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Held at the Palais des Nations, Geneva,
on Monday, 6 February 1989, at 10 a.m.

Chairman: Mr. BOSSUYT (Belgium)

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

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1989/13, 14, 49, 52, 53, 55, 59 and 61; E/CN.4/1989/NGO/33; A/43/735)

1. Mr. VILLAROEL (Philippines) said that the problem of Kampuchea had for many years been a matter of grave concern to the entire world and, in particular, to the Philippines and the other ASEAN countries. Recent positive developments, such as the shift to co-operation between China and the Soviet Union and the Beijing talks between China and Viet Nam, seemed to indicate that the long and difficult search for a lasting settlement of the problem was nearing its end. His Government particularly welcomed the announcement that all Vietnamese troops would be withdrawn from Kampuchea by the end of 1990 or even, if there was a negotiated settlement, by September 1989. The presence of Vietnamese troops was the main obstacle to any attempt at establishing real and definitive peace in the region. In that connection, his delegation appealed to the international community to continue its efforts and to intensify the campaign aimed at speeding up the withdrawal process.

2. In his delegation's view, a comprehensive political settlement of the Kampuchean problem should be based, as stated at the international conference on Kampuchea held in 1981, (a) on the withdrawal of all foreign forces from Kampuchea, (b) on the restoration and preservation of Kampuchea's independence, sovereignty and territorial integrity, (c) on the right of the Kampucheans to determine their own destiny and (d) on the commitment by all States to non-interference and non-intervention in Kampuchea's internal affairs.

3. In due course, the Philippines, together with other delegations, would be submitting a draft resolution embodying those principles and reflecting some of the significant developments which had taken place since the Commission's previous session.

4. Miss BOJKOVA (Bulgaria) said that the right of peoples to self-determination was one of the most important principles of contemporary international law and its observance was one of the essential preconditions for the enjoyment of all civil, political, economic, social and cultural rights as well as an essential element of international peace and security. It implied not only the proclamation of national independence and the establishment of a State exercising sovereignty over its natural resources, but also the freedom of peoples to choose their socio-economic system of development without any interference from outside. It also implied the obligation of all other States to respect that freedom of choice, to refrain from any actions that might infringe it and to support the efforts of peoples still fighting for independence, freedom, democracy and social progress.

5. However, the right to self-determination continued to be violated in some parts of the world, particularly in southern Africa through the policy of apartheid. Faithful to its position, her delegation wished to reaffirm that the only way to solve the problems in southern Africa was by granting independence to the people of Namibia in accordance with Security Council resolution 435 (78) and completely eliminating the racist Pretoria régime's

policy of apartheid. In that connection, she welcomed the agreements relating to the independence of Namibia signed on 22 December 1988 by Angola, Cuba and South Africa and between Angola and Cuba. Her delegation hoped that the implementation of those agreements would at long last enable the Namibian people to exercise its right to self-determination.

6. The denial of that right to the Palestinian people was at the heart of the problem of the Middle East. Her Government had welcomed the proclamation of an independent Palestinian State on 15 November 1988. In its view, the convening of an international peace conference on the Middle East with the participation of the permanent members of the Security Council and of all the States concerned, including Palestine, would be the most appropriate means of finding a comprehensive political settlement of the Middle East conflict and of safeguarding the enjoyment of the right to self-determination of all the peoples concerned. It should not be forgotten that, in accordance with the Charter of the United Nations and the Declaration on the Granting of Independence to Colonial Countries and Peoples, that right should also be exercised by the peoples of the so-called "small territories".

7. It was regrettable that, on the eve of the twenty-first century, mercenaries were still being used to prevent peoples from exercising their right to self-determination, with all the negative consequences stemming from that practice for the enjoyment of human rights and fundamental freedoms. In that connection, her delegation shared the views of the Special Rapporteur on the question as reflected in paragraph 56 (ii) of his report (A/43/735) and supported the report's conclusions and recommendations.

8. In conclusion, she expressed her delegation's hope that the decisions adopted by the Commission on agenda item 9 would contribute in the near future towards the full and effective enjoyment of the right to self-determination by all peoples.

