



SUMMARY RECORD OF THE 17th MEETING

Chairman: Mr. VOICU (Romania)

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)

\*This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2 750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL  
A/C.6/43/SR.17  
21 October 1988

ORIGINAL: ENGLISH

The meeting was called to order at 10.10 a.m.

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

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

1. Mr. GARVALOV (Bulgaria) said that there could be no doubt about the importance for the maintenance of international peace and security of the issues falling within the purview of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The discussion of the Special Committee's report (A/43/33) generated optimism about its future functioning. The results achieved to date should serve as a point of departure, and should in no way be construed as the final goal of the Special Committee. The results appeared to reflect, in a general fashion, the obvious transition to greater co-operation and understanding among States and their increased confidence in the United Nations as a centre for the successful culmination of efforts to maintain international peace and security.

2. His delegation was pleased to note that the Special Committee had been able to conclude its work on the draft declaration on the prevention and removal of disputes and situations which might threaten international peace and security. The text contained a successful amalgamation of all the factors on which the maintenance of international peace and security was based, specifically the conduct of States and the role of the Security Council, the General Assembly and the Secretary-General. His delegation therefore fully supported the draft declaration and hoped that the General Assembly would adopt it during the current session.

3. The rationalization of existing procedures of the United Nations was an issue of long-standing interest to many Member States, and his delegation therefore favoured a further review of the topic. Bulgaria also supported the work on the draft handbook on the peaceful settlement of disputes between States, and highlighted the Secretariat's efforts in pursuing its work on the handbook with its usual competence and dedication, despite the current staff shortage.

4. The focus of the Special Committee's attention in future should be problems relating to the maintenance of international peace and security, such as provisional measures to be taken by the Security Council under Article 40 of the Charter; sanctions against States for breaches of the peace or failure to comply with the Council's decisions; and ways of enhancing the effectiveness of the fact-finding and investigating mechanism in connection with international disputes.

5. The working paper dealing with the establishment of a commission of good offices, mediation or conciliation within the United Nations was extremely useful and timely with respect to improving the effectiveness of all the peaceful means of settling disputes. The latest version of the working paper was a a collective

(Mr. Garvalov, Bulgaria)

endeavour in that it reflected many of the observations and proposals made. In particular, his delegation hoped that the recommendation contained in paragraph 59 of the Special Committee's report would be implemented to the satisfaction of all.

6. Mrs. DURAN (Bolivia) said that the need to develop and strengthen preventive diplomacy so as to avert disputes between States had long been advocated by such peace-loving countries as Bolivia. Her delegation noted with satisfaction that the efforts of the entire international community to enhance the role of the United Nations in the peaceful settlement of disputes had been reflected in the draft declaration on the prevention and removal of disputes, which contained key elements such as the recognition of the responsibility of States to observe the principles of international law, and reaffirmed the capacity and international responsibility of the United Nations in that field. Similarly, Bolivia noted with satisfaction that the draft declaration underscored that, in the new climate of international coexistence, the dignity of peoples must be respected and the principles of equity and justice must prevail in the quest to eliminate armed confrontation. Her delegation felt, however, that the language of the draft declaration should be strengthened; otherwise, it would be a simple repetition of the various resolutions already adopted by the General Assembly.

7. The role assigned by the draft declaration to the various United Nations organs was the same as in the Charter. However, Bolivia firmly supported strengthening the effectiveness of the Security Council in order to improve its capacity to detect the early signs of possible conflicts. The land-locked status of Bolivia, imposed as a result of armed aggression in 1879, was a concrete example of a situation that bore the seeds of conflict and could create a climate of instability. World public opinion had supported, and continued to support, Bolivia's efforts for over a century to find a peaceful solution to that problem within the framework of modern international law. Bolivia remained willing to initiate a dialogue that would make it possible to put an end to its enforced land-locked status, and it trusted that, with the support of international organizations and on the basis of a serious and just negotiating process, the conflict would be resolved. Such situations should be investigated by the Security Council with the aim of preventing or, where applicable, eliminating situations which might threaten international peace and security.

8. With regard to item 129, her delegation supported Romania's proposal in respect of a commission of good offices, mediation or conciliation, on the basis of sovereign equality and as a means of implementing the Manila Declaration. Bolivia also felt that the item should continue to be considered together with the question of the strengthening of the role of the Organization.

9. Mr. TANG Chengyuan (China) said that his delegation appreciated the efforts by delegations to achieve progress in the work of the Special Committee, including the consideration of Romania's proposal in respect of a commission of good offices, mediation or conciliation, and the support for the Secretariat's work on a draft handbook on the peaceful settlement of disputes.

