



**SUMMARY RECORD OF THE 18th MEETING**

**Chairman: Mr. DENG (Sudan)**

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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 129: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)  
(A/43/530 and Add.1 and 2; A/C.6/43/L.1, pp. 2-4)

1. Mr. QUERTON (Belgium) said that the considerable number of observations from delegations had enabled the Special Committee to make significant improvements in 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, and to complete its work on the item. The final document differed in many respects from the initial proposals; what was really important, however, was that the Special Committee, after five years of work, had arrived at a consensus on an important document. That showed that, by taking a consensual approach, progress was possible.
2. His delegation welcomed the convergence of views which had brought about a rapprochement of deeply divided original positions. That outcome was largely attributable to the delegations which had drawn up the Special Committee's mandate, with a view to preparing the consensus which had prevailed by the end of its work. The need for consensus in the work of bodies such as the Special Committee and the Sixth Committee could not be overemphasized. It would be unrealistic and illusory to try to make certain delegations accept proposals or principles in respect of which they recognized neither established legal character nor direct usefulness.
3. The General Assembly's adoption of the declaration on the prevention and removal of disputes would make it necessary to modify the Special Committee's mandate. In that regard, the co-sponsors of the draft declaration had endeavoured to focus on the general subject of missions of inquiry. For many years, the suggestions made by a number of countries had reflected considerations also expressed by the Secretary-General. The availability of precise, complete and objective information on international political facts would ensure the effectiveness and diligence of the Organization and its organs. It would be desirable for the Committee to deal with such questions in order to define the general framework within which missions of inquiry could be organized, if possible from the moment when a pre-conflict situation began to reveal itself, and to determine the conditions in which such missions would be able to carry out their task. His Delegation was pleased to see that the same concern was shared by several delegations.
4. His delegation also noted with satisfaction that the work of the Sixth Committee had taken a new direction during the past two sessions; many questions which had seemed impossible to resolve had been taken up in a different spirit, with positive results. The declaration on the non-use of force had been adopted at the preceding session, and there was every indication that the General Assembly

(Mr. Querton, Belgium)

would adopt the document on preventive diplomacy in the weeks to come. Such achievements were the direct result of sustained political will.

5. His delegation had been following with interest the Special Committee's work on the establishment of a commission of good offices, mediation or conciliation within the United Nations. Satisfactory formulations had yet to be found on a number of points, especially on the strictness of the relationship which would exist between the proposed commission and the United Nations system, on the process leading from the good offices stage to the mediation or conciliation stage, and on the financial aspects of the draft, the importance of which could not be overlooked. On all those points, there was still a need for clarification.

6. With regard to the rationalisation of United Nations procedures, it was essential for the General Assembly to try to avoid a duplication of efforts and to achieve precise and positive results. The Organisation's limited resources were a reality independent of its current financial difficulties; in any case, improving the efficiency of the work must be an objective goal. His delegation therefore felt that the proposals contained in document A/AC.182/L.43 were useful and positive. In that regard, it had recommended, in particular, the biennial consideration of certain agenda items. It also felt that the consideration as a separate item of the question of the peaceful settlement of disputes was not fundamentally justified, especially since that question had provoked serious differences of view at the preceding session. It would be unfortunate if solidarity alone led delegations to cast votes in whose usefulness they only half believed. Without denying the importance and need of resorting to the peaceful settlement of disputes, his delegation felt that the item should be eliminated from the agenda, since that fundamental principle was not reinforced in any way by the practically automatic adoption of an annual resolution. The placement of the question of the peaceful settlement of disputes in its proper framework would be a good demonstration of a constructive attitude.

7. Mr. AHMED (Iraq) said that the maintenance of international peace and security was of particular importance because the worth of the United Nations was measured by the progress which it accomplished in that field. Stability in relations between States depended on respect for the principles of international law, and any violations of those principles prevented the United Nations from playing its normal role in the maintenance of peace. The Charter of the United Nations had become the cornerstone of international law, which should take precedence over national law.

8. The draft declaration on the prevention and removal of disputes drawn up by the Special Committee was an effort in that direction. The role of the Security Council, on which the Charter conferred the principal responsibility for the maintenance of peace, was emphasised in the draft, but it should be stressed that the Council's effectiveness largely depended on the behaviour of its members, especially its permanent members.

