



SUMMARY RECORD OF THE 14th MEETING

Chairman: Mr. DENG (Sudan)

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The meeting was called to order at 10.10 a.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 (A/43/33, A/43/209-S/19597, A/43/629)

AGENDA ITEM 129: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (A/43/33, A/43/530 and Add.1 and 2, A/43/666-S/20211, A/43/692-S/20220; (see also document A/C.6/43/L.1, pp. 2-4)

1. Mr. BROMS (Finland), Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, said that in accordance with its mandate, the Working Group of the Special Committee had accorded priority at its 1988 session to the question of the maintenance of international peace and security, and had also continued its work on the questions of peaceful settlement of disputes between States and the rationalisation of existing procedures of the United Nations.

2. According to paragraph 3 (a) of General Assembly resolution 42/157, the first specific task of the Special Committee had been to complete a draft document on the prevention and removal of threats to peace and of situations that might lead to international friction or give rise to a dispute, on the basis of the provisionally adopted paragraphs as well as other proposals set forth in paragraphs 37, 46 and 102 of document A/42/33. Over the past four sessions, the Special Committee's work on the topic had been based mainly on a working paper presented by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain during the 1984 session (A/AC.182/L.38 and Rev.1). On 13 February 1987, the sponsors had presented the third revised version of their working paper (A/AC.182/L.38/Rev.3), and at the end of the 1987 session there had been a general understanding that while that version was in general acceptable, difficulties arose regarding its relationship with a working paper submitted by Czechoslovakia, the German Democratic Republic and Poland on 11 April 1986 (A/AC.182/L.48).

3. Reviewing the completed draft declaration, he said that the first and second preambular paragraphs revealed its purpose, which was to focus on the preventive role of the United Nations in the maintenance of international peace and security. The third preambular paragraph was directly related to that goal. Among the other provisions of the preamble, the eleventh paragraph, singling out the Security Council, and the twelfth paragraph, recalling the important role of the General Assembly and the Secretary-General in the maintenance of international peace and security, were intended to dispel any misgivings that the draft declaration was intended to alter the relationship between the General Assembly and the Security Council. The wordings chosen in the various preambular paragraphs, which closely followed terms used in the Charter, reflected the frequently expressed wish that nothing in the draft should deviate from the Charter provisions. He felt that the Special Committee had succeeded at least in that respect.

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4. Operative paragraphs 1 to 5 included general provisions, ranging from the importance of States fulfilling in good faith their obligations under international law to the importance of approaching the relevant organs of the United Nations to obtain advice or recommendations on preventive means. Paragraph 6 mentioned the Security Council but was directed to the States parties to a dispute, while paragraphs 7 to 15 were directed to the Council itself. The recommendation contained in paragraph 7 was to be seen in the light of Article 28, paragraph 2, of the Charter, since the Security Council was not availing itself of the possibility provided for therein. The Permanent Representative of Finland had reminded the Security Council of that provision, and a periodic meeting had been called on one occasion in 1971. Since then the provision had not been referred to. The purpose of including paragraph 7 in the draft declaration was to ensure application of Article 28, paragraph 2, in the future. The intention of the provision contained in paragraph 9 was to encourage the Security Council, with the assistance of the Secretary-General, to hold preventive consultations at an early stage whenever there was no request for a meeting. Paragraphs 10 and 11 further clarified the nature of such consultations.
5. Paragraphs 16 to 19 contained a number of recommendations addressed to the General Assembly. The aim of paragraphs 20 to 24 was to draw attention to the capabilities of the Secretary-General in taking preventive action. Specific guidelines regarding the nature of such action were laid down. Paragraph 25 was intended to underline the necessity of resorting only to peaceful means in the settlement of international disputes.
6. The final clauses contained important safeguards relating to the provisions of the Charter, the rights and duties of States, the functions and powers of the United Nations organs under the Charter, in particular those relating to the maintenance of international peace and security, and the right of self-determination, freedom and independence of peoples forcibly deprived of that right.
7. The Special Committee's preparation of the draft declaration had required a great deal of work, particularly by the sponsors of the original proposal and the sponsors of working paper A/AC.182/L.48, but the Special Committee had eventually been able to adopt a text by consensus. It recommended that the draft declaration should be adopted by the General Assembly.
8. Turning to the topic of peaceful settlement of disputes between States, he drew attention to the statements of the Rapporteur contained in paragraphs 15 to 61 of the report (A/43/33). The Working Group had devoted a first series of four meetings to a paragraph-by-paragraph discussion of the working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.1), reproduced in paragraph 15 of document A/42/33. The discussion was accurately reflected in the current report.
9. At the conclusion of that discussion, the Romanian delegation had presented an informal revised version of its proposal, which was reproduced in paragraph 48 of the report. That version had been discussed during a second series of two meetings. As indicated in paragraph 49 of the report, the Romanian delegation had

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stated that the informal revised version was to be regarded as a collective contribution by delegations which had engaged in a detailed paragraph-by-paragraph discussion of the earlier version. It had suggested that those paragraphs which prompted no objection and on which there appeared to be general agreement might be provisionally adopted. The ensuing exchange of views was reflected in paragraphs 50 to 54 of the report. While some delegations had been ready to accept the Romanian proposal, others had felt that the work on the proposal had not yet reached the drafting stage. Eventually the Working Group had discussed paragraph 1 of the revised version, but for lack of time it had not been possible to continue the work.

