



SUMMARY RECORD OF THE 19th MEETING

Chairman: Mr. DENG (Sudan)

CONTENTS

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)

AGENDA ITEM 129: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)

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The meeting was called to order at 3 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. Mrs. NORIEGA (Panama) said that 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, prepared by the Special Committee and submitted to the General Assembly in the Committee's report (A/43/33), was very important in that it supplemented and reaffirmed the principles embodied in the Manila Declaration. Although it was not as exhaustive and categorical as might have been wished, the draft had the merit of affirming the fundamental responsibility of States with regard to the prevention and removal of disputes or conflicts, and of reaffirming the principle of equal rights and the principle of self-determination of peoples. Nevertheless, the term "situations" used in the third preambular paragraph was ambiguous in so far as there were an infinite number of situations. Her delegation believed that the text could be improved if the type of situation was specified, by reference to "situations of conflict" for example.
2. Operative paragraph 7 and the following paragraphs were of great practical usefulness inasmuch as they defined the mechanisms and means whereby States should make fuller use of the principal organs of the United Nations responsible for the maintenance of international peace and security, namely the Security Council, the General Assembly and the Secretary-General.
3. Her delegation believed that the draft declaration brought an important element to the establishment and maintenance of peace between States and should therefore be adopted without a vote by the Sixth Committee and the General Assembly.
4. In common with other delegations, her delegation considered that the maintenance of international peace and security should remain the priority topic before the Special Committee, whose mandate should be reviewed and expanded to include other well-defined related questions, such as the sending of observer and fact-finding missions by the United Nations organs as instruments of preventive diplomacy and peace-keeping. In that respect, the decision by the Federal Republic of Germany to submit in the near future a specific proposal to strengthen the fact-finding capability of the United Nations as a means of preventing and settling disputes was an excellent initiative.
5. Among the questions which the Special Committee might be asked to consider, mention should also be made of the strengthening of the role of the International Court of Justice. The judicial function was vital to the application of any legal system, especially when the aim was to ensure the primacy of law, specifically

(Mrs. Noriega, Panama)

international law. To that end, it was imperative for Member States to abide scrupulously by the decisions of the Court. In that connection, the Soviet Union, in the aide-mémoire entitled "Towards comprehensive security through the enhancement of the role of the United Nations" (A/43/629), had put forward a number of constructive ideas, with special reference to the role of the International Court of Justice. Likewise, the United Kingdom delegation had made some interesting suggestions regarding ways of strengthening the role of the Court, and had endorsed the Soviet proposal that the permanent members of the Security Council should be the first to try to encourage States which had not yet done so to accept the compulsory jurisdiction of the Court. Those were all important ideas and proposals which the Special Committee should examine.

6. With regard to peaceful settlement of disputes between States, her delegation believed that the Romanian proposal on resort to a commission of good offices, mediation or conciliation was a mechanism of great practical value in the resolution of conflicts, which would not interfere with the exercise of the functions assigned under the Charter to the various organs of the United Nations.

7. Referring specifically to the so-called "Esquipulas II" peace plan, she said it was clear that despite the obvious political will of the signatories to the peace agreement, external machinations and acts of aggression had continued in the form of support for mercenaries, with the aim of overthrowing at any cost the Government of one of the signatory countries. Panama itself had been the victim of aggression at the hands of a great Power, which was maintaining a state of war in peacetime in Panamanian territory. However, the peace-loving Panamanian people would not yield to such manoeuvres, which were the antithesis to the prevention and peaceful settlement of disputes and constituted a negation of all the provisions of the United Nations Charter, the Manila Declaration and the Panama Canal Treaties. Such disregard for legal obligations and the principles recognised by international law put countries at the mercy of the law of the jungle. It was therefore important for the more vulnerable developing countries, which were defenceless in the face of such violations, to be able to rely on strong organisations.

8. With regard to rationalisation of existing procedures of the United Nations, her delegation opposed the introduction of the consensus formula for the adoption of General Assembly resolutions, for that could give rise to strong-arm tactics with the unacknowledged aim of making consensus virtually mandatory. Moreover, there was no reason to believe that such a formula was more likely to be successful. In the first place, consensus could not be a substitute for the political will of States, the lack of which was the primary reason for the non-implementation of decisions adopted. Secondly, the formula was not provided for in the rules of procedure of the General Assembly, rule 82 of which laid down the principle of equality of votes of all Member States. The situation was quite different in the Security Council, where permanent members had the right of veto. The consensus formula would distort the nature and objectives of organs established by the Charter by deviously introducing to the General Assembly a formula identical to that used in the Security Council. That would be tantamount to granting the right of veto to all Member States. In her delegation's opinion, it was a subtle

(Mrs. Noriega, Panama)

way for the industrialized countries to preserve the influence of hegemonic blocs in the Assembly and to frustrate the vast majority of developing States for which the Assembly provided a forum.

9. It had thus been possible to adopt declarations which were inoperative for the most part, but which reflected the wishes of the developed countries and neutralised the majority votes in the General Assembly. Accordingly, her delegation rejected the growing tendency to impose the anti-democratic consensus formula. It was normal and legitimate to put decisions to the vote, as provided for in the rules of procedure, in the absence of a freely-expressed general agreement or consensus. Her delegation therefore rejected the wording of paragraph 1 proposed in paragraph 76 of the Special Committee's report. Both the spirit and the letter of the proposal appeared designed to eliminate, wherever possible, the representative and democratic voting procedure.

10. Mr. ZURITA (Venezuela) said that the United Nations represented the international community's most successful effort to organize itself. However, although the objectives and principles which had inspired the drafters of the San Francisco Charter remained the fundamental rules governing the conduct of Member States, the growing interdependence of the international community dictated that those objectives and principles should be interpreted and adapted in ways which facilitated the solution of new problems. The maintenance of international peace and security depended on it.

11. While his country had confidence in the United Nations and in its objectives and principles, it believed that there was a need to endow the organs of the United Nations with the machinery which the new international reality required. Accordingly, it had supported and continued to support all efforts to strengthen the effectiveness of the Organisation and its organs, including the current effort of the Sixth Committee in the area of the maintenance of international peace and security and the peaceful settlement of disputes, which were fundamental principles governing international relations.