(Mr. Tang Chengyuan, China)

10. Peaceful settlement of international disputes was an important fundamental principle of modern international law and was a necessary guarantee for the maintenance of international peace and security. All States should therefore be encouraged to settle disputes through United Nations machinery. When such methods as a commission of good offices, mediation or conciliation were used, attention should be paid to the responsibility for the maintenance of international peace and security entrusted to the General Assembly, the Security Council and the Secretary-General under the Charter, in order to strengthen co-ordination among them.

11. China had consistently held that international disputes should be settled by peaceful means, and had always attached importance to the role of United Nations organs in that respect. China welcomed the current trend towards the use of dialogue to replace confrontation in international relations. It appreciated the Secretary-General's recent successes in promoting the peaceful settlement of disputes, and was satisfied that all parties to the disputes had accepted United Nations mediation. It was China's hope that all States parties to the conflicts would fulfil their obligations in good faith and would seek fair and reasonable means to settle their disputes.

12. Mr. ALZATE (Colombia) said that the Special Committee was responsible for considering a major part of the future operations of the Organization. Its vision and pragmatism in interpreting the current international situation should help to optimize the Organization's capacity for action, rationalize its resources and reaffirm the noble purposes and principles embodied in the Charter.

13. Recent international disarmament agreements, the Secretary-General's efforts in resolving conflicts such as that between Iran and Iraq, and the political will demonstrated by many delegations in plenary meeting suggested that a climate of understanding had opened up a valuable opportunity for strengthening international law over and above private interests.

14. Colombia supported the Special Committee's report (A/43/33), and in particular the draft declaration on the prevention and removal of disputes. Colombia had traditionally given effect to the underlying principles of the draft declaration. As the Secretary-General had said in his recent report on the work of the Organization (A/43/1), "resolving conflicts is a prime responsibility of the United Nations but avoiding them is equally necessary for the maintenance of peace". It was also necessary, however, for States to strengthen the United Nations capacity for action by their deeds and demonstrations of political will.

15. In his statement before the Sixth Committee, the representative of the Soviet Union had stressed the primacy of international law in the context of international security. A solid juridical basis, respect for legal precepts, and diplomatic understanding of the various interests of the international community were the best guarantors of world peace. Colombia recognized the capital importance of the United Nations, both in the Secretary-General's preventive diplomacy and in the functions assigned to the General Assembly and the Security Council in the draft declaration. It believed that compulsory jurisdiction of the International Court

(Mr. Alzate, Colombia)

of Justice should be recognized, especially by the permanent members of the Security Council, but also by States which had not yet done so. His delegation supported the views of the United Kingdom and Nicaragua in that regard.

16. Further consideration should be given to the Romanian proposal concerning a commission of good offices, mediation or conciliation. Such a commission should operate for no longer than 18 months, except under exceptional circumstances.

17. The question of rationalization of existing procedures of the United Nations should be dealt with in practical terms. It would be useful to continue analysing the aspects relating to the General Assembly, leaving those areas relating to other organs to be considered by them in accordance with their practice and on the basis of their experience. Although the adoption of decisions by consensus would contribute to strengthening the Organization, it should be possible to adopt them by a majority vote, thereby paving the way for consensus to become the ideal and only mechanism for decision-making in future. In that context, the working paper submitted by France and the United Kingdom offered an acceptable compromise, advocating the combining of related topics and the biennialization of their consideration whenever possible.

18. Mr. ACHITSAIKHAN (Mongolia) said that mankind was in the process of taking its first steps away from military confrontation in the direction of dialogue, trust and co-operation. Since justice and law must occupy a central position, given the new climate of international relations, the United Nations, as the only body able to strike a reasonable balance between the interests of different States, should be strengthened. The draft declaration on the prevention and removal of disputes and situations which might threaten international peace and security represented an important contribution to that process, as well as to the elaboration of a comprehensive system of international law and security. His delegation was pleased to note that the draft declaration emphasized the responsibility of States for the prevention of disputes, in accordance with the principle of refraining from the threat or use of force in international relations, and that his Government's proposal in 1981 for the creation of a mechanism to exclude the use of force in relations between the States of Asia and the Pacific was reflected in the spirit and content of the draft declaration.

19. While supporting in principle its adoption at the current session, his delegation felt that the declaration might be enhanced by a reference to the right of peoples freely to choose their own path to development. It also felt that the recommendations whereby the Security Council and the General Assembly might request advisory opinions from the International Court of Justice should be extended to the Secretary-General in cases where he was engaged in operations to maintain peace and security. In the interests of clarity, the word "could" in the last paragraph of the draft declaration should be replaced by the word "shall".

20. It was essential, if mankind were to survive in an era of nuclear weapons, that peoples and States should co-operate on a basis of trust. Trust, in its turn, depended directly on the fulfilment of obligations incurred under the provisions of

/...