10. Following that discussion, the Romanian delegation had formally submitted a revised version of its earlier proposal, differing from its predecessor only in the two details referred to in paragraph 58 of the report. Paragraph 59 of the report concluded that there had been a consensus in the Working Group that further tangible progress had been achieved during the session and that concrete work on the Romanian proposal should continue at the next session on the basis of the latest version (A/AC.182/L.52/Rev.2), with a view to reaching a general agreement on appropriate conclusions to be submitted to the General Assembly at its forty-fourth session.

11. Pointing to the fact that several versions had been submitted during recent sessions of the Special Committee, he said that the time had come to take a definite stand on the Romanian proposal. If any delegations had basic objections to the proposal, it would be only fair to the sponsor to raise them so that they could be fully discussed. The Special Committee could then finalize its study of the proposal.

12. Progress of work on the draft handbook on the peaceful settlement of disputes between States was outlined in a progress report (A/AC.182/L.57), presented to the Special Committee by the Legal Counsel, which had not been reproduced in the report. At its meetings on 19 February and 7 March 1988, the Consultative Group set up to assist the Secretary-General in preparing the handbook had reviewed the drafts prepared by the Secretariat on inquiry, mediation and conciliation. At a meeting on 3 May 1988, it had reviewed a document including 29 paragraphs on arbitration. The work would be continued by the Secretariat.

13. Discussion of rationalisation of existing procedures of the United Nations had been based on a revised working paper set forth in paragraph 34 of document A/42/33. As indicated in section IV of the current report (A/43/33), paragraphs 1 and 2 of the working paper had been provisionally accepted, while paragraphs 3 to 6 had raised doubts in the minds of some delegations. Consideration of paragraph 6 had been suspended for lack of time, and the discussion was expected to continue at the next session of the Special Committee.

14. The 1988 session of the Special Committee had taken place in a good atmosphere. Very little time had been wasted on procedural issues, and the statements made had been constructive. He hoped that during its next session, discussion on the proposals concerning the peaceful settlement of international

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disputes and the rationalisation of the procedures of the United Nations could be brought to a conclusion, to make it possible for the Committee to concentrate on any new proposals submitted on other topics. In the event of the draft declaration being adopted during the current session of the General Assembly, it was to be hoped that newer proposals related to the maintenance of international peace and security would be brought forward. During 1988, the United Nations had had many successes, especially in that field. The Organisation had "hereby gained considerably in stature. It was to be hoped that the draft declaration constituted a small step forward in the ongoing work of strengthening the role of the United Nations, and that the debate of the Sixth Committee, in addition to strengthening that role, would provide proper guidelines for the future work of the Special Committee.

15. Mr. MIGLIUOLO (Italy) said that the draft declaration was a major achievement for the Special Committee, and Italy looked forward to its unanimous adoption in both the Sixth Committee and the plenary Assembly. Since it stemmed from a proposal put forward in 1984 by Italy together with five other sponsors, his delegation welcomed the draft declaration with great satisfaction. The text in question was the first result achieved by the Special Committee in the area of the maintenance of international peace and security, which had been identified from the outset as the most important and, at the same time, the most difficult subject falling within the Special Committee's mandate.

16. The Assembly's decision in 1983 to request the Special Committee to concentrate its efforts relating to the maintenance of peace and security on the question of "the prevention and removal of threats to the peace and of situations which may lead to international friction or give rise to a dispute" had paved the way for constructive work. That notwithstanding, the draft proposed in 1984 had been subjected to severe scrutiny in the Special Committee. However, although some objections had been raised by a minority of delegations, it had been clear from the beginning that a vast majority in the Special Committee and in the General Assembly viewed the initiative with sympathy.

17. Italy wished to reaffirm that the sponsors had never had the intention of modifying the United Nations Charter by means of the draft declaration. Their objective had been simply to modify provisions which were already being applied and which were perfectly in keeping 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 by the General Assembly in 1987, contained ample material relevant to the issue of the role of States, and it had been possible to include a number of provisions on the role of States in the draft declaration now before the Sixth Committee. The proposed declaration focused on the issue of preventing situations and disputes that could threaten international peace and security. That subject was not directly dealt with by the Charter, even though it was essential for the attainment of the Charter's main objective of ensuring the maintenance of international peace and security.

18. The draft declaration contained important provisions on the role that the main organs of the United Nations might play in preventing conflicts. The draft

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confirmed the permanent role of the Security Council, which could perform the most decisive tasks relating to preventive diplomacy and the avoidance of conflicts. Moreover, the important role of the Secretary-General was amply recognized in the text, and account was also taken of the role of the General Assembly and the International Court of Justice.