9. Mr. COSTA LOBO (Portugal) said that certain aspects of the principle of self-determination, although debated at length in the past, appeared to have been relegated to the background, priority being given to some of its other dimensions. Yet the principle had to be applied as a whole if the protection of human rights deriving from it was not to be limited in an arbitrary fashion. The formula containing the most precise definition of the principle appeared in article 1 of each of the International Covenants on Human Rights and was repeated or partially reproduced in certain fundamental United Nations resolutions, such as those containing the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960) and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations (1970). However, that definition did not resolve all problems of interpretation. It had become apparent at a very early stage that the right to self-determination had two aspects according to whether it was considered from an internal or from an external point of view. As Mr. Cristescu had pointed out in his study on the right to self-determination submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/404/Rev.1), the first aspect was "the right of peoples to determine their international status, their right to independence, and the right to decide their own destiny in the international community", while the second was "the right of peoples freely to choose and develop the domestic political system which they desire and which, in their view, corresponds to

their aspirations and political objectives" (para. 303). From that second aspect derived the right of each individual "to participate in the Government of his country [...] directly or through freely chosen representatives" (para. 323). It was thus essential to recognize and to protect both those aspects.

10. The fundamental objective of the right to self-determination was to enable individuals and peoples to determine their own destiny. That possibility could, of course, be destroyed both by external forces - a people exercising domination over another people - and by internal forces - a régime which oppressed the population. The most intolerable and scandalous case in that connection was that of oppression founded on racial discrimination. However, the principle of self-determination had hitherto been invoked principally in connection with colonial situations, which was quite normal since the most serious and most readily identifiable cases of violation were those relating to colonial territories. Moreover, in view of the reluctance of Governments to recognize the existence within their territories of situations pertaining to international law, e.g. in connection with human rights, it was easier to insist upon the application of the principle of self-determination to territories having a special status in international law. Of course there were still colonial territories whose populations had never exercised their right to self-determination. However, it was legitimate to think that the situation was particularly serious in the case of a territory forcibly annexed by a neighbouring Power which then refused the application of the principle to that territory under the pretext that its population had already exercised its right to self-determination. It should be recalled that the fundamental United Nations resolutions on the subject of decolonization, in particular resolution 1541 (XV), contained some particularly prudent provisions in respect of colonial territories whose exercise of the right to self-determination had led to their integration with another State and not to their transformation into a new sovereign and independent State.

11. The people of East Timor had, in fact, never exercised its right to self-determination. The Territory had been in process of decolonization by Portugal when, on 7 December 1975, it had been occupied by Indonesia. A little later, in May 1976, the latter had arranged the convening of an assembly composed of 37 persons, which, it declared, had approved a petition for the integration of East Timor with Indonesia. That "petition" had never been recognized as an act of self-determination by the United Nations as attested by the fact that East Timor was still on the list of Non-Self-Governing Territories and that an item concerning it continued to appear on the agenda of the General Assembly and of the "Committee of 24". The non-observance of the right to self-determination of the people of Timor was naturally at the root of violations of other human rights in the Territory. The international community therefore bore a very great responsibility in respect of East Timor, by virtue of its duty to watch over the observance of the fundamental principles of international law. The Government of Portugal, whose only concern was to guarantee respect for the human rights of the people of East Timor, including the right to self-determination, had initiated talks with the Government of Indonesia under the auspices of the Secretary-General of the United Nations with a view to finding an overall solution to the problem. His delegation wished to thank Mr. Pérez de Cuéllar for his efforts in that connection.

12. With regard to other parts of the world, his delegation continued to think that, despite some encouraging developments, the situation in Kampuchea did not yet justify any tempering of the negative view held concerning the respect for the principle of self-determination in that country. While welcoming recent developments in connection with Afghanistan and Namibia, it considered that the further development of the situation in those regions should be followed with attention. The holding of a referendum under the supervision of the United Nations in western Sahara represented in its view an example of progress in the application of the principle of self-determination.

13. His Government welcomed those various advances, which should serve as an example and should promote reflection on those cases which, unfortunately, had not yet found a just and internationally acceptable solution. So long as violations of the right to self-determination continued to exist, even if the territories concerned were relatively small and the situations not very well known, the Commission's efforts to ensure the respect of that right should be pursued with unabated vigour.