(Mr. Achitsaikhan, Mongolia)

international law and of the Charter. The aide-mémoire submitted by the Soviet Union (A/43/629) contained a series of proposals designed to affirm the primacy of international law and to enhance the effectiveness of the United Nations in that regard. Those proposals could be of use to the Special Committee in its future work.

21. His delegation welcomed the important work carried out by the delegation of Romania in elaborating elements of a mechanism for the peaceful settlement of disputes between States, and believed that the adoption of a related legal instrument would constitute a useful supplement to the draft declaration. It was also following with interest the Special Committee's work on rationalization of existing procedures of the United Nations, and hoped that a spirit of constructiveness would in future make it possible to resolve questions considered by both the Special Committee and the Sixth Committee.

22. Mr. FERJANI (Libyan Arab Jamahiriya) said that efforts to strengthen the role of the United Nations must include full and unselective implementation of the provisions of the Charter and of the resolutions of both the Security Council and the General Assembly. Such efforts should also be responsive to the current positive winds of change in international relations, in order to increase the Organisation's effectiveness in the maintenance of international peace and security, the peaceful settlement of disputes, and the promotion of the right of peoples to self-determination. The Special Committee on the Charter, which was doing constructive work in that regard, should be expanded in order better to reflect the varied opinions of Member States, and his delegation wished to express its interest in becoming a member of an enlarged Special Committee.

23. The use of the veto by certain States in order to obstruct Security Council resolutions, to deny certain peoples their right to self-determination and to prevent the application of Chapter VII of the Charter was a source of concern for his country. There was a need further to develop the Charter and to re-examine the way in which the Security Council worked in order to ensure respect for the principles of international law and for United Nations resolutions. Until such time as the Special Committee was able to carry out those important tasks, his delegation urged that more frequent consultations should be held among the Council's members, the Secretary-General and the parties concerned. Consideration should also be given to the possibility of holding closed meetings of the Council, for the purpose of expanding the scope of agreement, as well as periodic meetings at the foreign minister level during sessions of the General Assembly. The Assembly could increase its contribution to the solution of international problems if it adopted a greater number of its resolutions by consensus, maintained the prestige of recommendations adopted by voting, monitored the implementation of resolutions and held special sessions to consider important topics. His country believed that the role of the Secretary-General should be strengthened and that a constructive approach should prevail towards his peace-making efforts; he could, for example, more often propose to the Security Council various measures for the prevention and settlement of conflicts and submit pertinent reports.

(Mr. Ferjani, Libyan Arab Jamahiriya)

24. Any increase in the Organization's effectiveness presupposed a sound administrative and budgetary foundation, the existence of highly competent staff recruited in accordance with the principle of equitable geographical distribution and full compliance with financial obligations by all Member States. His delegation also urged more extensive use of the International Court of Justice both in resolving outstanding international legal issues and for the provision of advisory opinions on legal matters being considered by the Security Council and the General Assembly.

25. Mr. CAMPBELL (Australia), welcoming the draft declaration contained in paragraph 14 of the report (A/43/33), said that while it did not break any new ground, it represented a worthwhile codification of practice which States should follow, and provided a realistic and balanced reflection of available means for the prevention and removal of disputes, without detracting from the provisions of the Charter itself. It was encouraging that some delegations had already used elements of the draft declaration as a basis for advancing such new ideas as the dispatch of observer missions, the right of the Secretary-General to take initiatives to promote solutions, and the more extensive use of the International Court of Justice. While such ideas were of interest to all, it was to be hoped that they would be submitted to the committee most competent to deal with them, which might not always be the Sixth Committee.

26. His delegation had some reservations about the proposal on a commission of good offices, mediation or conciliation, since adequate mechanisms in that regard already existed within the framework of the Charter, including the good offices of the Secretary-General, which had been utilized with considerable success over the past year. He hoped that at its next session the Special Committee would reach general agreement on appropriate conclusions regarding the proposal, so that it might concentrate on its more important tasks thereafter.

27. When completed, the handbook on the peaceful settlement of disputes would be of value to those working both within and outside government. His delegation hoped that, notwithstanding staffing problems in the Office of Legal Affairs, the handbook would be completed in time for the next session.

28. In the past, his delegation had expressed concern that the Special Committee's work on the important topic of rationalization of existing procedures should not duplicate the work being done in the Fifth Committee in that area. Although the focus in the latter Committee was on financial rationalization, it would indeed be ironic if a proposal intended to rationalize existing procedures should involve duplication of efforts in another Committee. In that regard, he supported the proposal by the Mexican representative that item 129 should henceforth be considered as an integral part of item 135, as a means of rationalizing the Sixth Committee's agenda.

