriate forum in which to study the ways of strengthening the fact-finding capabilities of the Organization, so that it could engage more efficiently and effectively in activities for the maintenance of international peace and security. That view seemed to be shared widely in the Sixth Committee, and his delegation was ready, once the Special Committee had that matter before it, to co-operate fully, so that it could act as expeditiously as possible.

50. Mr. AL-ATTAR (Syria) said that, while the two agenda items under consideration concerned two different fields, they had a common objective, namely, the revision of the Charter and the strengthening of the role of the Organization. The international community was duty-bound to achieve that objective, in view of the existence of international tensions, the nuclear threat and racist régimes that pursued policies of aggression and expansion phenomena made possible by the weakness of the mechanisms established by the Charter. When the Charter was adopted, the sanctions provided for therein had formed part of a balance among the various provisions, and were aimed at giving the United Nations the necessary authority to carry out its functions. In fact, the Charter was, ipso-facto, a constitutional document, and the non-implementation of one of its provisions resulted in an imbalance. It was the existence of such an imbalance which had compelled the international community to resort to other means of filling the gaps in the collective security system stemming from the abuse of the right of veto in the Security Council. Had such an imbalance not existed, it would not have been necessary to adopt the Definition of Aggression or to draft the Manila Declaration on the Peaceful Settlement of International Disputes or the other instruments aimed at remedying the paralysis of the mechanisms established by the Charter.

51. His country welcomed the adoption by the Special Committee on the Charter at its 1988 session of a draft declaration on the prevention and removal of disputes and situations which might threaten international peace and security and on the role of the United Nations in that field. While retaining the mechanism provided for in the Charter, the draft declaration strengthened the role of the United Nations in the field of the prevention and settlement of disputes, and should thus

(Mr. Al-Attar, Syria)

contribute to the maintenance of international peace and security and to the reinforcement of the primacy of international law. The declaration was all the more important because it reaffirmed the right to self-determination of all peoples living under the yoke of colonial or racist régimes or subjected to any other form of foreign or colonial occupation.

52. Moreover, as part of its review of the question of the rationalisation of existing United Nations procedures, the Special Committee had considered the extent to which the General Assembly should endeavour to adopt all resolutions by consensus. The Special Committee had not been able to reach agreement on that point, and it had to be acknowledged that, in view of current international realities, it would be impossible for the General Assembly to reach general agreement in every case. Syria believed that the consensus rule would hinder new initiatives and could stifle the voice of the majority, composed of small countries. The role of consensus should therefore not be absolute.

53. Moreover, the Special Committee had not reviewed the measures necessary for improving the methods of work of the other organs of the Organisation. As the Organisation was experiencing an acute financial crisis it seemed essential to establish a permanent mechanism for improving the methods of work. The Sixth Committee itself should deal with the rationalisation of methods of work, as it could be observed that, while the same questions were placed on the agenda each year, the work on some of them was at a deadlock.

54. The problems concerning the peaceful settlement of disputes resulted from the lack of political will on the part of States and not from the lack of mechanisms for peaceful settlement. In that field, it was necessary to emphasise not only preventive measures, but also the rules of conduct and duties of States and the need to ensure full respect by all of the rules of international law and the will of the international community. In that regard, the publication of a handbook setting forth all the peaceful means of settling disputes would be of questionable effectiveness: all States had long been aware of such means, and it was to be feared that the publication of the handbook would, in practice, be as ineffective as that of the Manila Declaration on the Peaceful Settlement of International Disputes.

55. Moreover, it would be erroneous to think that the peaceful settlement of disputes involved the holding of direct negotiations between the concerned parties, for very often one of them was the victim and the other the aggressor and, in most cases, the aggressor benefited from the fruits of his aggression and strove to maintain the fait accompli. In fact, direct negotiations were often advocated with a view to preventing the United Nations from playing its proper role.

56. In view of the improvement of the international climate and the hopes that had emerged for revitalization of the United Nations, which would give the Organisation a new impetus enabling it to carry out its tasks, the progress made by the Special Committee should be considered very encouraging, and his country was therefore in favour of extending the Special Committee's mandate so that it could complete its work.