9. In his statement before the General Assembly, the Iraqi Minister for Foreign Affairs had reaffirmed that his country unreservedly adhered to the principles of

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(Mr. Ahmed, Iraq)

peaceful co-existence, good-neighbourliness between States and the peaceful settlement of disputes; he had said that he was convinced of the need to strengthen the United Nations and the principles enshrined in the Charter. Iraq had welcomed the adoption, in July 1987, of Security Council resolution 598 (1987), thereby demonstrating Iraq's support for the establishment of a lasting peace based on respect for the principles of international law in its relations with the countries of the region. Iraq was convinced that the adoption of effective measures to strengthen the role of the United Nations depended upon the political will of all Member States to respect the principles of the Charter and co-operate in the maintenance of peace, especially by resorting more often to peaceful means to settle their differences. In that regard, Iraq welcomed the results of the Special Committee's work; it should pursue its efforts to bring about peaceful relations between States.

10. With regard to the rationalisation of United Nations procedures, his delegation felt that the Special Committee should continue to consider the proposals submitted to it in the context of the progress already made in that field by other organs, in order to avoid duplication of efforts.

11. Moreover, while it was true that consensus should be the fundamental principle on which decisions were based, care should be taken that it did not become tantamount to a right of veto for certain States which might use it to paralyse the will of the majority and block decisions. The question therefore deserved further study so as to find a solution in conformity with the principles of the Charter.

12. Mr. AZAZY (Yemen), speaking also on behalf of Democratic Yemen, said that he trusted that the General Assembly would adopt the draft declaration under consideration. While it did not contain any innovations, it came within the framework of the Charter, which emphasized the strengthening of international relations by setting forth such principles as the sovereignty and equality of States, refraining from the threat or use of force and the peaceful settlement of disputes. All States should fulfil their obligations in good faith in that regard and demonstrate the necessary political will. They had the choice of means of resolving their disputes peacefully.

13. Despite those obligations, threats against international peace and security had persisted, and narrow concepts, individual interests and national selfishness had too often prevailed over international law and the general interest. Recently, there had been signs of détente at the international level, and the United Nations had found a new resourcefulness as a result of the efforts of the Secretary-General and the permanent members of the Security Council. That showed that the Charter, as a historical and juridical document, remained an excellent basis for the conduct of international relations and that the Organization was the appropriate framework for solving any problems that might arise in that regard. States must, however, honour their international obligations and demonstrate the necessary political will in order for the United Nations to assume its role in the maintenance of peace, a task which was the responsibility, above all, of the Security Council and its permanent members.

(Mr. ASASY, Yemen)

14. Yemen and Democratic Yemen were very interested in the proposal of the Romanian delegation for the establishment of a commission of good offices, mediation or conciliation within the United Nations. That initiative warranted close study, for it might help to strengthen the role of the United Nations and offered an effective means of the peaceful settlement of disputes between States.
15. The question of the rationalisation of the procedures of the United Nations should not be considered only from the economic standpoint. It must be treated comprehensively, from the standpoint of the usefulness and effectiveness of the Organisation's role.
16. Yemen and Democratic Yemen had always affirmed the importance of consultations and the search for consensus. However, consensus must not become a kind of veto which would allow a minority to impose its views on the majority. The preservation of the sovereign equality of States must be a constant concern.
17. Yemen and Democratic Yemen, which had always acted in accordance with their obligations and responsibilities under the Charter and international law, were convinced of the importance of collective action by States within the United Nations for the consolidation of international peace and security. They were ready to co-operate with other Member States in the establishment of stability, security and peace in the world.
18. Mr. AL-SAMEEN (Oman) said that for his delegation the draft declaration proposed by the Special Committee constituted a foundation which might underpin the attainment of the purposes of the Charter. As the Minister for Foreign Affairs of Oman had said in the General Assembly, the Organisation had a constructive role to play in the preparation of solutions to the problems and crises afflicting mankind. That role had recently taken concrete form in the agreements reached by States and in the Secretary-General's tireless efforts to eliminate hotbeds of tension; he cited several examples of such situations.
19. It was to be hoped that the current improvement in the relations between the two big Powers would contribute to the settlement of the question of the Middle East, which had been a central concern of the international community for many years. It was more imperative than ever before for the world to seize the opportunity to establish a just and durable peace. That opportunity might not come again in the future, a point also noted by the Minister for Foreign Affairs of Oman.
20. The question of the peaceful settlement of disputes and conflicts was connected with the principle of preventive diplomacy. Prompt diplomatic action in the early stages of a conflict in order to prevent its exacerbation and extension was a natural consequence of the purposes of the Charter. His delegation therefore appealed to all Member States to respect the resolutions and instruments of the United Nations system.
21. Oman believed that a consensus already existed concerning the draft declaration contained in the Special Committee's report and he would therefore

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(Mr. Al-Saneaen, Oman)

refrain from drawing the Sixth Committee's attention again to the Declaration's positive aspects.