12. In that connection, the draft declaration submitted by the Special Committee was a genuine contribution. Indeed, it defined the role which the United Nations and its organs should play and the responsibility of Member States in the matter. His country believed that the maintenance of international peace and security was not within the exclusive purview of the competent organs of the United Nations, but rather that it should be understood as an obligation which all the subjects of international law had to conduct their relations in such a way as to prevent or eliminate threats to peace. The draft declaration reaffirmed in language that was acceptable to all the fundamental rules of law which should govern international life, and reflected certain practices and methods which had already been accepted in one of the main organs of the United Nations, namely the Security Council. The political timidity of States had, however, prevented the successful conclusion of an effort which could have led to a genuine strengthening of United Nations machinery by tackling the task of adapting or interpreting the objectives and principles of the Charter. The success of the Secretary-General's recent efforts

(Mr. Zurita, Venezuela)

to settle a number of conflicts was reason enough for strengthening the role of the Secretary-General in the draft declaration. Nevertheless, as a member of the Special Committee, Venezuela endorsed the adoption of the draft declaration and hoped that it would constitute progress in the quest for new methods or solutions under the auspices of the United Nations.

13. With regard to the resort to a mission of good offices, mediation or conciliation within the framework of the United Nations, his delegation reaffirmed that the principle of the peaceful settlement of disputes between States must be respected through resort to the means of settlement recognised under international law and provided for in the Charter. His delegation therefore favoured the establishment of such machinery provided that it did not call into question the principle of the sovereign equality of States, which recognised that every State was absolutely free to select whatever method of settlement it saw fit in any given dispute.

14. With regard to the rationalisation of the procedures of the Organisation, efforts should be made to eliminate duplication, which was precisely the objective of the exercise. The Special Committee's terms of reference should be revised so that it could make a contribution to the strengthening of the role of the Organisation in the maintenance of international peace and security in an international community that was faced with new and more serious problems. The Special Committee should therefore be entrusted with issues which were of real concern and which would be conducive to successful efforts to strengthen the Organisation and its organs, such as the question of the dispatch of fact-finding missions, which could result in the establishment of such machinery within the United Nations. Venezuela was prepared to continue to contribute to the work of the Special Committee.

15. Mr. JOSHI (Nepal), referring to the question of the maintenance of international peace and security through conflict-prevention, said that articles 1 and 2 of the draft declaration which followed the adoption of the Manila Declaration of 1982 and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations were of particular interest. In those articles, Member States undertook a number of commitments. However, those commitments were not new and it might even be said that the draft declaration made no new contribution inasmuch as the commitments were set out more clearly in the Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and in the Manila Declaration. However, given the many armed conflicts of major catastrophic consequences which had taken place since the adoption of those declarations, it was no doubt useful for Member States to renew their commitments.

16. With regard to the articles dealing with the role of the Security Council, in particular article 7, his delegation fully supported the proposal that the Council should consider holding high-level meetings, including meetings at the minister for foreign affairs level. It also welcomed the new roles assigned to the

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(Mr. Joshi, Nepal)

Secretary-General, the General Assembly and the International Court of Justice. On the whole, his delegation supported the draft declaration and hoped that the General Assembly would adopt it by consensus.

17. With regard to the future mandate of the Special Committee, his delegation, like several others, endorsed the proposal of the representative of Japan that the Special Committee should be entrusted with the task of studying the question of fact-finding. However, the time had come to reflect on the Special Committee's procedures in order to ensure its smooth functioning.

18. With regard to the peaceful settlement of disputes, his delegation welcomed the Romanian proposal on the whole, although it considered that account should be taken of the views and proposals put forward by other delegations. In addition, the preparation of a handbook on the peaceful settlement of disputes was long overdue.

19. Mr. MAHALLATI (Islamic Republic of Iran), after briefly reviewing the historical background, said the Charter spelled out the responsibilities of the United Nations organs with respect to the maintenance of international peace and security, especially in Articles 11, 24, 39 and 99. The General Assembly had, moreover, adopted resolution 3314, of 14 December 1974, on the definition of aggression.

20. It was, nevertheless, regrettable that more than 150 armed conflicts had occurred in various parts of the world since the Second World War, resulting in nearly 20 million deaths, countless wounded and major material destruction. It was especially regrettable that the United Nations had been unable to discharge its responsibilities in the matter. In his delegation's view, that failure stemmed partly from the fact that the Members of the Organisation, especially the super-Powers and the great Powers, did not respect the obligations they had undertaken under the Charter and that they engaged in unlawful activities, particularly by resorting to the use or the threat of force in their international relations, by interfering in the domestic affairs of other States, by maintaining in various parts of the world a military presence which was the source of tension, and partly from the irresponsible attitude of some permanent members of the Security Council with regard to matters relating to the maintenance of international peace and security.

21. That was why the draft declaration submitted by the Special Committee was significant. The draft declaration was characterized by the fact that it: (a) recognized the important role that the United Nations could play in the prevention and removal of disputes which might, if they continued, threaten international peace and security, and the need to strengthen that role; (b) reminded States of the importance of discharging in good faith their obligations under international law; (c) spelt out the responsibilities of the General Assembly, the Security Council and the Secretary-General in the maintenance of international peace and security; (d) encouraged the Security Council to take, with the Secretary-General's assistance, preventive measures as soon as a dispute

(Mr. Mahallati, Islamic Republic  
of Iran)

or a situation that might lead to confrontation or threaten international peace and security arose.

22. If adopted, the draft declaration would represent another achievement for the Sixth Committee, following the adoption in 1987 of the important Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations. His delegation consequently welcomed the draft declaration and hoped that it would be adopted at a time when the United Nations had become the focus of the international community's attention. The initiatives taken recently by the Organisation, especially by the Secretary-General, to resolve disputes in different parts of the world might, if successful, constitute a turning point in the history of the United Nations. It was to be hoped that the adoption of the declaration and the emergence of new hopes in the field of United Nations diplomacy would create an atmosphere in which all States, including the major Powers, would fulfil their obligations under international law and that the declaration would enable the United Nations and its major organs to discharge the responsibilities incumbent upon them by virtue of the principles elaborated under their auspices.

23. The Islamic Republic of Iran had recently found how useful the mechanisms set out in the declaration could be in dealing with disputes or situations that might threaten international peace and security. The mechanisms in question were the role that the Secretary-General might play in the settlement of disputes and the easing of tensions, referred to in paragraphs 20 to 24, and fact-finding missions, referred to in paragraphs 12 and 22, which had yielded positive results during the war imposed on his country and had proved that they could be used very early on to prevent a dispute or situation from deteriorating. It was of great importance to his delegation that the Security Council and the Secretary-General should make full use of their fact-finding capabilities. His delegation supported any further step or endeavour aimed at strengthening international peace and security and hoped that the work of the Special Committee on other issues falling under its mandate would ultimately bear fruit. He reiterated his delegation's support for the work on the draft handbook on the peaceful settlement of disputes between States and expressed appreciation for the efforts made by the Secretariat in that area.

24. Concerning the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations, his delegation endorsed the view of the Working Group that the Special Committee should continue its work on that question at its next session with a view to reaching a general agreement on appropriate conclusions to be submitted to the General Assembly at its forty-fourth session.