14. Mr. MARKIDES (Cyprus), having recalled the ideological foundations and the historical development of the right of peoples to self-determination, which clearly had a democratic content, said that the anti-colonialist struggle was inseparably linked with the national history of most Member States of the United Nations, and the right to self-determination was in full harmony with the principle of non-intervention. On the other hand, it was incompatible with the idea of "absolute sovereignty" and notions such as "spheres of influence" and "geographical proximity".

15. The drafters of the Charter of the United Nations in 1945 had understood that the development of friendly relations among nations should be based on respect for the principles of equal rights and self-determination of peoples. In addition, the right to self-determination appeared among the principal rights enshrined in the two International Covenants on Human Rights as a legal norm with implications of fundamental importance.

16. From the purely internal point of view, the realization of the right to self-determination was an essential condition for the exercise and the promotion of human rights. It was by exercising that right under conditions of freedom, equality, non-discrimination and respect for human dignity that a people created, in accordance with its own values, the basic infrastructure within which to pursue its political, economic, social and cultural development and to enjoy all human rights and fundamental freedoms.

17. There could be no doubt that the right to self-determination and democracy went hand in hand; his delegation endorsed the relevant General Comments of the Human Rights Committee on that point, which should be borne in mind by States parties to the two Covenants when reporting to the competent bodies.

18. With regard to the external implications of the right to self-determination, it was essential for a people constituted in an independent and sovereign State to be able to determine freely its political status at the international level. There again, the relevant General Comments of the Human Rights Committee were very much to the point. The Committee underlined the obligations of States in taking action towards the realization of that right, and, in particular, the obligation to refrain from any interference in the internal affairs of other States.

19. The right of peoples to self-determination was dynamic in itself and, despite what history might suggest, it did not cease to exist once exercised. On the contrary, it remained at the basis of the expression of free will by a sovereign people which could, at any moment, determine its internal or external political status or the ways in which it wished to pursue its economic, social and cultural development. The text of the eighth principle of the Helsinki Final Act was particularly relevant in that regard.

20. The concept of the right to self-determination as belonging to the people as a whole governed the practice of United Nations bodies and had been proclaimed by eminent jurists. One of the most important aims of self-determination was the protection of freedom and human dignity. That right belonged to a people viewed as a collective unit and not to any portion of the population; undemocratic self-determination was a contradiction in terms.

21. The right to self-determination belonged to a collective of individuals; the decision was taken by the majority and, in the last analysis, its subject was the individual. Once a people had freely determined its political status and its system of social and economic development, it had created the framework within which individual human rights could be promoted in all spheres.

22. By its nature and content, the right to self-determination, like many other rights, could be distorted to serve various ends, such as, for example, secessionist or expansionist movements. The main international instruments dealing with the right to self-determination and regulating its exercise therefore set out to guarantee the territorial integrity and political unity of independent sovereign States. They proclaimed as illegal and incompatible with the purposes and principles of the Charter of the United Nations and the rules of international law any action or any attempt aimed at undermining the territorial integrity of independent and sovereign States under the guise of an ill-conceived right to self-determination. Discussions held in the Sixth Committee of the General Assembly and other bodies confirmed that acceptance of the principles of territorial integrity and political unity of States clearly implied the non-recognition of any right to secede, which moreover did not appear in any international instrument or in the practice followed by the United Nations. To invoke such a right in order to dismember a territory or to disrupt the political unity of a sovereign State would be a clear distortion of the meaning of the right to self-determination and would run contrary to the purposes and principles of the Charter of the United Nations and the general rules of international law. As the late U Thant, former Secretary-General of the United Nations, had stated, the United Nations did not accept the principle of secession.

23. Nevertheless, there had been cases where ethnic, religious or linguistic minorities or even racial groups not belonging to the country but living within an independent and sovereign State had invoked the right to self-determination with a view to establishing their own secessionist "State". No one had ever denied that it would be absurd to grant the right to self-determination to groups or minorities, which in any case were protected as such by various human rights instruments. If that were done, hardly any modern State would be able to maintain its unity, and the negative consequences for international peace and security would be serious indeed. It was not a rare occurrence, however, for certain States to commit, even in the

contemporary world, acts of aggression under the pretext of protecting a minority or a group. The truth was that those States were trying, in a manner totally inconsistent with international law, to exploit the presence of such minorities for geopolitical, geostrategic or other expansionist ends.