19. The ideas expressed in the draft declaration came from various sources, including the Secretary-General, whose annual reports on the work of the Organization had often underlined the importance of preventive diplomacy for the fulfilment of the objective of maintaining international peace and security. For example, the 1982 and 1987 reports had referred, respectively, to the role of the Secretary-General and the role of the Security Council. Various paragraphs of the draft declaration developed the same line of thought.

20. The ideas in question had now become common wisdom and were acceptable to all Members of the United Nations. It was interesting to note that the recent aide-mémoire submitted by the Soviet Union (A/43/629) put forward, *inter alia*, various ideas that coincided either in full or in part with points set forth in the draft declaration. Just a few years earlier, most of the objections to the proposals put forward by the sponsors of the draft had been voiced by the Soviet Union. The approval of the draft declaration thus proved that the current political situation made it possible to adopt recommendations of general interest on the sensitive issue of the maintenance of international peace and security.

21. However, the draft should be regarded as a point of departure for further steps. The maintenance of international peace and security should continue to be the priority item dealt with by the Special Committee. Specific proposals generally recognized as useful for improving the maintenance of peace and security should be studied and developed. His delegation and many others had been working together for some time on a new set of proposals on the subject of fact-finding by the United Nations for the maintenance of international peace and security.

22. Italy was particularly attached to the principle of peaceful settlement of disputes between States, and did not hesitate to subject itself to compulsory third-party settlement. It had been pleased to note recent indications of a trend towards positive consideration of the role of the International Court of Justice by the Soviet Union and the United States. That trend should be taken into account by the Sixth Committee in defining the Special Committee's mandate. The Sixth Committee should consider setting aside minor, repetitious issues and requiring the Special Committee to study ways and means of enhancing the Court's role.

23. Since the United Nations was experiencing a revival, the Special Committee had come to a turning-point in its work. The opportunity that that represented should not be lost. Italy was ready to contribute its best efforts to the success of any new significant endeavours that the Assembly might wish to entrust to the Special Committee.

24. Mr. PETROVSKY (Union of Soviet Socialist Republics) said that comprehensive international security represented an all-embracing legal order which ensured the primacy of law in politics. The Soviet Union considered that respect for the recognised norms of international relations was a key factor in determining the world's ability to govern itself and in resolving, by political means, any problems that might arise in such relations. Such an approach was inseparably linked to the development of moral principles in politics. The way to comprehensive security lay in strengthening the legal basis of international law, as laid down primarily by the Charter of the United Nations, and in enhancing the role of the Organisation, whose essential function was to act as a mechanism for translating the idea of the primacy of international law into practice.

25. Mankind had paid a heavy price in terms of human suffering in order to establish the principle of peaceful relations among States and peoples as a common denominator of international law and universal human values.

26. The task of promoting the principle of the primacy of law required a multilateral effort: countries must deploy their political, scientific and social potential to meet that challenge, co-operating closely at the international level and, above all, within the framework of the United Nations. Law could and would be effective only when States had the political will to accept it voluntarily in practice, and when they were prepared to engage in painstaking work to that end. It was particularly important that individual States respected the priority of international law in both foreign policy and internal legislation. It was necessary to overcome legal nihilism and to eradicate the view that law played a lesser role than politics in inter-State relations.

27. In advocating the primacy of international law, the Soviet Union was simply elevating to the level of State policy a thesis which had been developed over the centuries by the best minds and the proponents of civilized international relations. Such relations could survive only in an interdependent community in which nations shared one common destiny and collectively promoted peace and law.

28. Hugo Grotius had said that everything trembled if the law was broken. In the world of today, such tremors were fraught with the danger of global catastrophe, and it was accordingly the obligation of the entire international community to ensure that the primacy of international law was observed in the practice of inter-State relations.

29. There was an objective relationship between national and international law and order, and the Soviet Union's emphasis on the need to establish the rule of law in international life reflected the foreign-policy dimension of the processes currently under way in his country, and particularly those aimed at creating a State in which law expressing the will of the people reigned supreme.

30. The United Nations should play a prominent role in establishing a future-oriented international strategy in the legal field based on the realities of the modern world. Implementation of the Soviet proposal to enhance the effectiveness of the United Nations on the basis of the full and non-selective

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implementation of the provisions of the Charter of the United Nations and active use of its machinery and procedures, as contained in his delegation's aide-mémoire (A/43/629), could become a major step towards translating into reality the concept of primacy of international law in inter-State relations.

31. In order to enhance the ability of the United Nations to take effective measures to avert international crisis and conflicts, the Security Council must be accorded a key role in addressing such issues. Experience had shown that the effectiveness of its work was directly proportional to the level of interaction among the Council's permanent members. It was therefore natural to wonder whether it might not be possible for those members to formulate measures, procedures and mutual obligations in the spirit of restraint, self-limitation and respect for the freedom of choice of peoples, which would prevent the major Powers from becoming involved in confrontations through regional conflicts. The need to seek compromises in even the most acute conflicts raised the question of a more active use of the mechanisms for formal and informal consultations of the Security Council, with the participation of the Secretary-General and, if appropriate, the parties directly involved. In some cases, additional opportunities were offered by the holding of formal closed meetings of the Council, which made it possible to concentrate on expanding the scope of agreement without mandatory adoption of any final documents. The Soviet Union still favoured holding periodic meetings of the Security Council at the foreign-minister level in the course or on the eve of General Assembly sessions, without, of course, duplicating the general debate at those sessions.