25. Rationalisation of existing procedures of the United Nations was very important for the smooth functioning of the Organisation. However, it should not lead to a change in the rules of procedure of the General Assembly or in the Charter of the United Nations. Efforts should be made to reach a consensus in the adoption of resolutions in the General Assembly without granting every Member State

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(Mr. Mahallati, Islamic Republic  
of Iran)

the veto or raising obstacles to decision-making or the adoption of resolutions there.

26. Mr. GÖRÖG (Hungary) noted with satisfaction that the Special Committee had completed 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, a compromise document which was the result of lengthy deliberations and testified to the new spirit of co-operation prevailing in the Special Committee. One important aspect of the draft was the essentially preventive character of its provisions, which ought to enable the international community to stifle conflicts before they broke out. Consequently, his delegation unhesitatingly favoured the adoption of the declaration and believed that its implementation would improve international relations and make the world a safer place.

27. His delegation had thoroughly considered the revised version of the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations, submitted to the Special Committee by Romania, and had also studied the views of other delegations, but continued to doubt the advisability of establishing a highly questionable procedure that was inconsistent with the Charter of the United Nations, particularly with regard to the functions and main responsibilities of the Security Council, an expansion of whose role was sought by most delegations. His delegation shared the views of those who had wondered whether the proposal would add anything new to existing procedures for the peaceful settlement of disputes and who had questioned the link that would exist between the proposed commission and the United Nations system. He was not convinced of the proposal's usefulness. His delegation maintained its serious reservations and continued to oppose the adoption of the proposal. It still held the view that the many existing procedures for settling international disputes should be utilized, for the major obstacle to the peaceful settlement of disputes was a lack of political will, not of appropriate mechanisms.

28. Mr. KHVOSTOV (Byelorussian Soviet Socialist Republic) noted with satisfaction that the Special Committee had obtained concrete results in completing its prolonged work on the declaration on the prevention and removal of disputes and situations that may threaten international peace and security and on the role of the United Nations in this field. The draft contained a full range of measures that should be implemented by the United Nations as well as by States in order to prevent disputes from developing into armed conflicts. Few of the methods were new, but the relevant proposals afforded a valid basis for co-operation between States and the United Nations.

29. Among those provisions, the most important concerned action by the Security Council with a view to removing dangerous situations and the enhancement of the roles of the Council, the Secretary-General and the General Assembly in that area. Paragraph 7 of the draft, which provided that the Security Council should consider holding periodic high-level meetings or consultations to search for effective ways



(Mr. Khvostov, Byelorussian SSR)

of improving the international situation, was particularly important. Paragraph 14, which stipulated that the Council should consider recommending appropriate procedures for the settlement of disputes, also merited attention. At the same time, the Security Council and the General Assembly should consider involving those provisions of the Charter that dealt with the possibility of invoking the International Court of Justice in any legal matter. It appeared that the draft declaration, the adoption of which his delegation supported, would contribute to the attainment of the goals set out in Article 1, paragraph 1, of the Charter.

30. For many people peace was hardly more than an interval between two wars, whereas in fact it was a result of respect for international law and order. The fact that a citizen of a country did not respect his country's laws did not detract at all from their value. Similarly, if certain States did not respect the principles of international law, it did not mean that those principles were not valid. The international community must use the experience of international law acquired over the centuries to establish the primacy of that law and to ensure above all that the measures adopted were applied. The present international legal order rested on a community of interests, but there was an urgent need to find something which corresponded to the interests of mankind, beyond those of nations. Mankind must be given priority in the policies of the States Members of the United Nations, and the United Nations itself had a role to play in that respect. It had already achieved positive results in the codification and development of international law.

31. The Byelo-ussian delegation paid a tribute to the Special Committee for the work which it had accomplished and thought that it should continue its work on the working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations, taking into account the large number of amendments proposed during the constructive debate on that question. The paper should be the product of a collective effort; its present version indicated a flexible approach fully consistent with the Charter.

32. In its future work the Special Committee should proceed on the basis that, if regional crises and conflicts were to be settled on an equitable basis, full use would have to be made of the procedures provided by the Charter. His country thought that the problems of international peace and security should remain the focus of the Committee's attention but it supported the idea of including the effective settlement of disputes in its mandate. The Committee should also consider concrete questions relating to the improvement of the procedures of the General Assembly and its subsidiary bodies.

33. The effectiveness of the United Nations as a centre for the harmonization of the actions of States and as a guarantor of the international order depended largely on the responsible attitude taken by Member States in the search for peaceful solutions which took account of the realities of the contemporary world and of collective interests. All that fell within the Special Committee's mandate, and the progress which it had made gave grounds for hoping that its future contribution would be very useful.

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(Mr. Khvostov, Byelorussian SSR)

34. The Byelorussian SSR thought that the most acceptable way of ensuring balance between the interests of any one nation and those of the whole of mankind was to take decisions by consensus. It was also necessary to seek means of strengthening the mandatory nature, from the moral and political standpoints, of the documents adopted by the Organisation by consensus.

35. Mrs. VOLOCHINSKY (Chile) said that over the years since its foundation the United Nations had acquired new responsibilities without always being able to discharge them. However, during the past year, in an improved international climate, it had taken up the challenges, and the community of nations therefore owed a debt of gratitude to the Secretary-General for his skilful and persistent efforts and to the United Nations peace-keeping forces for their courage and self-denial, which had won them a well-deserved Nobel Peace Prize.

36. Any organisation, and the United Nations was no exception, depended on the initiatives, the will and the work of its members, and the maintenance of peace, which was a dynamic process, required the co-operation of all States. The United Nations had been established by a treaty - the Charter - which, being the work of men, was not perfect and suffered from ambiguities and omissions, not to mention the problem of harmonizing texts in different languages and the complex interaction of legal and political factors. It might therefore be asked whether the efforts made over the years to improve the system and strengthen the Organisation's role had been worth the trouble. Of course the answer was "yes". The problems of mankind had been created by mankind and it was for mankind to solve them, without forgetting that history showed that enmity between nations, like enmity between individuals, did not last forever, whereas the capacity for understanding among peoples, which helped to maintain peace, was durable.

37. The 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 drafting of which had just been completed by the Special Committee, supplemented, as its sixth preambular paragraph indicated, earlier declarations on the maintenance of peace. Time would tell whether the new declaration was more idealistic than realistic, but in any event it constituted a step forward in the Special Committee's work.

38. The preamble warranted particular attention since it stated inter alia the obligation of States to respect international law, reaffirmed the right to choose freely the means of peaceful settlement, and recalled the roles which the Charter conferred on the Organisation's principal organs. Her delegation was in favour of strengthening the role of the Security Council in its primary mission of maintaining international peace and security and it drew attention to the wording of the penultimate paragraph of the declaration, which stated that nothing in the declaration could be construed as prejudicing in any manner the provisions of the Charter, including those contained in Article 2, paragraph 7, which stated that nothing contained in the Charter authorized the United Nations to intervene in matters which were essentially within the domestic jurisdiction of a State.