24. The subject of self-determination had many highly interesting legal and political aspects. In avoiding any reference to specific cases, he had acted in the hope that other, more competent, bodies might deal with them in a more efficient way so as to contribute to their peaceful and speedy solution. Only by such solutions could human rights and fundamental freedoms be guaranteed to peoples still denied their enjoyment.

25. Ms. SUNDH (Sweden) said that the peace process in Cambodia had recently gathered momentum. The withdrawal of foreign troops was expected. The Cambodian people had then to be given the right to decide its own future in free and fair elections. That presupposed the restoration of peace; yet there was concern in many quarters lest the Khmer Rouge, the ruler of Cambodia from 1975 to 1978, might use a power vacuum to re-establish its reign of terror. A political solution to the Cambodian problem had, therefore, to include guarantees and mechanisms to prevent the Pol Pot group from taking power by force as the Vietnamese troops withdrew. The best guarantee would consist in the peace process in Cambodia being monitored by United Nations peacekeeping forces.

26. Mr. FONDER (Belgium), having noted the considerable importance attached to self-determination in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, recalled that article 1 of each of the Covenants attached considerably greater significance to that right than mere freedom from a colonial régime or foreign domination. The right to self-determination had to be exercised in a dynamic and regular manner, involving free elections for the establishment of a democratic system to allow individuals to participate in the political life of their country. Article 21 of the Declaration and article 25 of the International Covenant on Civil and Political Rights set out the right of everyone to take part in the Government of his country, either directly or through freely chosen representatives. In that connection, he expressed his delegation's satisfaction at the adoption by the General Assembly of a resolution on periodic and genuine elections.

27. Passing in review the most blatant violations of the right to self-determination in the world, he observed, first of all, that the majority of the population of South Africa was deprived of its most basic rights; prior to speaking on that topic under other agenda items, he expressed the keen desire of his Government for a rapid and peaceful transition towards the total elimination of apartheid. Belgium had been one of the majority of countries that had adopted General Assembly resolution 2145 (XXI) terminating the mandate exercised by South Africa over South-West Africa, subsequently known as Namibia, and placing it under the responsibility of the United Nations. Since its election to the United Nations Council for Namibia, Belgium had played an active role in the efforts of the international community to gain independence for the Territory. It had regularly declared its support for Security Council resolution 435 (1978) and for the plan for a peaceful settlement contained therein. He expressed his delegation's satisfaction with the Bipartite and Tripartite Agreements signed in New York on 22 December 1988, and its hope that implementation of resolution 435 (1978) would be able to begin, as planned, on 1 April 1989.

28. In connection with the territories occupied by Israel since 1967, about which his delegation had already spoken, he emphasized that, in the light of recent developments, the possibility of reaching a peaceful settlement through an international conference convened under the auspices of the United Nations had never been so real. All the parties concerned should unequivocally accept the right of existence and to security of all States in the region, including Israel, as well as the right of the Palestinian people to self-determination, with all that it implied.

29. His delegation welcomed the satisfactory outcome of the negotiations over Afghanistan, where over 1 million people had already died and from which almost one third of the population had fled. The Geneva Agreements of April 1988 had provided for the withdrawal of the Soviet troops by 15 February. It was fully expected that the Soviet Union would comply with the planned timetable and terminate an illegal occupation. However, the mere departure of the foreign occupier was inadequate to ensure the process of self-determination: it was also vital that refugees be allowed to return unhindered to an independent and non-aligned Afghanistan.

30. Viet Nam's occupation of Kampuchea violated that country's independence, sovereignty and territorial integrity. Since the previous session of the Commission, great efforts had been made, in particular within the framework of ASEAN, to initiate a dialogue between the parties directly concerned. Only general and free elections under international control were capable of satisfying the aspirations of the Kampuchean people to independence and self-determination. For its part, Belgium supported the principles set out in the Declaration adopted by the International Conference on Kampuchea and had, since 1982, been a member of the Ad hoc Committee of that Conference, whose task was to assist it in the search for a global political solution, in keeping with the fundamental principles of the Charter and taking into account the interests of all the countries concerned.