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57. Mr. SCHARIOTH (Federal Republic of Germany) said that 1988 had been a good year for the United Nations. The diplomatic activity it had pursued over many years had at long last begun to bring results, its principal organs were beginning to live up to the high expectations of the peoples of the world, and the Nobel Prize awarded to the United Nations forces helping to keep the peace in many regions was a token of the extent to which the Organization's activities were appreciated. It was also in 1988 that the Special Committee on the Charter had for the first time succeeded in completing and adopting a document in the field of the maintenance of international peace and security. The draft "Declaration on the prevention and removal of disputes and situations which may threaten international peace and security and on the role of the United Nations in this field", although not overly ambitious, none the less had considerable merit, and the Federal Republic of Germany agreed with the Secretary-General that its adoption would be a development of substantial significance to the United Nations and to international relations and law. It shared the Secretary-General's hope that the declaration would be adopted by consensus by the General Assembly and would thus become one of the major achievements of the Assembly's forty-third session.

58. The draft declaration was the work of the whole Special Committee; practically all its members and most of the observers had contributed to its elaboration. In 1984, Belgium, Italy, Japan, New Zealand, Spain and the Federal Republic of Germany had introduced the first proposal on the topic. The sponsors of the proposal had wished thereby to give expression to their strong belief that the United Nations and its organs had a crucial role to play in the prevention of conflicts - at a very early stage, long before such conflicts broke out. The aim was to identify flexible and pragmatic ways of making more effective use of existing United Nations instruments, and to approach the subject of the maintenance of international peace and security by concentrating on the analysis of just one of its important aspects. The goal was modest but realistic, and the adoption of the draft declaration before the Sixth Committee would strengthen and expand the preventive role of the United Nations.

59. The Federal Republic of Germany also welcomed the fact that the very delegation which, only a few years previously, had objected most vehemently to some of the suggestions put forward in the initial versions of the draft was now expressing very similar ideas itself. In addition, it was particularly encouraging that, in the aide-mémoire recently circulated by the Soviet Union (A/43/629), ideas previously phrased quite generally had been expressed in concrete terms. It was noteworthy that the aide-mémoire mentioned promotion of the ability of the United Nations to take effective preventive measures to avert international crises and conflicts; the Secretary-General's right to take the initiative in solving questions relating to the maintenance of international peace and security; the dispatch, at the Secretary-General's initiative, of military observer missions which would be decided by him and authorized by the Security Council; and more extensive use of the International Court of Justice. His delegation hoped that those proposals would be officially submitted for consideration by the appropriate committee.

(Mr. Scharioth, Federal Republic  
of Germany)

60. With regard to the peaceful settlement of disputes between States, his delegation noted with interest the proposal made on Friday, 14 October by the Italian delegation to have the Special Committee study ways and means of enhancing the role of the International Court of Justice. Furthermore, it fully supported the suggestion made at the same meeting by the representative of Mexico, who had urged that item 129 should be considered as an integral part of item 135. The question of the peaceful settlement of disputes fell within the Special Committee's mandate, and there was thus no rational need for a separate resolution on that topic.

61. The Secretary-General was to be congratulated on the progress achieved on the compilation of a handbook on the peaceful settlement of disputes, and it was to be hoped that the handbook would soon be completed and submitted to the Special Committee for approval. It was also to be hoped that work on the Franco-British proposal for the rationalization of procedures could be finalized at the Special Committee's following session.

62. His delegation had the following comments to make on the Special Committee's function and future. Firstly, the Special Committee was the body responsible for discussing the Charter, and its task was thus essential in view of the fact that, as the constitution of the Organization, the Charter was the basic document. Two dangers threatened to undermine the legitimacy of constitutions: the first was to change them too radically or too rapidly, and the second was to regard them as sacrosanct and not to develop them at all. It was the Special Committee's task to avoid both those pitfalls. Accordingly, when its mandate was formulated, the Special Committee should be entrusted with a task that was not inconsequential, so as to ensure that its very existence was not superfluous. The maintenance of international peace and security should remain the focus of the Special Committee's future work, since it was essential to make significant progress in the search for practical improvements in the collective security system embodied in the Charter so that it would function as intended.