22. The Romanian proposal concerning the resort to a commission of good offices, mediation or conciliation within the United Nations covered many points: the modalities for establishment of the new organ, financing, and relations with the rest of the Organization - all problems which would require further consideration.

23. The rationalization of the procedures of the United Nations must be achieved in agreement with the other bodies in the system and without impairing the Organization's effectiveness or limiting its role in its own restructuring.

24. Mr. HAMID (Pakistan) said that, since the success of an organization depended on the attitude of its members, the United Nations could attain its primary goal of maintaining peace in the world only to the extent that its Member States complied with their obligations under the Charter. The fact that on several occasions the United Nations had not succeeded was not due to any flaw in the Charter itself but rather to the attitude of the Member States which had failed to abide by their obligations and disregarded United Nations decisions. The permanent members of the Security Council - an organ entrusted with primary responsibility for the maintenance of international peace and security - had a special responsibility to exercise judiciously the right of vote, in particular the right of veto.

25. This country supported the efforts of the Special Committee to rationalize the Organization's procedures and hoped that it would be able to complete its work on that topic in the not too distant future. However, the Special Committee would have to give serious thought to the collective security provisions of the Charter, particularly in cases where the Security Council was paralysed by the veto. His delegation would find it difficult to accept any proposal that would make all decisions dependent on consensus. Even though such a procedure might appear highly desirable, it might paralyse the Organization's work, for every State would then have a virtual right of veto, as had been the case in the League of Nations.

26. The Charter was a document which had crystallized the basic norms for inter-State relations, placing particular emphasis on the non-use of force in the settlement of disputes and providing a number of settlement procedures. If a dispute was likely to endanger international peace and security or if a conflict broke out, the Charter provided adequate mechanisms. His delegation joined with those delegations which had encouraged resort to the settlement procedures contained in Article 33 of the Charter.

27. It had always been his country's policy to settle disputes between States by peaceful means, and it supported the efforts of the international community to that end. It therefore supported the Romanian proposal concerning the establishment of a commission of good offices, mediation or conciliation within the United Nations. It noted that the proposal did not envisage the creation of a permanent organ and that the proposed procedures were optional.

(Mr. Hamid, Pakistan)

28. His delegation also supported 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. It hoped that the declaration would be adopted by the General Assembly without a vote.
29. It noted with satisfaction the progress of work on the handbook on the peaceful settlement of disputes between States and hoped that it would soon be completed. It would be preferable for the handbook to be only descriptive in nature, so as to give its users a free choice of methods of dispute settlement.
30. The achievements of the United Nations in 1988 gave grounds for hope that it would be capable of achieving the objectives for which it had been created, provided that its Members proved willing to respect its decisions and support its efforts, the ultimate aim being the total elimination of the scourge of war.
31. Mr. OKEYO (Kenya) said that the most important duty which the international community had assigned to the United Nations at its inception was the maintenance of international peace and security. The priority given to that question by the Special Committee had resulted in the draft declaration now before the Sixth Committee. The work on the item must be intended to solidify the legal and political structure created by the Charter and enhance its effectiveness. If the draft declaration was to meet that standard, it must inter alia enhance the principle of the collective responsibility of all States in the maintenance of peace and promote the concept of international law and the primacy of law in international relations, and it must itself be in conformity with the Charter. Having taken those considerations into account, his delegation believed that the draft declaration did indeed represent a useful addition to the legal and political structure of the United Nations.
32. The Charter was a bold and progressive document which set out the principles for the creation of world peace based on order, justice and recognition of the mutual advantages of collective action. The maintenance of international peace and security had a corollary in the prevention and removal of threats to the peace before they developed into a conflict or war. The draft declaration recognized that as its primary purpose and identified the specific action which could be taken to that end by the organs of the United Nations. It also recognized that the primary responsibility for prevention rested with States and that they must conduct their relations in conformity with international law.
33. The primary responsibility of States for removing threats to peace and the corresponding role given to the various organs of the United Nations were not necessarily antagonistic or contradictory; they merely confirmed the advantages of multilateral action as opposed to unilateral action. History had shown that the greatest threat to security had been the propensity of certain States to take unilateral action in order to further their political, social, economic and other interests. That approach had inevitably led to tensions and conflicts and even to the use of military force. History had also shown that, in the final analysis, such action contained the seeds of its own destruction, because another opposing force would always triumph ultimately.