(Mrs. Volochinsky, Chile)

39. With regard to the peaceful settlement of disputes between States, a principle which had always been one of the pillars of her country's policy, she thanked the Romanian delegation, which was always willing to incorporate suggestions from other States in its proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations, a proposal which warranted further examination at the next session. Her delegation also wished to congratulate the Secretariat on the progress made in the preparation of a draft handbook on the peaceful settlement of disputes between States; it was sure that the Secretariat's efforts would result in the publication of an extremely useful reference work.

40. The rationalisation of existing procedures of the United Nations was a very controversial topic. For example, the opinion had been expressed that the widespread use of consensus decisions would amount to no more than a hidden veto system which, in the last analysis, would undermine the majority rule established in the Charter. In her delegation's view, the search for consensus entailed the obligation to continue to negotiate in good faith until a compromise solution acceptable to all was found. Consensus must not become an end in itself, for that would cause pressures to be brought to bear on States to the detriment of their interests; in fact, the consensus rule imposed an equal pressure on all States concerned to seek mutually satisfactory solutions. As far as her delegation was concerned, the agreement reached on the subject of consensus would not change in any way Article 18 of the Charter or rules 85 and 125 of the rules of procedure of the General Assembly.

41. Although conflicts had always existed, international law now imposed on States the obligation to refrain from resorting to the threat or the use of force and to settle their disputes by peaceful means. It was a question not of whether it was necessary to search for a peaceful solution to a dispute, but of what method should be used in that search. In an increasingly interdependent world, co-operation as well as the number of disputes was growing constantly and the settlement of disputes led to greater co-operation in a continuous process which - as Judge Manfred Lachs, a member of the International Court of Justice, had stated - accompanied the evolution of mankind. Therefore, the creation of instruments to promote co-operation entailed the need to provide the means to resolve the conflicts which might result from co-operation.

42. It was true that, through its very existence, the Court played an important role in the area of deterrence; thus, on more than one occasion, the simple fact that a party to a dispute had suggested bringing the matter before the Court had induced the other party to facilitate the search for a solution through other means. Her delegation was pleased at the initiative undertaken by various delegations to strengthen the role of the Court, which should be requested more frequently to give advisory opinions, particularly concerning matters which the international organisations themselves had been unable to resolve.

43. It was also necessary to underscore the role of the Court in disputes which gave it the opportunity to hand down binding decisions on the substance of the matter. As was well known, States could accept the jurisdiction of the Court in

(Mrs. Volochinsky, Chile)

various ways, inter alia, within the framework of a treaty. It was not irrelevant to recall that article XXXI of the 1948 American Treaty on Pacific Settlement, the "Pact of Bogota", to which Chile was a party, provided that the parties recognised the jurisdiction of the Court in all disputes of a juridical nature that arose among them concerning the questions referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice.

44. Mr. LOULICHKI (Morocco) said that his delegation, which had participated as an observer in the work of the past session of the Special Committee, had witnessed the spirit of co-operation demonstrated by all delegations which had enabled the Special Committee to complete the elaboration 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 General Assembly therefore was considering a new declaration, which reaffirmed the responsibilities of the principal organs of the United Nations and the obligations of States in the prevention and removal of disputes and conflict situations. A particular place was rightly accorded to the role of the Security Council, which was called upon to use all the means at its disposal and, in particular, as indicated in paragraph 12, to "establish appropriate forms of United Nations presence, including observers and peace-keeping operations, as a means of preventing the further deterioration of the dispute or situation in the areas concerned".

45. Under paragraph 16, the General Assembly should consider making use of the provisions of the Charter in order to discuss disputes or situations and, in accordance with Article 11 and subject to Article 12 of the Charter, making recommendations. According to the latter provision, while the Security Council was exercising in respect of any dispute or situation the functions assigned to it in the Charter, the General Assembly should not make any recommendation unless the Council so requested. In other words, while the Council was involved in the settlement of a situation or dispute, nothing should be done to impede the process aimed at finding a solution, limit its scope or undermine it through repetitive or obsolete recommendations.

46. The declaration also confirmed the inherent powers of the Secretary-General to offer his good offices in order to search for a peaceful settlement to a dispute or a situation and the ability to send fact-finding missions to the area in question. The adoption without a vote of the draft declaration by the General Assembly should make it possible to strengthen the revival of preventive action by the Organisation and encourage Member States to support unreservedly the purposes and principles of the Charter.

47. Referring to the proposal on the resort to a commission of good offices, mediation or conciliation, chapter III of the report indicated that some paragraphs had barely been commented on while others continued to give rise to difficulties. The progress which had enabled the proposal to become clearer and more precise, should encourage the Romanian delegation to further improve its document for the next session of the Special Committee. In that regard, his delegation supported

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(Mr. Loulichki, Morocco)

the wording of paragraph 59 of the report concerning the continuation of the work of the Special Committee so that it might reach a general agreement on appropriate conclusions to be submitted to the General Assembly at its forty-fourth session. It was also pleased at the progress made by the Secretariat on the draft handbook on the peaceful settlement of disputes between States and hoped that that work would be completed at the earliest possible date.

48. In its work on the question of the rationalisation of existing procedures of the United Nations, the Special Committee had provisionally adopted only two of the six paragraphs of the revised document submitted by France and the United Kingdom and there were still fundamental differences of opinion, particularly concerning the consensus rule. His delegation hoped that the work on that subject would be finished as soon as possible.

49. At a time when the Committee was preparing to formulate the mandate of the Special Committee for future sessions, the Committee should not lose sight of the reasons which had led to the establishment of the Special Committee and the hopes concerning the continuation of its work. The recent success of the United Nations with regard to the settlement of some conflicts and situations should encourage the Committee to continue a joint and pragmatic search for the most appropriate means to strengthen the work and prestige of the Organisation. In that connection, his delegation welcomed the proposal by the Federal Republic of Germany to include in the future mandate of the Special Committee the question of fact-finding from the point of view of the settlement of conflicts and their prevention. Practice had shown that, once the organs of the United Nations were apprised of the objective elements of a dispute or a situation, they could contribute in a decisive way to bringing about a settlement.

50. Mr. ALZAMORA (Peru) said that in the area of the maintenance of international peace and security, Peru supported all initiatives which could lead to measures aimed at preventing disputes and machinery for strengthening the effectiveness of United Nations bodies within the framework of a greater democratisation of international relations. In that spirit, his delegation had participated in the elaboration 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, and had supported it within a framework of the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation. The draft declaration was proof of the contribution which the Special Committee could make in elaborating instruments relating to the maintenance of peace.