29. Finally, his delegation supported the Japanese proposal that the issue of fact-finding by the United Nations should receive attention at future sessions of the Special Committee. Despite some groundwork dating back to 1963, no systematic

(Mr. Campbell, Australia)

recommendations had been developed on the nexus between fact-finding and the maintenance of international peace and security; the four elements proposed by Japan seemed to provide a useful framework for a preliminary paper on the matter.

30. Mr. ABADA (Algeria) said that the adoption by the Special Committee of the draft declaration on the prevention and removal of disputes could be seen as confirmation of a definitive break with the old methods that had condemned the subsidiary organs of the Sixth Committee to deadlock and as the just reward for the efforts made to correct weaknesses in the functioning of the Organization.

31. A combination of favourable factors and events propitious to world peace had enabled the Special Committee to work in an atmosphere conducive to reconciling previously conflicting positions. Despite the fact that the final draft was clearly a compromise, and fairly low level at which general agreement had been reached, his delegation supported the text and advocated its adoption by the General Assembly. Nevertheless, aware of the potential impact of the document on an aspect of maintenance of international peace and security that had thus far been little explored, his delegation wondered whether the draft declaration contained an excessive number of precautions aimed at avoiding heretical divergences from the Charter, and at confining the various organs within the strict framework of their acknowledged prerogatives, in a field in which the Security Council had a virtual monopoly. It shared the point of view, expressed by Mexico and others, that the draft declaration tended to make the Security Council the sole organ responsible for the maintenance of peace. It would perhaps have been better to aim at a clearer definition of the role of each organ, rather than a strict demarcation of preventive tasks. Should one renounce an opportunity for successful preventive action simply because it was not within the competence of a specially qualified organ? On the other hand, his delegation noted with satisfaction that the draft declaration took account not only of States' individual obligations in conducting their international relations, but also of the need for them to act in such a way as to prevent the appearance or intensification of disputes.

32. While it was right to stress the importance of the role of the General Assembly and the Secretary-General in the maintenance of international peace and security, the draft declaration should have given much more attention to the important qualitative changes that had taken place in the Organization's structures and activities over more than 40 years. His delegation welcomed the inclusion of the safeguard clause regarding the right to self-determination.

33. With respect to the Romanian proposal on a commission of good offices, mediation or conciliation, his delegation remained convinced that the main difficulty resided less in the proposal's conformity with the Charter than in the effort its author would have to make to convince some delegations of its usefulness and to induce all members to support the project. His delegation would continue to contribute to consideration of the question, which it hoped to see concluded at the next session of the Special Committee.

34. Turning to the topic of rationalization of existing procedures of the United Nations, he said that, although it had sometimes expressed doubts as to the

/...



(Mr. Abada, Algeria)

usefulness of such an exercise, his delegation had participated actively in the discussion of the draft submitted. He reiterated its desire to see that important matter entrusted to a more appropriate organ.

35. His delegation supported an extension of the Special Committee's mandate. It was important to prevent it from slipping back into the outworn practices which had led to paralysis and antagonisms. For that purpose, a clear and precise mandate was required.

36. Mr. KOTEVSKI (Yugoslavia) said that important changes and positive developments in international relations had taken place since the Sixth Committee's discussion of the two items the previous year. The debate in the plenary Assembly had borne out the view that the development of international relations was at a historic juncture. Achievements thus far must now be followed by comparable progress in the field of international economic relations.

37. He welcomed the adoption of the draft declaration on the prevention and removal of disputes, and hoped that the Sixth Committee and the General Assembly would also adopt it. Given the renewed prominence of the United Nations, members of the Sixth Committee, and particularly members of the Special Committee, must consider how best to promote and strengthen the Organization's role. His delegation felt that the Special Committee should aim at prompt completion of its work on the proposal concerning a commission of good offices, mediation or conciliation, on which significant progress had been made at the 1986 session. It also appreciated the work done on drafting a handbook on the peaceful settlement of disputes between States, and welcomed the proposal on rationalization of existing procedures. However, it was convinced that in its future work the Special Committee must continue to give priority to questions relating to the role of the United Nations in maintaining and strengthening international peace and security. Many valuable proposals had been put forward earlier in that regard, on which agreement had not been reached. There had been a number of new ideas. Furthermore, recent practice had enriched the possibilities for United Nations involvement in preventing armed conflicts and in seeking the peaceful settlement of disputes. In his delegation's view, conditions for harmonizing the proposals contained in the informal compilation put together at the 1980 session of the Special Committee were now much more favourable, and the Committee should renew its efforts to secure their adoption. Particular attention should be devoted to the question of implementation of United Nations resolutions and decisions.

38. The current and potential roles of the United Nations in peace-keeping operations were a topic of particular importance which was receiving increasing attention from the entire international community, and also within the Special Committee on the Charter and the Special Committee on Peace-keeping Operations. It was thus incumbent on the Sixth Committee to devote particular attention to the question.

The meeting rose at 11.35 a.m.