63. Only a patient and step-by-step approach could achieve success. Experience had shown that projects which were over-ambitious or on too grand a scale were doomed to failure. Only in so far as the Special Committee succeeded in finding common ground would its recommendations carry sufficient weight to achieve the intended result, namely to contribute significantly to the strengthening of the role of the United Nations.

64. In order to further the Special Committee's work his delegation and the delegations of Belgium, Italy, Japan, New Zealand and Spain, after holding informal consultations with the delegations of all regional groups and taking into account the comments made by some delegations in the current debate, were intending to propose that the topic of fact-finding should be given priority in the Special Committee's programme of work. With that aim, the countries in question would submit to the Special Committee at its following session a concrete proposal which could be entitled "Fact-finding by the United Nations to assist in the maintenance

(Mr. Scharloth, Federal Republic  
of Germany)

of international peace and security". The subject was timely, and one on which general agreement should be within reach; its importance had often been underlined by the Secretary-General in his reports on the work of the Organisation.

65. Without going into details, it should be noted that the proposal concerned might contain four chapters: the first would outline general aspects of fact-finding; the second would concentrate on information-gathering before a conflict had arisen; the third would deal with fact-finding for the prevention of potential conflicts; and the fourth would be devoted to fact-finding on existing conflicts or certain aspects of such conflicts.

66. The time had come to take a further step towards enhancing the effectiveness of the Organisation. There were new opportunities for strengthening its role in the maintenance of peace and security. The proposed initiative on fact-finding was only a beginning, but it could form a solid basis for the continuing work of the Special Committee.

67. Mrs. MEDINA KRAUDIE (Nicaragua) stressed the importance of the draft declaration adopted by the Special Committee on the Charter, which recognized the competence of the United Nations in the area of safeguarding of international peace and security. It was thus the United Nations which had the primary responsibility for removing the threat of another world war and combating hegemonistic policies designed to legitimate the use of force in international relations in order to establish spheres of influence and thereby deny small countries the right to independence and self-determination. The declaration also reaffirmed the obligation of all States to settle their differences by peaceful means, as confirmed by the International Court of Justice in its decision of 26 June 1986 in the case concerning military activities against Nicaragua.

68. It would be very useful for its future work if the Special Committee were to give higher priority to the Court's decisions because in so doing it would strengthen the system for the peaceful settlement of disputes and the primacy of law in international relations. Universal acceptance of the Court's compulsory jurisdiction would be a great step forward in that connection. At the most recent ministerial conference of the Movement of Non-Aligned Countries held in Cyprus on the initiative of Nicaragua, it had been decided that a special ministerial conference of non-aligned countries on peace and international law should be convened at The Hague in 1989. The meeting would coincide with the ninetieth anniversary of the first Peace Conference, also held at The Hague. It would therefore be an occasion for reflecting on the role played by the Court and by international law in strengthening international peace and security.

69. The Special Committee's draft declaration helped to revive multilateralism, to give new impetus to the search for negotiated solutions to the problems of mankind and to confirm the importance of fact-finding or good-offices missions organized in the first stages of a conflict. In Central America, the Esquipulas Agreements



(Mrs. Medina Kraudie, Nicaragua)

signed by the five countries concerned on 7 August 1986 had not provided anything of substance to satisfy the desire for peace of the peoples of the region. Verification was one of the basic aspects of the Agreements, and Nicaragua had on a number of occasions proposed that the required machinery should take the form of a United Nations peace-keeping operation undertaken under the authority of the Secretary-General, with the assistance of Spain, Canada, the Federal Republic of Germany and the countries of the Contadora Group.

70. The slight progress which the draft declaration represented in strengthening the role of the United Nations in preventive diplomacy made it obvious that, in order to move forward, all States, particularly the permanent members of the Security Council, should show firm political will. After all, the draft was only a minimal text. Her delegation endorsed it none the less, in the hope that it might really contribute to the realisation of its objectives.

71. Where agenda item 129 was concerned, her delegation was in favour of the preparation of a handbook on the peaceful settlement of disputes and the establishment of a commission of good offices, mediation or conciliation. Along the same lines, Nicaragua had tried, by various peaceful means, to put an end to the illegal and immoral war imposed upon it for the sole purpose of making it accept the principle of limited sovereignty.