(Mr. Okeyo, Kenya)

34. Joint action on the part of the international community under the auspices of the United Nations had led to the resolution of various regional conflicts in the past year. That showed that much could be achieved if the United Nations was given a chance and the States concerned showed reasonable restraint.

35. Kenya noted that further tangible progress had been made on the proposal concerning the resort to a commission of good offices, mediation or conciliation within the United Nations. Despite the objections raised by some delegations, it believed that with the existing atmosphere in the Special Committee the relevant text could be completed in the near future, possibly at the following session. It therefore did not share the opinion expressed in paragraph 50 of the report (A/43/33).

36. With regard to the rationalisation of existing procedures of the United Nations, Kenya had already had occasion to express its support for the endeavour to improve working methods. It wished to reiterate that, in view of the projects being undertaken on the same subject by other organs of the United Nations and also by other bodies, notably the Asian-African Legal Consultative Committee, care should be taken to avoid duplication of effort in the field in question. Lastly, the Special Committee's mandate should be renewed so that it might complete existing projects and consider proposals for new areas of study.

37. Mr. WINKLER (Austria) said that the Special Committee's 1988 session had been remarkable in many respects. Above all, it had led to the adoption of 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". The draft asserted the role of the Security Council as the main organ responsible for the maintenance of international peace and security but also recognised the important role that other organs of the United Nations could play. Recent events had made it clear that only interaction and co-operation between Member States, including the parties to a conflict, the Security Council, the General Assembly and the Secretary-General, could bring about solutions to complex international problems that threatened international peace and security. Austria was ready to join in a consensus leading to the adoption of the draft declaration at the current session.

38. The settlement of disputes by peaceful means was a subject to which Austria had always attached great importance. It was self-evident that at the beginning of a conflict there was always a dispute that the parties had been unable to solve themselves. Solving a dispute by peaceful means was equivalent to eliminating the reasons for resorting to the use or threat of force. Today more than ever before it was a question of the rule of law in relations between States. That principle should also apply to the settlement of disputes. The Charter itself contained relevant guidelines. The institutional framework and machinery were thus already available, and the key issue to be addressed by the Special Committee was not really the drafting of additional instruments or the establishment of further institutions but, rather, the willingness of States to make use of existing machinery and procedures.



(Mr. Winkler, Austria)

39. The Special Committee had discussed at length the possibility of resort to a commission of good offices, mediation or conciliation within the United Nations, and the sponsor of the proposal in question had submitted a number of versions of the text. Austria was sceptical about the usefulness of pursuing that aspect of the problem, since the latest version basically repeated what was already in the Charter and in numerous other instruments.

40. The Special Committee should devote attention to another aspect of the problem to which a number of other delegations had made reference. Recognition of the supremacy of law in international relations must lead to recognition of the competence of an international judicial body in the event that two or more States could not agree on the application or interpretation of rules and norms; such an organ had been established by the founders of the United Nations. Since becoming a Member of the United Nations and a party to the Statute of the International Court of Justice Austria had unilaterally recognized the Court's mandatory jurisdiction. Moreover, it had signed all optional protocols attached to multilateral treaties to which it was a party providing for mandatory jurisdiction of the Court in the event of a dispute regarding the application or interpretation of the treaties in question. In addition, wherever possible it insisted on the inclusion of mandatory arbitration clauses in the bilateral treaties that it concluded with other States. Austria believed that, in view of the favourable comments made in the Sixth Committee, there might be an opportunity for the Special Committee to fulfil its mandate by seeking to promote and strengthen the role of the International Court of Justice.

41. On the issue of the drafting of a handbook on the peaceful settlement of disputes between States, Austria held a favourable view of the quality of the parts of the text already drafted by the Secretariat and hoped that it would be possible to complete the work in question at the following session.