31. Mr. STANEVSKI (Union of Soviet Socialist Republics) recalled that, at the most recent session of the General Assembly, Mr. Gorbachev had underscored the extremely serious consequences of failure to recognize the right to self-determination; he had also stated that the whole human rights structure built by the United Nations over more than 40 years rested on that right.

32. The right to self-determination lay indirectly at the root of many current regional conflicts, several of which were fortunately moving towards a settlement: in Afghanistan, in Namibia, in South-East Asia, in the Western Sahara, etc. His delegation welcomed the progress made by the United Nations in respect of those conflicts and stated its unfailing support for the activities of the Organization.

33. Unfortunately, there had been little change in the Middle East; it could even be stated that the region had been left behind by the overall process of détente. Israel continued to occupy the West Bank, the Gaza Strip and southern Lebanon, and was brutally suppressing the rising of the Palestinian people. It was to be hoped that the Security Council would adopt as a matter of urgency measures conducive to a fair settlement in the Middle East, in the spirit of the report submitted by the Secretary-General on 30 September 1988. He also recalled a letter from the President of the Security Council, dated 21 September 1988, which had underscored the desirability of convening a

conference on the Middle East. His delegation was in favour of such a conference, which would involve the parties concerned and the five permanent members of the Security Council.

34. A Tripartite Agreement on Namibia had been possible, in particular thanks to the constructive contributions of Angola and also of Cuba, which had heroically supported Angola for many years. The United States of America had been chosen as the intermediary for the peace process; for its part, the United Nations had made a major contribution to the results achieved. As for the USSR, it had given its support to all the negotiations; it was satisfied that a new State was about to emerge and hoped that the Agreements concluded would be rigorously complied with.

35. However, a stone's throw from Namibia, the South African régime's policy of apartheid remained in place and the majority of that country's population was unable to exercise its right to self-determination.

36. In Kampuchea too, a peaceful settlement allowing the Kampucheans themselves to decide as to their future was required. In particular, his Government insisted that the withdrawal of the Vietnamese troops should not mark the return of the policy of genocide practised by Pol Pot. It also requested an end to all foreign intervention.

37. In the course of the Commission's debates, the issue of the USSR's Baltic Republics had also been raised. He stressed that, in the framework of the current restructuring, the links between the Republics and the Union were seen in a different light. The peoples of the Baltic Republics were currently playing an active part in preparation of a new constitution which would define more effectively the sovereignty of the Republics within the USSR, and specify their prerogatives and those of the Union. Restructuring also promoted a revival of national values within the framework of the USSR. Historic monuments were being restored, particularly in the Baltic Republics and the Estonian, Lithuanian and Latvian languages were official languages. Normalization of Church-State relations was also taking place in those Republics. After a break of many years, Lithuania was due to commemorate on 16 February its rebirth as an entity. Similar celebrations were to be held in Latvia and in Estonia. He added, however, that the success of restructuring as far as the USSR's Republics were concerned also depended upon the international environment and the progress made by co-operation and peace.

38. He concluded by expressing the hope that the United Nations would further strengthen its activities in favour of the exercise of the right of self-determination, and that the decisions taken by the Commission at its current session would contribute towards achieving that objective.

39. Mr. HARUN-UR-RASHID (Bangladesh) said that the philosophical edifice of the principles of self-determination was founded on the dignity and worth of the human individual, while its legal edifice was founded on the Charter of the United Nations. Recognition of that right had allowed the vast majority of countries in Asia, Africa and Latin America to achieve independence and henceforth play their rightful role in the community of free and independent nations.

40. It was a matter of great anguish that the universally accepted right of peoples to determine freely their political status and to pursue their

economic, social and cultural development was still being denied to millions of people in different parts of the globe. It was only natural, therefore, that the issue had remained under constant review by the United Nations General Assembly and the Commission on Human Rights, all the more so since international relations had entered a new phase marked by dialogue and by a greater tolerance for diversity in political systems. The atmosphere of détente between the great Powers had generated momentum for the negotiated settlement of regional conflicts in various parts of the world. The withdrawal of foreign troops from territories in Asia, Africa and the Middle East had thus opened the way for them to exercise the right of self-determination.