72. On the issue of the rationalisation of the procedures of the United Nations, a matter which fell more within the purview of the Fifth Committee, her delegation would reject any proposal that General Assembly decisions should be adopted by consensus only, because that would be tantamount to giving a veto to any Member State.

73. Mr. MAKAREVICH (Ukrainian Soviet Socialist Republic) said that, in considering the question before the Committee, one could not fail to understand that given the complexity of its situation, the new tasks it had to face and the aggravation of the problems it already had, mankind must strengthen the role of law in international life, must first establish legal guarantees for a system of security in all its aspects - political, military, economic, humanitarian and ecological. It must also try to ensure strict observance of the norms accepted by the international community, but the consolidation of their legal foundations required the restructuring of international relations in accordance with a new political philosophy. To bridge the gap between the practice of States and the norms of law, the only solution was to give priority to law in the political life of States.

74. Exploitation of the full potential of the United Nations would permit considerable progress towards a peaceful and non-violent world in which right prevailed over might. There was no need to stress the role that the Organisation must play in the development of interdependence. The creative potential of the United Nations was growing and its ideals gaining strength. Established according to the wishes of States, it had been the driving force of internationalism, even if it was now paralysed by the arms race, national self-interest and unbridled

(Mr. Makarevich, Ukrainian SSR)

unilateralism, and even if the system of collective security laid down in the Charter was at a standstill for lack of political will. Joint action was therefore needed in order to avert the threats to mankind.

75. The essence of that new political thinking had been explained by Mr. Gorbachev in his article on the realities of and guarantees for a lasting peace. In the article in question he acknowledged the central role of the United Nations in the management of international relations, and all the proposals he put forward in the article were inspired by the principle of the development of peace and depended upon the formulation of measures that would make it possible to guarantee peace universally. However, the strengthening of the role of the United Nations would not just happen. It would be the result of specific steps undertaken by all States, particularly the States members of the Security Council and the non-aligned countries, not to mention all those that were concerned with the higher interests of mankind. That strengthening would be so much easier, however, if the United Nations could prevent and effectively settle international conflicts.

76. Under the Charter, that was the function of the Security Council, whose effectiveness should therefore be enhanced through measures making it possible to exclude the great Powers from regional conflicts, to have its permanent members study the situation in zones of conflict, to broaden the informal consultation machinery of those same members, to provide for consultations between the Secretary-General and ministers for foreign affairs, and to hold regular sessions of the Council at the level of ministers for foreign affairs.

77. The Ukrainian SSR reaffirmed its view that the General Assembly played a decisive role in the system of collective security. It was the body where everyone's interest found a voice and machinery for the implementation of its own decisions could be established. The search for genuine, not merely formal, consensus would be a notable step forward because it would be evidence of a reconciling of points of view. It should not, however, vitiate the recommendations and resolutions already adopted by the majority. Their implementation should still be pursued.

78. The Ukrainian SSR also thought that the functions of the Secretary-General should be expanded, particularly in the settlement of conflicts through good offices, negotiation, conciliation and mediation. In accordance with United Nations practice and the provisions of the Charter, the Secretary-General was authorized to take initiatives to help prevent disputes and settle them peacefully.

79. As was clear from the general debate, there was a need to develop international law qualitatively, along lines which might be summed up by the terms "security", "confidence" and "co-operation through law". The realities of the contemporary era required considerable strengthening and expansion of the functions of the United Nations, which alone was capable of resolving the vital problems of mankind. United Nations organs, in turn, should be mobilized in such a way that nothing was overlooked which could strengthen the role of the Organization in the solution of those problems in the interests of peace and social progress.