51. Although the draft declaration maintained a certain balance between the respective functions and roles of the Security Council, the General Assembly and the Secretary-General in that field, there was a noticeable tendency to give priority to the Security Council. Peru considered that it was necessary to make a decisive effort in order to arrive at a truly democratic concept of international peace and security. The General Assembly should be given a more active role, since that was the organ which most completely upheld the principle of sovereign equality

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(Mr. Alzamora, Peru)

of States. Moreover, recent developments in the international area had brought to light the promising results which the Secretary-General could obtain in his capacity as an agent of the entire international community. Peru considered that certain paragraphs of the draft declaration were not sufficiently clear and that certain expressions did not have the desired firmness.

52. With regard to the peaceful settlement of disputes between States, Peru was convinced of the importance of respect by all States for the principles and rules of international law, which was a sine qua non for the maintenance of international peace and security and the peaceful settlement of disputes between States. In keeping with the request contained in General Assembly resolution 42/150, Peru had submitted to the Secretary-General its views on the implementation of the Manila Declaration, which were contained in document A/43/530.

53. The establishment of a commission of good offices, mediation or conciliation proposed by the Romanian delegation could contribute to the creation of a legal basis for agreement and provide an additional means of resolving conflicts. However, such a commission should, of necessity, become a part of the other mechanisms provided for under the Charter of the United Nations for settling international disputes, and be subject to the principle of free choice of means of settlement by the parties. Peru would continue to take part in the debates of the Special Committee on that issue, as well as on the draft handbook on the peaceful settlement of disputes, which called for similar remarks.

54. While recognising that measures were necessary - and even essential - for rationalising existing procedures of the United Nations, his delegation considered that such measures should not jeopardise the principles on which the Organisation was founded and which were expressed in the Charter. It welcomed the improvements contained in the text proposed by France and the United Kingdom, and restated its conviction that, for the adoption of decisions, voting was the fairest expression of democracy in international relations. Peru considered that, while the adoption of decisions without a vote was desirable, it should be the result of a process of consultations and not an automatic procedure.

55. His delegation maintained a constructive attitude with regard to the topics which the Special Committee could deal with in its work, and reaffirmed its willingness to lend all its support to the implementation of the Special Committee's mandate, particularly in respect of the maintenance of international peace and security.

56. Mr. EROMS (Finland) welcomed the views which had been expressed by the members of the Sixth Committee on the draft declaration submitted by the Special Committee, which confirmed the fact that the declaration deserved to be adopted by the General Assembly.

57. With regard to the working paper on the resort to a commission of good offices, mediation or conciliation within the United Nations, as revised by the Romanian delegation, it was evident that, in the light of paragraphs 50 to 54 of

(Mr. Broma, Finland)

the Special Committee's report (A/43/33), the situation remained somewhat unsettled. His delegation suggested that the Romanian delegation should discuss the basic problem openly with the delegations which continued to have doubts about the need to adopt a resolution on that particular topic. The topic could not remain indefinitely on the agenda, and Finland believed that the time had come to take a decision, preferably before the next session of the Special Committee. If the views were still very divided, consideration of the proposal could be postponed to a later session.

58. The same observations applied to the working paper on the rationalization of existing United Nations procedures, submitted by the delegations of France and the United Kingdom, which was reproduced in paragraph 34 of the report of the Special Committee on the work of its 1987 session (A/42/33). Two paragraphs had already been preliminarily adopted and had been supported by Finland, but as far as the other proposals were concerned, there were still some basic differences of opinion, in particular concerning the application of the principle of consensus in the General Assembly. The main objections related to practical problems which should not cause too many difficulties to the sponsors of the working paper or to the members of the Special Committee. His delegation believed that consideration of that question should also be brought to a conclusion at the next session of the Special Committee.

59. Finland was satisfied with the progress made on the draft handbook on the peaceful settlement of disputes between States, but it hoped that work would be expedited and that a finished document would be submitted within the foreseeable future.

60. The probable adoption of the draft declaration on the prevention and removal of disputes would make it possible to include new topics concerning the maintenance of international peace and security in the agenda of the Special Committee, whose next mandate must be established. During the debate, several delegations, in particular the delegation of the Federal Republic of Germany, had mentioned the possibility of including the question of fact-finding in the mandate of the Special Committee, and had promised to introduce, prior to the next session of the Special Committee, a concrete proposal which would be entitled "Fact-finding by the United Nations to assist in the maintenance of international peace and security". His delegation was ready to support that proposal in principle, because it had been interested in fact-finding for a long time. General Assembly resolution 2329 (XXII) entitled "Question of methods of fact-finding", had been adopted in 1967. In that resolution, the Secretary-General had been requested to prepare a register of experts in legal and other fields, whose services the States parties to a dispute might use by agreement for fact-finding in relation to their disputes. Member States had been requested to nominate up to five of their nationals to be included in such a register. That register, which had been revised in 1971, contained almost 200 names. However, for reasons which were difficult to explain, the register had not been used and it seemed that everyone had forgotten its existence. Finland believed that the approach adopted in 1967 remained valid and should be reactivated, on the understanding that the register of experts should be reviewed and that the procedures and methods of fact-finding must be specified.

(Mr. Broms, Finland)

61. Resolution 2329 (XXII) concerned fact-finding by States. Fact-finding by the organs of the United Nations, in particular by the General Assembly, the Security Council and the Secretary-General, should also be considered. Given the recent successes of United Nations peace-making efforts, the Special Committee should study the various facets of fact-finding and, in particular: (a) to what extent fact-finding had been resorted to in the settlement of international disputes and in the maintenance of international peace and security, with special reference to United Nations peace-keeping operations; (b) the reasons why the organs of the United Nations did not resort more often to fact-finding; and (c) what could be done to improve the current methods of fact-finding.

62. It would not be an easy task, but his delegation considered that the project would be realistic and should not give rise to unduly complex problems from the political point of view. Convinced that it would be useful for the Special Committee to consider the topic of fact-finding, both by Member States and by United Nations bodies, his delegation proposed that both of those aspects of the matter should be included in the mandate of the Special Committee.

63. Mr. MADEIRA BARBOSA (Portugal) said that 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 recalled that it was the duty of States to base their international relations on the principle of sovereign equality of States, and reaffirmed the principle embodied in Article 33 of the Charter regarding free choice by the parties of the means of settling their disputes: political settlement, through negotiation, good offices, mediation or conciliation, or a judicial settlement through arbitration or through recourse to a permanent jurisdiction. The document favoured political settlement.