32. With regard to the General Assembly, his delegation believed that a greater number of resolutions and decisions should be adopted on the basis of consensus, thereby expanding the scope of agreement within the Organisation and making the Assembly's decisions more authoritative. At the same time, political devaluation of recommendations adopted by voting must be prevented. The implementation of resolutions should be monitored, and special sessions on specific matters related to ensuring comprehensive security should be held more frequently.

33. Welcoming the close working relationship between the Security Council and the Secretary-General, his delegation advocated an ever-increasing role for the Secretary-General in solving problems relating to the maintenance of international peace and security. The Secretary-General could request the convening of the Security Council, inform the Council on a regular basis of developments in regions of conflict or other matters, and submit, on his own initiative, reports on questions concerning the maintenance of international peace and security, including disarmament. The General Assembly should give thorough consideration to the annual reports of the Secretary-General on the work of the Organization, and should adopt, if necessary, decisions on the conclusions and recommendations contained therein.

34. More extensive use should be made of the potential of the International Court of Justice. The Soviet Union had called upon States, and in the first instance upon the permanent members of the Security Council, to recognise the mandatory jurisdiction of the Court on mutually agreed terms. It welcomed the interest shown in that idea, and also the possibility of using the resources of the Court to

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resolve political differences, for example in the fields of arms limitation and disarmament. Of course, by recognizing the mandatory jurisdiction of the Court and other forms of adjudication by arbitration, individual States might incur certain costs, which should be taken into account during discussion of such issues. It was, however, evident that long-term universal interests should prevail.

35. In the opinion of the USSR, international agreements to be drafted under the auspices of the United Nations could include, whenever appropriate, provisions envisaging the adjudication by the Court of disputes resulting from the interpretation and application of such agreements. It would be useful for the Security Council and the General Assembly to request the Court's advisory opinions on outstanding international legal problems more frequently.

36. Consolidating United Nations peace-keeping operations and putting them on a more solid legal and financial basis could also play an important role in maintaining the international rule of law. Such operations could be used more extensively in implementing Security Council decisions and in preventing the emergence of armed conflict. In particular, United Nations personnel could be used in situations where charges were made of outside interference aimed at destabilizing Governments. After consultation with appropriate regional organisations, the Security Council could decide to establish United Nations observation posts in regions of potential conflict, and United Nations observers could be stationed along the border within the territory of a country seeking protection from outside interference, at the request of that country alone. In addition, the General Assembly might dispatch observation and fact-finding missions (civilian, military and mixed), in agreement with the Security Council and with the consent of the country or countries to whose territory the missions would be dispatched. The role of the Secretary-General could also be strengthened: military observer missions could be dispatched on the same grounds and on his initiative as authorised by the Security Council, above all for preventing a possible conflict.

37. Both inside and outside the United Nations, many traditionally "domestic" issues were undergoing a process of internationalization, which manifested itself in the delegation of some measure of authority to international organizations in the interests of all. International law was in no way impaired by that process, since it should be based on the principle of sovereign equality of States.

38. In his statement in the general debate during the forty-third session of the General Assembly, the Minister for Foreign Affairs of the USSR, Mr. Shevardnadze, had said that the world community needed a major long-term programme for the development of international law on the basis of security, trust and co-operation. Such a programme should be aimed at elaborating consensus documents which would reflect the provisions of the Charter of the United Nations relating to the principles of international law and help to translate recent political and legal thinking into the language of international law. In such an endeavour, the elaboration of international instruments of a universal nature should undoubtedly play a key role.

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39. Welcoming the contribution made by the Special Committee in establishing the primacy of international law, he said that the Committee had achieved a major success by completing the 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. By adopting the declaration at its current session, the General Assembly would help to extirpate force from international relations while promoting the rule of law.

40. Among the other proposals before the Special Committee, the Romanian proposal to establish a commission of good offices, mediation or conciliation should be noted. Discussion of that question by the Special Committee had once again shown the significance of making full use of all the instruments available for the peaceful settlement of disputes provided for in the Charter. At the same time, his delegation believed that the Special Committee should take up major new issues relating to the Charter and to the strengthening of the role of the United Nations. The future work of the Special Committee should be directed towards developing positive trends in the activities of the Organization, while focusing attention on the maintenance of international peace and security. For example, it might wish to consider the question of provisional measures to be taken by the Security Council under Article 40 of the Charter to resolve situations of crisis and regional conflicts, the question of sanctions against States for breacher of peace or failure to comply with the Council's decisions, the enhancement of the efficiency of the fact-finding machinery, and the investigation of international disputes and conflicts. The Special Committee's mandate should also include the question of improving the efficiency of all means for the peaceful settlement of disputes. The discussion in the Special Committee of the Romanian proposal had once again emphasized the urgency of the topic.