(Mr. Makarevich, Ukrainian SSR)

80. From that new standpoint, the Special Committee on the Charter would have a particular role to play. At its most recent session, the Special Committee had devoted considerable attention to the question of the maintenance of international peace and security. Its members had been able to adopt by consensus - an example which the Sixth Committee would do well to follow - the draft declaration on the prevention and removal of disputes because all States had been accommodating and had recognized the need to act quickly in a preventive manner so that disputes would not degenerate into armed conflicts. The draft declaration drew attention, first of all, to the range of precautionary measures which the United Nations and Member States should take to defuse existing crises and prevent the emergence of new ones. The underlying idea of the draft was that prevention was one of the fundamental tasks of mankind today and that, in that regard, the role of the United Nations and the Security Council should be considerably strengthened. The draft would impose on Member States the specific obligation to prevent the emergence or aggravation of disputes and to help strengthen the collective security system by making widespread use of the machinery for bilateral and multilateral consultations. Lastly, it invited all United Nations organs - General Assembly, Security Council, International Court of Justice, Secretary-General - to intensify measures of prevention and expand their contribution to the settlement of disputes.

81. The consensus reached in connection with the draft showed that it was possible to agree on highly complex international issues. That must be regarded as the addition of another stone to the legal and political foundation of general security, the effectiveness of the United Nations organs - in particular the Security Council - and the radical improvement of the international situation, particularly from the standpoint of the two major contemporary issues, namely, the prevention of nuclear war and the development of international co-operation.

82. The Special Committee had studied carefully the Romanian proposal on the resort to a commission of good offices, mediation and conciliation within the United Nations. The Ukrainian delegation, which would like all the machinery provided by the Charter to be used to the fullest possible extent, supported the Romanian proposal because it enlarged the scope of that machinery, on the basis of equality and respect for the principle of the free choice of means. The question of the peaceful settlement of disputes, like that of the strengthening of the role of the Organization, must remain a priority item on the agenda of the Special Committee.

83. His Government reaffirmed the importance which it attached to the Manila Declaration and stressed the need to strengthen its binding nature; in that connection the periodic consideration by the General Assembly of the application of its provisions by States would be useful. The Special Committee might work out practical measures and establish the facts in conflicts between States so that, by dealing with them at a very early stage, they would not degenerate and could thus be settled peacefully through impartial supervision carried out with due respect for the settlement agreements reached.

(Mr. Makarevich, Ukrainian SSR)

84. The Special Committee should examine carefully the proposal contained in the USSR reply issued as document A/43/530/Add.2. It would find that that document was a key input for its future work.

ORGANIZATION OF WORK (continued)

85. The CHAIRMAN said that, on 3 and 10 October, he had held the informal consultations envisaged in paragraph 6 of General Assembly resolution 42/156. The Secretariat had prepared, in that regard, a report on the order of the Committee's consideration of items 134 and 130. The participants had therefore focused attention on how to structure the Committee's debate on the report of the International Law Commission (ILC) and on the establishment of the working group mentioned in the General Assembly resolution. With regard to the first question, the participants had agreed that the debate should be so structured as to enable representatives to make separate statements on specific topics covered in the ILC report, while leaving open the option for those representatives wishing to make a single statement covering all the topics to do so.

86. The participants had also agreed on a timetable for consideration of the ILC report. He read out the timetable. It had been agreed that the floor would be given first to delegations on the list of speakers who wished to make a statement on the particular topic in question at a particular meeting and then to delegations who were also on the list but wished to make a single general statement.

87. With regard to the second question, it had been agreed to establish an open-ended ad hoc working group for the forty-third session, to entrust it with the task of dealing with questions of improving the ways in which the Commission's report was considered by the Sixth Committee and to prepare a draft resolution on that report, to allow the working group to adopt its own methods of work, particularly with regard to its report to the Sixth Committee on the results of its deliberations, to have it meet during the period of the Sixth Committee's consideration of the ILC report and, lastly, to designate Mr. Helmut Türk (Austria), as its chairman.

88. Mr. ROSENSTOCK (United States of America) welcomed the compromise reached as a result of the informal consultations held by the Chairman. However, he expressed concern about the establishment of a third working group, while noting that it was an ad hoc group which was not intended to survive the current session.

89. Mr. LINDHOLM (Sweden) said that he felt the same concerns, particularly since there were many ad hoc groups which, as everyone knew, had remained in existence for years.

90. The CHAIRMAN said that if there was no objection, he would take it that the Sixth Committee approved the recommendations agreed to during the informal consultations held pursuant to paragraph 6 of General Assembly resolution 42/156.

91. It was so decided.

The meeting rose at 5.40 p.m.