64. The eleventh preambular paragraph of the draft declaration seemed to give precedence to the role of the Security Council. His delegation feared that the draft declaration, which was much more cautiously worded than the relevant Articles of the Charter, would weaken the role of the General Assembly and that of the Secretary-General. It considered that, apart from the Security Council, other bodies, and particularly the International Court of Justice, had an active role to play in the prevention and settlement of disputes.

65. His delegation welcomed the proposals aimed at making recourse to the jurisdiction of the International Court of Justice compulsory, and hoped that, in accordance with Article 99 of the Charter, future proposals would increase the Secretary-General's opportunities for approaching the Court through the Security Council. Although in that respect there was a gap in the draft declaration which should in due course be filled, it established a practice which might prove extremely useful in the maintenance of international peace and security, and his delegation accordingly hoped that the General Assembly would adopt the declaration by consensus.



(Mr. Madeira Barbara, Portugal)

66. Regarding the peaceful settlement of disputes between States, his delegation believed that examination of the Romanian proposal concerning resort to a commission of good offices, mediation or conciliation within the United Nations (A/AC.182/L.52/Rev.2) clarified certain aspects of the topic, and that the Special Committee should continue that examination. It also welcomed the progress achieved in preparing the draft handbook on the peaceful settlement of disputes between States.

67. In connection with the rationalization of existing procedures of the United Nations, his delegation supported the proposals appearing in the revised working paper submitted by France and the United Kingdom. At the same time, it considered that those proposals should be improved, particularly with regard to the consensus rule. His delegation favoured the adoption of General Assembly resolutions and decisions by consensus, since it took the view that the rule safeguarded and ensured respect for the interests of all States, and rendered the decisions taken by the Organisation more effective in moral and political terms.

68. Mr. DELON (France) commended the spirit of compromise which had enabled the Special Committee on the Charter to adopt 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. With due respect for the Charter, the declaration would emphasise certain aspects of the activities of the various United Nations organs aimed at ensuring the prevention and removal of disputes. Despite certain imperfections and shortcomings, the text as adopted by the Special Committee was the result, sometimes laborious, of a compromise achieved after long discussion. His delegation felt that it would be wise, at the current stage of the deliberations, to retain the text as it was. For its part, it was prepared to adopt it.

69. In connection with the rationalisation of existing procedures of the United Nations, his delegation considered the adoption of two paragraphs of the document it had submitted, in conjunction with the United Kingdom delegation, to be a highly encouraging result from the point of view of further discussion. It hoped to continue to participate actively in the work of the Special Committee on the topic, work which took on its full significance if it were placed within the general context of the efforts being made to improve the Organisation's effectiveness.

70. On the question of peaceful settlement of disputes between States, his delegation noted with satisfaction the progress made, under the guidance of the Legal Counsel, in the preparation of the draft handbook on the peaceful settlement of disputes. It hoped that the Secretariat would have at its disposal the necessary resources to pursue its task effectively in that regard.

71. The proposal for the establishment of a commission of good offices, mediation or conciliation submitted by Romania in document A/AC.182/L.52/Rev.2 continued to give rise to a number of serious questions, first and foremost that of the actual usefulness of the proposed procedure. In that connection, his delegation considered that it was time to reflect on the conclusions to be reached in respect of an exercise for which the prospects of agreement seemed highly problematic.

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(Mr. Delon, France)

72. The successes recently achieved by the United Nations had not come about by chance. While it was true that they had been made possible by the improved international political situation, the Organisation had nevertheless been able to avail itself of the situation with success and initiative because it was backed up by its Charter, which continued to prove itself timely and relevant 43 years after its adoption. It was for that reason that his Delegation found itself perplexed by the proposal for a "comprehensive system of international peace and security", which had again been submitted by a certain delegation and whose ultimate objective was the dismantling of the security system established by the Charter. In his delegation's view, it would be scarcely rational to try to change the system at the very time when the United Nations was proving its effectiveness and its capacity to adapt rapidly to circumstances. While still prepared to support proposals aimed at strengthening the role of the Organisation and its capacity to help solve world problems, it did not see that their artificial incorporation in a "comprehensive system of international peace and security" could add to those proposals. On the contrary, that would in his opinion merely give rise to apprehensions regarding the true overall objectives of such proposals.

73. Mr. TEEHANKEE (Philippines) said that, as the Secretary-General had emphasized in his report on the work of the organisation, there was currently an improvement in the international climate. Problems which had seemed intractable but a year or two earlier were on the verge of honourable solution and nations which had been in conflict were currently accepting the offer of the Secretary-General and other intermediaries to sit down at the negotiating table. Those developments augured well for the work of the Sixth Committee, particularly in respect of the agenda items under consideration.

74. Agenda items 135 and 129 highlighted the major role the United Nations could play in settling international disputes, as demonstrated by the peace initiatives it had recently taken. The Sixth Committee had long ago accepted that that role would lead to the strengthening of the Organisation's machineries and mandates in the field of peacekeeping. That was why the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation was of prime importance. The task of the Special Committee was both rational, because it provided an opportunity for Members of the Organisation to express their views on its structure and operations and on the evolving principles which underlay those activities, and necessary, because of the critical situation in international relations and the problems facing the Organisation in the performance of its vital functions.

75. His delegation noted with satisfaction the completion by the Special Committee of 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. That draft declaration contained provisions which made more effective the functions of the Security Council, the General Assembly, the Secretary-General and the International Court of Justice in preventing situations which might threaten international peace and security. In order to complete and unanimously to adopt that draft declaration, the Special Committee had had to

(Mr. Tashankee, Philippines)

overcome many difficulties and it had been able to do so only because of the spirit of co-operation and determination shown by its members. It was to be hoped that that spirit would continue to motivate the members of the Committee in the future. His delegation would support any recommendation of the Sixth Committee which might lead to the adoption of the draft declaration by the General Assembly.

76. With regard to the peaceful settlement of disputes between States, the delegation of the Philippines was grateful to the Secretary-General for his report on the matter (A/43/530 and Add.1 and 2). However, it was concerned that some States which had joined in the consensus to adopt the Manila Declaration on the Peaceful Settlement of International Disputes had not thus far made efforts to ensure its implementation and increase its effectiveness. The Manila Declaration was the first major declaration on the peaceful settlement of disputes and one of the most universally recognised restatements of that fundamental principle of international law. It had been said that the real problem lay in the fact that States did not have the political will to use existing procedures. Whether or not that was the case, there was hope that that inhibition would disappear as a result of the new spirit of co-operation described by the Secretary-General and be replaced by a greater commitment to ensuring that the principle of the peaceful settlement of disputes received the effective implementation it deserved. It was important to use every possible means to ensure that international disputes were settled by peaceful processes.