41. Appropriate recommendations aimed at enhancing the efficiency of the General Assembly and its organs could be prepared and agreed upon as early as the next session of the Special Committee. His delegation believed that its ideas, if supported by the Sixth Committee, could provide a solid basis for the efficient work of the Special Committee.

42. With the growing importance of the United Nations, it was becoming increasingly evident that the Organization must radically enhance its role in building a nuclear-weapon-free and non-violent world. The United Nations had a unique legal foundation for its activities in the form of the Charter, which contained universally accepted norms and principles governing relations among States. All States relied equally on the Charter, and all stood equally to benefit by compliance with its provisions. Ensuring strict observance of the Charter would be tantamount to implementing the concept of primacy of international law in relations among States, and would constitute a giant step towards the achievement of comprehensive security based on equality. The Soviet Union was ready to engage in a broad-based dialogue and to take collective practical steps which would bring the world closer to those goals.

43. Mr. PAMBOU TCHIVOUNDA (Gabon) said that the drafting of the Special Committee's report (A/43/33) had certainly benefited from the particularly favourable atmosphere resulting from the series of successes achieved by the United Nations in 1988. Moreover, although the current report's subject-matter did not differ from that of the previous one, it had acquired renewed importance as a result of able use of the comments made by many delegations concerning the main components to be included. The approach adopted revealed the evolution of the concerns expressed by delegations, as well as the Special Committee's willingness to take account of those concerns and act on them. Accordingly, Gabon would be in favour of the adoption of the draft declaration set forth in the report, provided that account was taken of the further remarks it wished to make.

44. Gabon had a few points to make concerning the wording of the parts of the draft declaration dealing with the maintenance of international peace and security. Firstly, the first preambular paragraph should read:

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

Secondly, the fourth preambular paragraph should read: **"Recalling** that the peoples of the United Nations are determined to practise tolerance and live together in peace as good neighbours."

45. Where the structure of the preamble was concerned, it would be desirable to begin with a reference to the responsibility of the United Nations for the maintenance of international peace and security under the Charter, then to define the rights and duties of peoples and the rights and obligations of States, and to conclude with a reference to the role of the principal United Nations organs under the Charter.

46. The operative paragraphs represented a distinct improvement when compared with the previous text. The approach used in the operative paragraphs was above all intended to be juridical, taking as a basis the Charter itself, which required Member States to observe the principle of sovereign equality of States. However, the United Nations was based on co-operation and could not replace the traditional framework of relations between States. Emphasis was therefore placed on the need for direct or indirect consultations between States so that they might deal with their differences themselves. That approach represented an attempt to establish a hierarchy for the range of methods of preventing conflicts, in acknowledgement of the fact that the United Nations could achieve nothing without the contribution of the parties to a dispute. The draft declaration before the Sixth Committee was a reflection both of recent international developments and of criticism of the earlier version of the text voiced by many delegations in the Sixth Committee.

47. An attempt had been made to make the operative paragraphs more innovative from the qualitative point of view. However, if they were to be convincing in that

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respect, they must distinguish between two sets of obligations: firstly, existing obligations of States - particularly under the Charter - which the draft declaration would simply recall, such as obligations relating to observance of the principle of sovereign equality, to relations between States and the Security Council, and to the role of the General Assembly; secondly, obligations relating to the new role to be attributed to the Secretary-General in the area of the settlement of disputes. Account should be taken, in that connection, of the fact that any involvement of the Secretary-General should remain subject to the prior consent of States. An endeavour should also be made to clarify the content of the text. That approach was in keeping with a drafting practice frequently followed in the case of texts of the type in question.

48. Paragraph 23 of the draft should simply be deleted, since it was superfluous. Paragraph 25 should be reworded so that it reads: "States must, should they fail to prevent the emergence or aggravation of a dispute or situation, continue to seek a settlement by peaceful means in accordance with the Charter."

49. On the issue of peaceful settlement of disputes between States, Gabon welcomed the progress made in the work on the draft handbook on the peaceful settlement of disputes between States. It also noted that, although there had not been enough time to continue consideration of the Romanian proposal on a commission of good offices, mediation or conciliation within the United Nations, a complete report had none the less been submitted to the relevant Working Group.

50. It was gratifying to note that Romania had really taken the remarks made by delegations into account. However, Gabon also noted that there was no new provision defining the purpose of the procedure. In every other respect, the current version of the proposal could scarcely be more precise. That notwithstanding, the draft should be refined further.

51. First of all, the middle of paragraph 3 should be reworded so that it read "it may, in particular, recommend to States parties". Furthermore, the second sentence of paragraph 6 seemed to be a source of ambiguity owing to the use of the expression "as the case may be", which should perhaps be replaced by the words "and in the absence of agreement". The second sentence of paragraph 9 should be reworded so that it reads:

"In case the States parties so request, the commission, after having identified aspects on which there is agreement and on which there are differences of opinion and perception, shall establish the elements in dispute with a view to making suggestions for the beginning or the resuming of negotiations, including the framework for and the conduct of the negotiations, as well as problems to be solved".