41. In Palestine, millions of men, women and children were still languishing under foreign occupation and had, for over four decades, remained uprooted from their homeland leading a squalid existence in camps and braving suffering, torture and oppression. The struggle of the Palestinian people to establish a homeland had been universally recognized as a legitimate cause, and the intifadah had evoked universal sympathy and admiration. Bangladesh, which saluted the spirit of freedom and self-dignity of the Palestinian people as manifested in the intifadah, had been one of the first countries to recognize the independent State of Palestine, whose office in Bangladesh had been upgraded to the status of a fully-fledged embassy. The inalienable right of the Palestinian people was at the core of the conflict in the Middle East and no just and lasting peace in the region could be achieved without the total and unconditional withdrawal of Israel from all occupied Palestinian and Arab territories, including Jerusalem, and without the establishment of a sovereign State in Palestine, with Jerusalem as its capital. His delegation welcomed the idea of an international conference on the Middle East, under the auspices of the United Nations, in which the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people, must participate.

42. The signing of a Tripartite Agreement by Angola, South Africa and Cuba had increased the prospects of independence for Namibia, provided all the parties concerned, and particularly the permanent members of the Security Council, persisted in their efforts. It was to be hoped that the Security Council would soon come up with a decision on the stationing of a peacekeeping force to supervise the transition of the territory to independence. His Government had always been willing to participate directly in the work of the United Nations Transition Assistance Group in Namibia.

43. Bangladesh was deeply committed to the principles of the sovereign equality of States, respect for territorial integrity, the non-use of force, non-interference in the internal affairs of other States, the right of every nation to self-determination and the peaceful settlement of disputes. His delegation had always called for the withdrawal of all foreign troops from Democratic Kampuchea and Afghanistan, and was happy to note the progress achieved in respect of the latter country. It looked forward to the time when Afghanistan would again become a non-aligned country, under a Government freely chosen by its people, where refugees would be able to return without fear.

44. His delegation sincerely hoped that the promising developments which had taken place in the situation in Democratic Kampuchea would lead to the total withdrawal of all foreign troops, the restoration of peace and the

establishment of a Government freely chosen by the Kampuchean people, and to an early return of all the refugees to their homeland.

45. The Commission should not be lulled into a feeling of self-complacency by the positive developments which had taken place, however real they might be. While encouraging the spirit of peace and negotiated settlement which was beginning to prevail, it should remain vigilant and keep under constant review the basic objectives of the right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation. Security was indivisible; military solutions were of short-lived viability, and prosperity could not be achieved at the expense of others.

46. Mr. KERKINOS (Observer for Greece) said that his Government was concerned that the peoples of the occupied Arab territories of Palestine, of Afghanistan, of Kampuchea, of the Western Sahara and of southern Africa were still being denied the right to express themselves regarding their own destiny and that the use of mercenaries still continued.

47. For decades the peoples of the Middle East had experienced war, mistrust and fear, which were so many obstacles to a lasting solution to their problems and to the establishment of peace and justice in the region. For more than 20 years, Israeli military forces had continued to occupy the Arab territories, including Palestine and to attempt to change their status, to absorb the West Bank and Gaza and to annex Jerusalem and the Golan Heights, contrary to the internationally recognized principle of the inadmissibility of acquiring territory by the use of force. The policy of creating and expanding settlements in those areas, the deportation and displacement of the Arab inhabitants, the demolition of houses, the closure of universities, the curfews and the arrests were all unacceptable violations of law and of morality. The brutal suppression of the intifadah over the past year had resulted in the death and injury of thousands of civilians. Such acts were unacceptable to those who believed in respect for the individual and for his right to freedom, security and dignity.