42. In that connection, there was no compelling reason to consider the question of the settlement of disputes as a separate item in the agenda each year. It would serve the purpose of rationalizing the Sixth Committee's work if that practice were to be discontinued.

43. Austria took note of the progress made on the question of the rationalisation of existing procedures of the United Nations and hoped that the Special Committee would be able to finish its work on that item at its following session so that it could concentrate on new tasks. Unlike in previous years, when many delegations had suggested more or less openly that the Special Committee's mandate should be terminated, a number of very interesting proposals concerning subjects that the Special Committee might deal with in the future had been put forward. Many of those suggestions, particularly those concerning fact-finding, deserved the fullest attention. The Special Committee should be able to reach interesting and innovative conclusions and, under the changed conditions prevailing today, be in a position in the coming years to assert its role as an important and constructive body within the United Nations.

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44. Mr. ROMPANI (Uruguay) said the item under consideration covered five closely interrelated issues: the peaceful settlement of disputes between States, the strengthening of the role of the Organisation, the special procedures proposed by Romania, the role to be entrusted to the International Court of Justice, and the handbook on the peaceful settlement of disputes. It was not only the text of the Charter itself that was at stake but also the future of the United Nations and of its fundamental principles.
45. Uruguay's legislation went further than the draft declaration, of which Uruguay approved, while at the same time considering it insufficient. Uruguay had incorporated into its constitution the principle of universal and mandatory arbitration. That principle had been endorsed by Uruguay since the 1907 International Conference held at The Hague and had been consistently promoted by Uruguay - for example, at the time of the conclusion in 1948 of the Bogota Pact, which was to lead to the establishment of the Organisation of American States.
46. It was a system of checks and balances that took the form of two extremely dynamic principles, namely, the principles of "interest" and "security". Governments referred to one or the other principle, or even to both principles at once, when a de facto situation or controversy arose. The draft made provision for the possibility of advisory opinions of the International Court of Justice. Very recently, the United Kingdom delegation had made references to the Court's competences or compulsory jurisdiction. The Soviet delegation appeared, for its part, to endorse the views in question. The positions of delegations seemed to be very close to the formula proposed by Uruguay in 1907 for the solution of conflicts by means of mandatory arbitration. At the fortieth session of the General Assembly, the Minister for Foreign Affairs of Uruguay had indicated that the great paradox of the current era was the coexistence of overdeveloped technology and a politically immature world and that the world had made remarkable progress in the field of science but very little progress regarding conscience. One might add that, at a time when everybody was speaking of peace, justice and security for all, the arms race was accelerating and the military-industrial complex - whose purpose was to destroy property, people and values - was expanding.
47. Argentina, Brazil and Uruguay had achieved concrete solutions: for example, they had decided to form a Latin American Integration Association, to develop their border regions jointly, to strengthen the inter-American system, to take steps towards denuclearization, and to propose to the United Nations that the South Atlantic should be made a "zone of peace and co-operation". By those actions they were seeking to insulate the region from conflicts and rivalries which were not its concern, such as the nuclear arms race.
48. Uruguay's Minister for Foreign Affairs had concluded his statement on 3 October 1988 with the following words: "Uruguay is today living in peace, free from conflicts with other States. It maintains relations of friendship and co-operation with States of all political and economic systems in the world; it has developed a strong democratic life that fully respects human rights and is governed by leaders elected through the free expression of the will of the people. [... We ...] express our views on foreign policy as the result of national

(Mr. Rompani, Uruguay)

consensus ..." The Charter was one of the most important instruments in the history of mankind. If it was to be "modernized", it must be supplemented as the Charter itself dictated.

49. Mr. VILLAGRAN KRAMER (Guatemala) considered that the Charter limited the Special Committee's field of action with regard to the devising and establishment of machinery for the prevention and removal of disputes and situations that threatened international peace and security. Thus far, the Sixth Committee had not been much inclined to give a broad interpretation to the Charter. It had shown itself to be prudent rather than conservative. However, there was a trend towards different practices, which, ultimately although slowly, were leading to similar objectives. The draft declaration prepared by the Special Committee on the Charter was a good illustration of that trend. It was not necessarily the best solution, but it was the solution that was being put forward.

50. Three underlying themes could be found in the draft declaration. The first was that of preventive diplomacy. It was evident that the series of initiatives preceding official intervention by the United Nations organs extended the field of action to the prevention and removal of conflicts. But such preventive diplomacy would be even more effective in the case of the Security Council and the Secretary-General than in the case of the General Assembly. The role of the permanent members of the Council would then be crucial, as would that of the Secretary-General.