The third sentence of paragraph 11 should be redrafted so that it reads: "in the absence of such a basis, the commission should be guided by the relevant provisions of the Charter of the United Nations and by the principles of general international law". In the last sentence of paragraph 11, the words "will be requested to pronounce themselves" should be replaced by the words "will pronounce themselves".

52. Mr. PANLAK (Poland) said that his delegation was strongly convinced of the urgent need for all Member States to endeavour to strengthen the role of the United Nations by promoting its capacity for applying effective preventive means to avert conflicts and alleviate tensions, and for enhancing the primacy of international law and respect for obligations arising from international agreements. His delegation therefore welcomed the draft declaration on the prevention and removal of disputes, a document which testified to the constructive spirit and tireless efforts of the Special Committee's members, and to the overall improvement in the international situation. Unanimous adoption of the declaration by the Sixth Committee and subsequently by the General Assembly would represent a considerable achievement.

53. The draft declaration once again affirmed the basic rules of international law, and contained specific ideas and suggestions, formulated in a flexible and careful manner, which provided a range of constructive options for preventing or removing international disputes and situations which might lead to international friction. The provisions were well balanced, in that they encouraged the preventive activities of the Security Council as the body with primary responsibility for maintaining international peace and security, and the preventive activities of the General Assembly, while promoting such important functions of the Secretary-General as good offices, mediation and conciliation. They also affirmed the possibility of requesting the International Court of Justice to give advisory opinions in the event of disputes. Taken as a whole, the provisions could further enhance the peace-keeping and preventive role of the United Nations.

54. Turning to the peaceful settlement of disputes between States, he said that he wished particularly to emphasize the importance and continuing relevance of the Manila Declaration adopted in 1982 by the General Assembly, and to express his delegation's deep appreciation to the Security Council and the Secretary-General for their productive efforts in that connection, which reflected renewed recognition of the value of the United Nations in resolving international conflict. Poland's full support for the principle of peaceful settlement had been demonstrated by its participation in the United Nations Disengagement Observer Force and, more recently, by the assignment of Polish officers to the United Nations missions in Afghanistan and Pakistan and in the Iraq-Iran war zone. It was to be hoped that still greater use would be made of United Nations peace-keeping forces in various areas of conflict throughout the world.

55. He agreed with the delegations of Mexico and Romania that one way to enhance the effectiveness of the Manila Declaration might be to adopt a mechanism for the peaceful settlement of disputes, such as a commission of good offices, mediation or conciliation within the United Nations. In that connection, he welcomed the most recent version of the Romanian proposal, which was reproduced in paragraph 48 of the report of the Special Committee (A/43/33) and which incorporated many suggestions and observations made in the course of recent discussions. The proposed procedure was conceived as a valuable supplement to the existing mechanisms for settling international disputes, without prejudice to the provisions of the Charter of the United Nations. The doubts expressed by some delegations in the Special Committee regarding the usefulness of the proposed procedure were scarcely convincing, and they should not delay its adoption. The real value of the

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new machinery could only be judged in the light of future practice, but it was to be noted that the new procedure would not impose any additional financial burden on the Organisation.

56. His delegation shared the opinion of the Working Group that the concrete work on the proposed procedure should continue at the next session of the Special Committee, with a view to reaching a general agreement on the appropriate conclusions to be submitted to the General Assembly at its forty-fourth session.

57. His delegation wished also to reiterate its support for the work on the draft handbook on the peaceful settlement of disputes between States. It appreciated the efforts which the Secretariat had made in that field despite the current staff shortage.

58. Rationalisation of existing procedures of the United Nations had continued to be a subject of divergent opinions, but his delegation remained in favour of further review of the topic, bearing in mind its considerable importance for the smooth functioning of the Organisation.

59. His country believed that the Special Committee should continue to focus its attention on topics related to the maintenance of international peace and security, while pursuing its work in the field of the peaceful settlement of disputes and, so far as time permitted, keeping the question of the rationalisation of existing procedures under active review. It believed that the Special Committee, on the basis of a renewed mandate, would continue its useful search for ways to strengthen the fundamental role of the Organisation.

60. Mr. BREHO (Ghana) said that the draft declaration on the prevention and removal of disputes and situations which might threaten international peace and security provided a clear illustration of what could be achieved through painstaking dialogue and constructive consensus-building on a complex subject. The inherent tension between the exercise of sovereignty on the one hand and the requirements of engaging in multilateral processes on the other had often been translated into a needless suspicion of United Nations organs, which were seen as imposing limitations on the actions of States. It was the considered view of his delegation that such an attitude reflected a deep-seated attachment to unilateralism, although experience had shown that the infrastructure of multilateralism erected by the Charter had not only contributed to the resolution of conflicts through the united action of the international community, but had also been responsible for preventing potential conflicts from breaking out. Indeed, the United Nations had perhaps proved to be the best guarantor of the sovereignty of States, particularly small ones. His delegation therefore welcomed the draft declaration, which attempted to promote a partnership of States acting through and with the organs of the United Nations in the common pursuit of peace under international law.