77. His delegation supported the proposal submitted by Romania (A/AC.182/L.52/Rev.2) concerning resort to a commission of good offices, mediation or conciliation within the United Nations, because it was convinced that that proposal was consistent with the pertinent provisions of the Charter and those of the Manila Declaration. It was clear that the intention was not to establish a new organ in the United Nations structure but rather to place an optional procedure at the disposal of Member States and competent organs. There would be no infringement of the principle of free choice of means of settlement since recourse to such a commission would necessitate the agreement of the States concerned. His delegation considered that the proposed procedure would be an additional alternative through which political will might be exercised with a view to an early and equitable solution of disputes. The Special Committee had already devoted considerable time and energy to the deliberations concerning that proposal and it was to be hoped that at its next session it would be in a position to reach a general agreement on conclusions to be submitted to the General Assembly at its forty-fourth session.

78. To justify the confidence placed in it by the General Assembly, the Special Committee should not fall back into the sad state it had been in for a considerable number of years. Its work would proceed at a very slow pace if it allowed itself to be hindered by certain obstacles, in particular the obstacle referred to in paragraph 7 of the reply submitted to the Secretary-General by the Government of the Philippines (A/43/530/Add.1).

79. It was the view of his delegation that it was not for the Special Committee to decide what was politically acceptable in the current climate. That would be the

(Mr. Teehankee, Philippines)

task of the General Assembly upon receiving recommendations from the Special Committee. The fundamental concern of the Special Committee was to bring forward those recommendations which were sufficient to provide effective means for settling serious disputes and maintaining peace. His delegation was in favour of renewing the mandate of the Special Committee and would support any initiative designed to stimulate substantive recommendations which would strengthen the role of the Organisation in all its aspects.

80. Ms. HIGGIE (New Zealand) said that whereas in recent years many delegations had spoken with a sense of disappointment about the results achieved by the Special Committee on the Charter, which had not measured up to the expectations that had accompanied its inception in 1975, it seemed, in the light of the current debate, that the members of the Sixth Committee had had their faith in the future of the Special Committee restored. That had come about partly as a result of the fact that after five years of work the Special Committee had been able to adopt the text of its 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 had been the first time that the Special Committee had come up with any concrete result under its mandate on the maintenance of international peace and security.

81. The Special Committee had been able to arrive at that result partly because its mandate, which had been too ambitious at the outset in view of the international situation, had in 1984 been reduced to more realistic proportions, and partly too because it had benefited from the new spirit of multilateralism which was evident to all and which had been described by the Secretary-General in his most recent report on the work of the Organisation. That new spirit had contributed to renewed hope about the future prospects for the Special Committee and had resulted during the current debate in a number of very interesting proposals being made as to its mandate.

82. With regard to the draft declaration, which had arisen from an initial proposal by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain, her delegation hoped that like the Special Committee the Sixth Committee would adopt it unanimously. Her delegation had noted with interest the proposals made in that connection by the representative of Gabon on 14 October, but considered that at the current stage of the proceedings it was difficult to return to a text that had been adopted unanimously in the Special Committee. Her delegation was therefore grateful that the delegation of Gabon had agreed to leave the text unchanged. Even if the text was not very bold or innovative, it was at least a constructive beginning.

83. The draft declaration focused on the avoidance of conflicts. Without overlooking the major role of States in that regard, it contained important provisions on the role of the principal organs of the United Nations in preventing conflicts. Her delegation attached particular significance to those paragraphs (20 to 24) of the draft declaration dealing with the role of the Secretary-General in the prevention of disputes or situations. However, it counted on all those

(Ms. Higgins, New Zealand)

addressed in the declaration, i.e., the Security Council, the General Assembly, the Secretary-General and Member States themselves, to co-operate fully so that the principles contained in it were respected and its purposes were achieved.

84. As to the peaceful settlement of disputes, the Special Committee had continued to consider the proposal on resort to a commission of good offices, mediation or conciliation within the United Nations. New Zealand still had doubts as to the usefulness of continuing work on that proposal: it was not, in fact, the lack of existing mechanisms that prevented the peaceful settlement of disputes. It had already been widely demonstrated that the organs of the United Nations could, for example, offer their good offices. It was doubtful that a "codification" of the procedure would yield better results. The Special Committee should, therefore, complete its work on that proposal; the informal revised version of the Romanian proposal appearing in paragraph 48 of the Special Committee's report could perhaps form the basis for guidelines to be adopted at the following session of the Special Committee to which States could refer in the event of an international dispute. Moreover, her delegation welcomed the progress made by the Secretary-General in compiling the handbook on the peaceful settlement of disputes between States, and hoped that it would be published in the near future.

85. As to the rationalization of existing procedures of the United Nations, her delegation believed that, while rationalisation was needed, the task involved was one of administrative reform, which should not be entrusted mainly to the Special Committee, and that the Special Committee should endeavour to complete its work on that subject very quickly.

86. The current debate had given a number of delegations the opportunity to submit some very interesting proposals regarding the Special Committee's future programme of work and priorities. The representative of Italy had suggested that the Special Committee should study ways and means of enhancing the role of the International Court of Justice. The proposals and comments made by the USSR and the United States during the past year suggested that it was timely for such an enhancement of the Court's role. In that regard, the United Kingdom's statement had served to highlight the ways in which the Court could assume a more pre-eminent role and the rule of law could be strengthened at the international level. New Zealand supported any initiative which would enhance the role played by the Court in the settlement of disputes between States.

87. Among the other interesting suggestions concerning the Special Committee's future programme of work, the one made by the representative of Japan regarding a question also raised by the USSR, i.e., fact-finding by the United Nations, should be noted. Informal contacts which had taken place on that question seemed to indicate that work carried out by the Special Committee in that area could lead to measures designed to facilitate and improve the functioning of the Charter. The Special Committee already had a basis on which to begin its work, i.e., General Assembly resolution 2329 (XXII) of 1967 on the question of methods of fact-finding, which provided for the preparation of a register of experts in legal and other fields whose services the States parties to a dispute might use by agreement for

(Ms. Higgie, New Zealand)

fact-finding. However, as Japan had noted, no systematic recommendations had ever been drafted on all aspects of fact-finding in the area of the maintenance of international peace and security. That question could usefully be given priority in the Special Committee's programme of work. Her delegation welcomed the outline for a proposal in that area presented by the representative of the Federal Republic of Germany.

88. Mr. JACOBOWITZ DE SZEGED (Netherlands), noting that it was the first time in the history of the Special Committee that a declaration on the maintenance of international peace and security had been adopted, complimented the Special Committee and, particularly, its Chairman, on the draft declaration on the prevention and removal of disputes which might threaten international peace and security and on the role of the United Nations in that field. He hoped that the draft would be adopted unanimously by the Sixth Committee and the General Assembly.