51. The second theme was confidential diplomacy. The draft declaration had the virtue of tackling it pragmatically, as could be seen from paragraphs 9 and 10. The sensitive issue was the question of strengthening a practice which, at the level of the Security Council, would reduce the opportunities available to its permanent members for exercising their right of veto. Disregarding the veto was sometimes a good way of finding a solution satisfactory to the parties to the conflict.

52. The third theme was that of fact-finding, to which the Special Committee had given a special place, particularly in paragraphs 12, 18 and 22. The machinery should contribute to the "calming of passions" through measures and initiatives aimed at placating public opinion, to which Governments were known often to be responsive.

53. In considering the question of peaceful settlement of disputes, the Special Committee should take care to examine the various initiatives put forward. It was clear that it was not seeking to create a single mechanism for mediation and conciliation. It was simply seeking the right approach, taking account of the interests of all countries which, in certain circumstances, would have recourse to a United Nations mechanism, and, in other circumstances, to systems other than the United Nations, which nevertheless served the same ends.

54. Mr. SIANOM (Indonesia) said that in the general debate of the General Assembly, many delegations had welcomed the encouraging developments with regard to the international situation. A new pragmatism was discernable among nations which, while it did not remove all uncertainties and doubts, was a sign that the big Power rivalry which had often hampered the effectiveness of the United Nations in resolving conflicts was giving way to a constructive contribution to peace. Also noticeable was the palpable resurgence of support for the Organization among Member States, including a renewed commitment to its strengthening and revitalization. It was certain that the Organization currently enjoyed enhanced confidence and prestige on the international scene.

55. His delegation welcomed the draft declaration prepared by the Special Committee. It envisaged a number of procedures: confidential consultations, the dispatch of fact-finding missions, the appointment of special representatives and increased recourse to the International Court of Justice. Particularly noteworthy was paragraph 3, which recommended States to make use of bilateral or multilateral consultations in order to gain a better understanding of each other's views, positions and interests. Dialogue had always been an effective means of resolving urgent problems and removing misperceptions and misunderstandings, which had often led to friction or conflicts.

56. With regard to the proposal for a commission of good offices, mediation or conciliation, his delegation appreciated the efforts made by the sponsor of the working paper on the matter. It noted the many reservations that had been expressed, although the sponsor had reformulated some paragraphs in the working paper. It considered that work on the item should be continued in order to reach a general agreement.

57. Rationalisation of existing procedures of the United Nations had also given rise to a number of reservations, a fact which pointed to the need for more detailed consideration of the issues involved.

58. His delegation wished to make some comments on the roles of the General Assembly, the Security Council and the Secretary-General. the three principal items in the report of the Special Committee. With regard to the General Assembly, the number of items on its agenda was continuously increasing. It was thus essential to streamline that agenda, eliminating items which had ceased to be relevant, deferring consideration of those that were in the process of negotiation, and grouping related issues under a single item. Through such an approach, the General Assembly could define its work programme more clearly and impart greater weight and authority to its decisions.

59. With regard to the Security Council, it was essential for the permanent members to recognize that their status and their acceptance of the Charter conferred on them wider international responsibilities. The Security Council should continue to follow the method which had lately enabled it to deal with the question of the composition, financing and mandate of peace-keeping operations. A search for ways to build a consensus would have the effect of assuring global support for such activities.

(Mr. Rianom, Indonesia)

60. Lastly, his delegation endorsed the various initiatives and actions taken by the Secretary-General to encourage dialogue and negotiations between the parties to a dispute. Through his untiring efforts to resolve such problems as Afghanistan, Iran and Iraq, and Cyprus the Secretary-General had established a framework of procedures to facilitate peaceful settlement of disputes and the implementation of relevant resolutions.

61. Mr. VILLAR (Spain) considered that the draft declaration could be added to the list of the Special Committee's greatest successes. The ideas it contained, too bold or too innovative in the opinion of some, were the point at which the opinions of all delegations had finally converged. It was thus to be hoped that it would be unanimously adopted by the Sixth Committee and by the General Assembly, as it had been by the Special Committee.