61. The draft declaration contained two key elements, namely, the actions of States in meeting their obligations to settle disputes through peaceful means, and

(Mr. Gbeho, Ghana)

the actions of the main political organs of the United Nations in facilitating, at an early stage, the easing of tensions.

62. Another important dimension introduced by the draft declaration was the recognition given to informal contacts as viable channels for maintaining communication not only between officials of the relevant United Nations organs and the parties in dispute, but also between the parties themselves.

63. Paragraph 8 of the draft declaration gave expression to the important role of the Secretary-General and the Security Council in the latter's discharge of its primary responsibilities under the Charter. In that context, several factors had prompted the recent global impulse for peace: the unity of action of the five permanent members of the Security Council, co-ordination between the Security Council and the Secretary-General, the infusion of balance into the deliberations of the Council by the contribution of smaller States belonging to the Movement of Non-Aligned Countries or to regional groups, the recommendations contained in General Assembly resolutions, and the thaw in East-West relations.

64. Since the efficacy of any legal system depended on a recognition of its judicial organ as a forum for the settlement of disputes, his delegation found cogent reason in the draft declaration for an emphasis on the role of the International Court of Justice in dispute settlement. Such a role would be enhanced by a greater resort to its advisory opinions and an expressed willingness to abide by its decisions.

65. The proposals contained in paragraph 7 of the draft declaration must be implemented with circumspection. The privilege of permanent membership in the Security Council should not be seen as legitimizing the establishment of an exclusive club of Member States which saw their mission as ordering the world in their image. Regional efforts to resolve conflicts must be buttressed by the big Powers; the latter must not, however, impose their own will in the settlement of those conflicts. His delegation therefore welcomed the emphasis given to regional peace efforts in the draft declaration.

66. It was no accident that of the approximately 150 conflicts that had occurred since the Second World War, almost all had taken place in the poorest regions of the world. Poverty, hunger and social crises provided fertile soil for unrest, intervention and conflict. Diplomacy in aid of peace must assault the unjust nature of international economic relations through a co-operative partnership between rich and poor, large and small countries.

67. With regard to the peaceful settlement of disputes, his delegation hoped that, in the course of the next session of the Special Committee, a final version of the proposal on a commission of good offices, mediation or conciliation would be completed for adoption at the forty-fourth session of the General Assembly. His delegation would also continue to be attentive to the ongoing discussions concerning rationalization of existing procedures of the United Nations.

68. Mr. ECONOMIDES (Greece) said that the draft declaration on the prevention and removal of disputes and situations which might threaten international peace and security provided a clear and useful synthesis, on a practical level, of solutions provided under the Charter and those that had resulted from the relatively recent practice of the United Nations.

69. The obligation of States to conduct their relations with other States in accordance with international law, as set forth in the ninth preambular paragraph, could not be stressed often enough. However, that fundamental obligation was being constantly violated by some States, which obviously did not respect international law and placed their own selfish interests above it.

70. The fifth preambular paragraph, in referring to the right of all States to resort to peaceful means of their own choice, did not specify that the so-called right was strictly dependent on the higher and imperative obligation to settle disputes peacefully, which did not leave open the choice of means, especially for the settlement of disputes that might threaten the maintenance of international peace and security.

71. The operative part of the draft declaration was unquestionably of practical use. He drew particular attention to paragraph 11 in that regard. However, some of the wording was rather tentative. For example, the term "should" was systematically used, whereas the term "shall" would have been not only more positive, but also more correct in several paragraphs, particularly those setting forth legal obligations already in existence.

72. His delegation also regretted that further emphasis had not been placed on the role that might be played by the International Court of Justice. However, the final result was a positive one, and his delegation hoped that the draft declaration would be adopted by consensus.

73. With regard to the strengthening of the role of the Organisation, he drew attention to the aide-mémoire from the Soviet Union contained in document A/43/629. The ideas contained in that document would be of considerable help in strengthening international law and peace.

74. With respect to the peaceful settlement of disputes, his delegation supported the Romanian proposal concerning a commission of good offices, mediation or conciliation within the United Nations, which could be of considerable practical use. He noted, however, that paragraph 1 was clumsily worded, in that it placed States and the competent organs of the Organisation on an equal footing. Paragraph 5 did not seem to be in harmony with paragraph 2 and did not appear to cover all the assumptions contained therein. The word "mainly" should be deleted from the third sentence of paragraph 11, and the phrase "by the applicable principles of international law" should be replaced by "by the rules of international law", because the word "applicable" was confusing in that context. In paragraph 15, the term "unless otherwise provided" should be clarified.

(Mr. Economides, Greece)

75. Further thought should also be given to what was meant by the term "international dispute". "Political" disputes, where they violated established law, involved nothing but unlawful, unilateral claims which introduced a relationship of force "in international relations. Political disputes which, lacking a legal basis, could be satisfied only by a pure and simple violation of international law, constituted a threat, in the meaning of the Charter. A State confronted by such a situation had just one obligation - that of its own self-defence. His delegation therefore felt, on the basis of international law, that political disputes contra legem did not come under the draft declaration or under any other text concerning the peaceful settlement of international disputes.