89. As the Special Committee had acquitted itself of an important task, it could currently shoulder new responsibilities, and several new subjects had been proposed for inclusion in its mandate; his delegation had selected two of them.

90. The first concerned the enhancement of the role of the International Court of Justice. For decades, both jurists and Governments had been endeavouring to analyse the causes underlying the reluctance of States to submit their disputes to adjudication and, in particular, to the International Court of Justice. It seemed fair to say that the main obstacle was the conviction of those responsible for formulating national policy that, ultimately, the interests of a State were best served by that State itself. That conviction often led States to prefer the continuation of a conflict to an outcome which was beyond their control or, alternatively, to impose their "solution" unilaterally. Many examples could be provided.

91. However, there seemed to be a promising development in that field of international relations. During the negotiations on the new law of the sea, States had seemed to agree that the new legal régime for the use of the oceans and the resulting, often complex legal relationships between them, required an equally elaborate system of conflict resolution. Thus, the United Nations Convention on the Law of the Sea contained a dispute-settlement mechanism which was consonant with the requirements of the Convention, while being adapted to the preferences of the various States. While the Convention was not yet in force, it was a prime example of the need to supplement substantive provisions of international law with mechanisms enabling participants subject to the legal régime in question to settle disputes between them which might result from the application of those substantive provisions. The Convention itself reflected the increasing complexity of current international co-operation; its provisions regarding the settlement of disputes reflected the international community's acknowledgement that any such complex set of legal relationships was inconceivable without an appropriate mechanism for the settlement of disputes.

(Mr. Jacobovits de Saeged,  
Netherlands)

92. It should also be noted that agreement was almost reached within the Conference on Security and Co-operation in Europe, meeting in Vienna, that parties to a dispute, when unable to settle that dispute between them, should agree to let a third party assist them in finding a solution. That principle could be elaborated since the Conference participants agreed that certain categories of dispute could be settled through a binding third-party pronouncement, e.g. arbitration or adjudication.

93. Similarly, as a country firmly committed to the principle of peaceful settlement of disputes and prepared to accept binding procedures in that respect, the Netherlands was encouraged by the statement to the Sixth Committee on 14 October by Mr. Petrovsky, a deputy minister for foreign affairs of the USSR. That statement expressed a new policy on the part of the USSR to take practical steps to increase acceptance of the Court's compulsory jurisdiction. Such acceptance, at least by all the permanent members of the Security Council, was overdue. Settlement of disputes by the Court, the principal judicial organ of the United Nations, like the peaceful settlement of disputes in general, was obviously the necessary corollary of the Charter-based system of maintaining international peace and security, in which the permanent members of the Security Council played a special role. He asked what else could justify the election to the Court of nationals of the countries in question. His delegation welcomed the taking of specific steps to widen the circle of States accepting the Court's compulsory jurisdiction.

94. In his statement, the Soviet deputy foreign minister had also referred to the possibility of including in international agreements negotiated under the auspices of the United Nations, provisions envisaging adjudication by the International Court of Justice. While his delegation welcomed the adoption of that policy as an adequate response to the increasing complexity of international relations, it wished to point out that the statement in question suggested that that policy would only apply with regard to future conventions. Many conventions had already been drawn up under United Nations auspices, providing for means of settling disputes concerning interpretation and application, including adjudication by the Court. The dispute settlement clauses in question were optional in kind, however, and the Netherlands urged the USSR and other States to examine them and take the necessary steps to accept them. The Netherlands itself had consistently, without exception or reservation, accepted those clauses as an integral part of the conventions it signed, and hoped that other States would do likewise. Only in that way could the rule of law be made the rule rather than the exception.

95. The second proposal on which he wished to comment was that which concerned fact-finding by and for United Nations bodies for the maintenance of international peace and security. Impartial fact-finding could contribute decisively, and often provide the key, to the solution of conflicts. The need for fact-finding in connection with the settlement of conflicts in general had already been recognized in The Hague in 1899 and 1907 when, at the proposal of the Russian delegate, a regulation had been adopted with regard to international commissions of inquiry.

(Mr. Jacobovits de Szeged,  
Netherlands)

96. The Netherlands noted the proposal on fact-finding with particular interest since its delegation had put forward proposals at the sixteenth session of the General Assembly in order to draw closer attention to the topic. On the basis of the debates first within the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, and later within the General Assembly, when fact-finding had been included as a separate item on the agenda of the twenty-first session, the Netherlands had concluded that existing methods of fact-finding were unsatisfactory and should be improved. It had therefore proposed the establishment of a permanent body to deal exclusively with fact-finding in cases where States and organizations would mutually agree to accept its findings. Such a body would complement existing institutions and provide fact-finding services in connection with disputes, thereby creating favourable conditions for peaceful settlement, with regard to the implementation of international agreements and in order to provide the basis for decision-making at the international level.

97. Although the Netherlands proposal had not been pursued at the time, in 1967 the General Assembly had adopted resolution 2329 (XXII), recognizing the value of impartial fact-finding in the settlement of disputes. A major feature of that resolution, as the Netherlands representative had observed to the Sixth Committee at that time, was its implication that existing fact-finding methods were not adequately used. Explicit reference had been made on that occasion to the possibilities offered by the Panel for Inquiry and Conciliation, established pursuant to General Assembly resolution 268 D (III), and by ad hoc commissions of inquiry set up in accordance with The Hague Conventions of 1899 and 1907, and to the fact-finding facilities existing within the framework of the Permanent Court of Arbitration and under the provisions of the General Act for the Pacific Settlement of International Disputes.

98. A second major characteristic of resolution 2329 (XXII) was that it recognized the concept of impartial fact-finding as distinct from the conciliatory function, the idea being that the parties to a dispute would more readily agree to use the available fact-finding machinery if they knew that investigation would be confined to the reporting of facts and not be combined with conciliation. In the last operative paragraph of resolution 2329, the General Assembly requested the Secretary-General to prepare a register of experts in legal and other fields, whose services the States parties to a dispute could use by agreement for fact-finding in relation to the dispute. The services of such experts, nominated by the Member States, had never been used, however.

99. If it were decided to make the Special Committee responsible for considering the question of fact-finding, account should be taken of past experience. Repetition of discussions that had proved fruitless 20 years before would only undermine the Committee's credibility and authority. Nevertheless, his delegation hoped that, given the current international climate, the initiatives concerning



(Mr. Jacobovits de Szeged,  
Netherlands)

fact-finding would be better received than the aforementioned Netherlands proposal and the General Assembly resolutions. It was prepared to take an active part in discussions of the new item, which it considered to be of great interest and consistent with the specific responsibilities of the Special Committee. It intended in due course to submit a working paper on the subject.

The meeting rose at 6 p.m.