62. In that regard, it was most encouraging that a delegation such as that of the Soviet Union, which had expressed reservations at the start of the work, had now declared that the final text was most satisfactory and that the Secretary-General should play a greater role in the maintenance of international peace and security. In that context, it was important to read his memorandum issued under the symbol A/43/629. For its own part, Spain would always remain well disposed to any concrete and precise proposal.

63. The draft declaration also had the particular virtue of being the first that the Special Committee had prepared on the subject of the maintenance of international peace and security. When his delegation, together with several others, had submitted the initial draft in 1984, they had been seeking practical and flexible means of making the role of the United Nations and its organs in the field of preventive diplomacy more effective. The idea had been a fertile one, and the moment had perhaps now come for the Special Committee to push forward on other fronts relating to the maintenance of international peace and security. The draft declaration was not unduly ambitious, and was balanced and functional. But, like any text that was the result of general agreement, its recommendations were merely the common denominator of the varying points of view of all Member States, and could serve as a point of departure for future work.

64. At the last stage in the work, it had been decided that the draft declaration should refer to the role of States. The declaration thus dwelt on the codification of existing practices which, without modifying the Charter, reflected it well in letter and in spirit; thus, the Secretary-General was encouraged in his efforts to prevent conflicts; the Security Council retained its prime responsibility in the area of diplomacy, but the roles of the General Assembly, the International Court of Justice and the regional organisations were not forgotten.

65. The Special Committee had also taken up the question of the peaceful settlement of disputes. It went without saying that Spain would take part in any constructive effort to consider the problem. Spain was therefore extremely interested in the proposal by a number of delegations to have the Special Committee study ways and means of strengthening the role and broadening the mandatory

(Mr. Villar, Spain)

jurisdiction of the International Court of Justice. It also welcomed the Mexican proposal, which other delegations had supported, to combine agenda items 129 and 135.

66. It was to be hoped that the handbook on the peaceful settlement of disputes being drafted by the Secretary-General, would be completed in the near future. Similarly, at its 1989 session, the Special Committee would probably be in a position to decide on the proposal on the rationalisation of procedures submitted by France and the United Kingdom.

67. The issue of the future work of the Special Committee deserved the greatest attention. Spain, for its part, was thoroughly committed to strict observance and full implementation of the provisions of the Charter. But it would be going too far to consider the Organization's constituent instrument to be immutable for that would lead to ossification and complete alienation from the life of the international community. Like all organic texts, the Charter must remain alive and keep pace with the development of the social body. The delegation of the Federal Republic of Germany had voiced the same concern in stressing that two dangers threatened constitutions: change that was too radical or too rapid, effected on the spur of the moment and obsolescence with respect to the transformations taking place.

68. The responsibility of the Special Committee on the Charter was precisely to eliminate those two dangers. In order to do so, it must free itself of relatively minor tasks and focus on what was most useful with regard to the strengthening of the role of the United Nations and its organs. The new mandate to be conferred on it must take that consideration into account, but pragmatically and realistically, without excessive zeal or ambition.

69. Many delegations had already presented constructive proposals on the subject. Among them were the proposals concerning the jurisdiction of the International Court of Justice, measures that the Security Council might adopt provisionally under article 40 of the Charter, sanctions to be imposed upon States which committed a breach of the peace or failed to comply with the Council's decisions, or, lastly, the optimisation of fact-finding and investigative machinery.

70. It was not the first time that the latter point had been raised in the United Nations and the representative of Japan had recently traced its history. The work already completed was an excellent point of departure and amply demonstrated the need to draft a systematic set of recommendations covering all aspects of fact-finding in the field of maintaining international peace and security. The organs of the United Nations must have objective circumstantial evidence, reliable information and facts. As many delegations had emphasized, the question should be studied by the Special Committee, beginning at its 1989 session. That would be one of the best ways to contribute to the strengthening of the Charter of the United Nations. At the 1989 session of the Special Committee, Spain, together with other sponsors, would present a specific proposal on fact-finding by the United Nations for the purpose of maintaining international peace and security.

71. Mr. BELHAI (Tunisia) welcomed the highly successful outcome of the work of the Special Committee. The draft declaration the Special Committee presented in its report was an important reference document, a product of the meeting of political wills. The text, which was reasonable and balanced, was one more instrument taking its place in the array of measures available to the international community. It could also serve as a basis for considering the optimisation of United Nations operations, particularly in its chosen field, the maintenance of peace. Nevertheless, the draft was rather timid and probably constituted an initial phase.