76. His delegation was concerned at the opposition of "some delegations" to the Romanian proposal, an opposition described in particular in paragraph 50 of the report (A/43/33). Perhaps it would be wise to suspend the consideration of the question for a year in order to give all delegations, especially the Romanian delegation, time to reflect, and in order to allow the Special Committee to consider other, less controversial questions. It might, for example, consider the question of mandatory conciliation, beginning with minor disputes and gradually extending the procedure to other categories. Such a system, which should be flexible and capable of evolving, would reinforce the principle of peaceful settlement of disputes and the procedures for implementing it.

77. He expressed the hope that in 1989 the Special Committee would complete its work on the rationalisation of existing procedures, on the basis of the proposal by France and the United Kingdom. The question of consensus, as dealt with in paragraph 1, should be treated with maximum flexibility, in the hope of strengthening the international institutional procedure for achieving consensus.

78. He reaffirmed his delegation's interest in the draft handbook on the peaceful settlement of disputes between States. It should deal as comprehensively as possible with international practice and should respond essentially to practical concerns. He also reminded the Committee of another past proposal, to the effect that all the relevant resolutions prepared by the Sixth Committee should be published in a practical format. Such a publication would be extremely useful in many ways.

79. The Special Committee's mandate should be renewed. Moreover, the time had come to tackle the question of the strengthening of the collective security system provided for by the Charter. The Manila Declaration and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations should logically be followed by the question of collective security, the last phase in the establishment of international order and peace. The Organization and the international community as a whole should focus on the extremely serious problem of the systematic violation of United Nations decisions, such as those dealing with the Republic of Cyprus, which had remained a dead letter for years.

80. Mr. BERNAL (Mexico) said that the fundamental element of the draft declaration on the prevention and removal of disputes and situations which might threaten international peace and security was the recognition of the obligation of States to resort to a peaceful and legal settlement of disputes at an early stage. The declaration also stressed the importance of resorting to the system of multilateral diplomacy established by the United Nations. The text was based on the important premise that the United Nations had the capacity and responsibility to maintain international peace and security. As the Secretary-General had stated in his report on the work of the Organisation (A/43/1), quoting the words of the late President Roosevelt, the system of multilateral diplomacy implied "the end of the system of unilateral actions, exclusive alliances and spheres of influence and balances of power and all the other expedients which have been tried for centuries and have always failed".

81. His delegation had supported the draft declaration in the Special Committee, and hoped that it would be adopted without a vote. However, the approach taken by the draft declaration was not always in conformity with the Charter and United Nations resolutions, in that it attempted to change the Security Council into the only organ responsible for the maintenance of international peace and security. The role of the United Nations in preventive diplomacy referred to in the draft declaration was modest and limited, because of the refusal of some delegations to strengthen United Nations machinery, because of the lack of political will of some permanent members of the Security Council to expand the preventive role of the United Nations, and because of the insistence on consensus in the adoption of recommendations. Such factors had led the Special Committee, when drafting the declaration, merely to repeat articles of the Charter or paragraphs of resolutions previously adopted. It had been impossible to reach agreement on enhancing the concrete role of the General Assembly or the Secretary-General in the maintenance of peace. Furthermore, the language of the draft declaration was weakened by such phrases as "should consider" and "if it is appropriate".

82. With regard to the rationalization of existing procedures, the agreement reached on the working paper submitted by France and the United Kingdom had shown that it had been informal consultations and political will, not the right of veto, that had made possible the adoption of resolutions by consensus. It was clear that the agreement did not modify the wording or spirit of Article 18 of the Charter or rules 85 and 125 of the rules of procedure of the General Assembly. Some of the other proposals put forward in the working paper could already be found in the rules of procedure or in proposals already adopted. His delegation therefore felt that the Special Committee should provisionally adopt the agreements already reached.

83. The political will of States was a central element in the peaceful settlement of disputes. However, any additional procedure that might be made available to States, such as the proposed commission of good offices, mediation or conciliation, would offer them a new option.

(Mr. Bernal, Mexico)

84. His delegation supported the renewal of the Special Committee's mandate so that it could undertake a comprehensive dialogue on strengthening the role of the United Nations, especially in respect of the maintenance of international peace and security.

85. The consideration of the rationalization of existing procedures and the establishment of a commission of good offices, mediation or conciliation could be concluded at the next session, thereby making room for the inclusion of new items in the Special Committee's agenda. They should be items in which there was a genuine interest and in respect of which there was a political commitment by States to the strengthening of the United Nations, and they should make it possible to reach general agreements which did not undermine or weaken the objectives sought. In that connection, his delegation shared the view expressed by the Philippine delegation in paragraph 7 of its reply to the Secretary-General, as contained in document A/43/530/Add.1.

86. One new question which the Special Committee might consider was that of fact-finding missions. He pointed out that the Charter granted independent powers to the General Assembly, the Secretary-General and the Security Council to dispatch observer and fact-finding missions.

87. His delegation felt that item 129 should be considered as an integral part of item 135, not as a separate item.

The meeting rose at 1.10 p.m.