72. The newly independent countries had accepted the Charter as a standard contract which, in fact, they had never negotiated. Perhaps the time had come to give further thought to the matter, for the contemporary world was undergoing many changes. Tunisia would always assist the efforts of the Special Committee, believing that the United Nations must continue to evolve, like international society itself.

73. Tunisia was very concerned with international legality and respect for the Charter. Twice in recent years, when Israel had violated its sovereign rights, it had turned to the United Nations. The United Nations had upheld it and had condemned aggression and State terrorism. Tunisia was therefore concerned that the role of the United Nations might be diminished for lack of means and that the Organisation would become an entity which did nothing more than note the existence of a problem. In his delegation's view, it was crucial to adopt the draft declaration elaborated by the Special Committee, inasmuch as it would provide greater latitude and means for the resolution of problems endangering the security of mankind.

74. Mr. SENE (Senegal) noted with satisfaction that the Special Committee had been able to present to the General Assembly 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. The timing could not have been better. The United Nations was entering a period of revitalisation and had been given a new opportunity to perform effectively its primary function, namely the maintenance of international peace and security. That was due to an international climate in which tensions had been eased by markedly improved relations between the two major Powers, the moderating influence of the Movement of Non-Aligned Countries and the tireless efforts of a Secretary-General wholly committed to the cause of peace.

75. The draft declaration, however, did not entirely meet the expectations of his delegation. It would have preferred, for example, to see the role of the General Assembly strengthened in the field of international peace and security. The paralysis of the Security Council or its ineffectiveness *vis-à-vis* certain disputes - southern Africa and the Middle East, for example - made the United Nations incapable of resolving situations which were a permanent threat to peace. Hence, the Security Council was often perceived as an obstacle to the aspirations of the majority, as expressed in General Assembly decisions. While the Charter did not establish any hierarchical relationship between the Assembly and the Council, it was nevertheless true that their objectives were identical and that their activities must be complementary.

(Mr. Sene, Senegal)

76. His delegation was well aware that a document such as the draft declaration was, perforce, a compromise text. Fortunately, it offered more advantages than disadvantages. His delegation welcomed, in particular, paragraphs 8 and 20 to 24 of the draft, which dealt with the strengthening of the role of the Secretary-General. The progress made recently towards the settlement of certain regional conflicts would have been inconceivable had not the Secretary-General played a central role. His delegation wished to pay tribute to the Secretary-General for his total dedication to the cause of peace.

77. His delegation also supported the provisions of the draft declaration which, by establishing what might be called a warning system, made it possible to detect the earliest signs of disputes or situations in order to eliminate them before they had any chance to escalate. States should also have recourse to the International Court of Justice and conduct themselves in accordance with international law. It was to be hoped that the draft declaration would be adopted at the current session and that States would implement the measures it was seeking to promote.

78. His delegation, which had taken part in the debates of the Special Committee on resort to a commission of good offices, mediation or conciliation within the United Nations, was grateful to Romania for having presented a revised, much improved version of its proposal. The relative calm currently reigning in certain regions that had once been troubled, and elsewhere, the hopes engendered by current diplomatic initiatives, should convince sceptics that peace was beyond price and that no effort must be spared in order to maintain it. In that spirit, his delegation supported the Romanian proposal, which would provide one more procedure encouraging States to live in peace. The experience of recent months had proved that there was no harm in multiplying the frameworks and instruments for the peaceful settlement of disputes, provided that they remained faithful to the Charter. Objecting to the opinions contained in paragraph 50 of the report (A/43/33), his delegation believed that there was indeed a place in the United Nations system for the procedure proposed and hoped that consideration of it could be completed at the forty-fourth session of the General Assembly.

79. His delegation thanked those delegations which had presented to the Special Committee a revised, improved text of their proposals for the rationalization of existing procedures of the United Nations. It actively supported all efforts to rationalize the procedures of all organs of the United Nations, without exception, provided that was done in conformity with the Charter. However, Senegal was concerned by the emphasis placed on consensus in such proposals; although it was in favour of adopting decisions by consensus whenever possible, voting was still the best way for States to express their positions. Lastly, his delegation wished to reiterate its support for the preparation of a draft handbook on the peaceful settlement of disputes between States and remained convinced that it was high time, despite financial difficulties, to complete that important document.

The meeting rose at 5.40 p.m.