48. Palestinians had a right to self-determination with all that that implied. The status quo in the occupied territories was not tenable and a just solution had to be found, permitting the Palestinian people to decide as to their own destiny and to establish their own independent State. Simultaneously, the right to live in peace and security within recognized and guaranteed borders should be assured to all the States of the region, including Israel. The solution to the Palestinian problem required the withdrawal of all Israeli forces from all occupied Arab territories, and should be based on the internationally accepted principles of non-recourse to the use of force and the inadmissibility of the acquisition of territory by force. That implied a negotiated settlement among the parties concerned, including the Palestine Liberation Organization. Together with its partners in the European Community, Greece strongly supported the early convening of an international conference on the issue.

49. His Government had welcomed the signing of the Geneva Agreements on Afghanistan. The withdrawal of the Soviet troops, the unimpeded return of the refugees to their homes and the establishment of a truly representative Government through a genuine act of self-determination would secure for the people of that country their right to freedom, democracy and justice.

50. It was necessary to put an end to the military occupation of Kampuchea which constituted a flagrant violation of fundamental principles. Encouraging steps had been taken towards a political solution that could lead to an independent, democratic, neutral and non-aligned Kampuchea. The Vietnamese troops should withdraw from Kampuchea and the Khmer people should be allowed freely to decide their own future.

51. The positive reaction by the parties concerned to the peace plan on the Western Sahara, which provided for the holding of a referendum on self-determination under the auspices of the United Nations had also improved relationships in the Maghreb. His Government hoped that all the parties would continue to co-operate for the establishment of a just and lasting peace in the region.

52. In southern Africa, encouraging progress had been achieved with the drawing up of a timetable acceptable to all parties for the withdrawal of foreign troops. Although apartheid was still totally unacceptable, there was hope that the neighbouring people of Namibia would soon exercise their right to self-determination.

53. As for the report of the Special Rapporteur on the question of mercenaries (E/CN.4/1989/14), his delegation shared the Special Rapporteur's conviction that the use of mercenaries involved gross violations of human rights and of the right to self-determination. His delegation fully supported the Special Rapporteur's recommendations, particularly those concerning further efforts to achieve an international consensus on the issue.

54. Mr. VARGAS (Observer for Nicaragua) said that the right of peoples to self-determination as an essential foundation for the respect for human rights had been embodied by the international community into several instruments, and particularly into article 1, common to both of the international Covenants on Human Rights. Nevertheless, Governments did not respect all those provisions, and some Governments arrogated to themselves the right to describe other Governments as lawful or unlawful according to their own political and economic interests. They thus provided themselves with pretexts for exerting pressure on other nations in violation of their right to self-determination, and occasionally for the purpose of overthrowing Governments by the use of mercenaries, as was currently noticeable in various parts of the globe. At the close of the twentieth century, vestiges of colonialism, neo-colonialism and apartheid still remained.

55. It was none the less encouraging to observe that solutions were being found, with the assistance of the United Nations, to long-standing conflicts (the Iran-Iraq conflict, Afghanistan, Kampuchea, the Western Sahara), and that Namibia was shortly to become independent.

56. In Nicaragua on 19 July 1979, the people had broken with a past of satellite Governments by exercising its right to self-determination, casting off oppression and adopting the principles of participative democracy, a mixed economy, political pluralism and a non-aligned international position. However, as a result of having exercised its lawful right to self-determination, the Nicaraguan people was suffering the aggression of forces financed, recruited and armed by a foreign power that desired to restore a puppet Government. That war of aggression had led to thousands of dead, wounded and mutilated, and had caused heavy material damage. The war

from which Nicaragua had been suffering for eight years had been condemned by a judgement of the International Court of Justice on 27 June 1986.

57. In his report on the question of the use of mercenaries (E/CN.4/1989/14), the Special Rapporteur, Mr. Bernales Ballesteros, referred to testimonies of mercenary activities in Nicaragua and to the position of the Nicaraguan Government which regarded the contras as a mercenary force, recruited, financed and maintained from abroad for aggression against Nicaragua (para. 151). Furthermore, the judgement of the International Court of Justice contained conclusions condemning the intervention which were favourable towards Nicaragua. The Special Rapporteur noted that the territory of Nicaragua had been the scene of acts of violence and of mass destruction of its installations. The people of Nicaragua had also been affected in their basic rights to life, physical integrity, freedom and security, in violation of international humanitarian law. According to the Special Rapporteur, over a period of eight years there had been more than 50,000 dead and wounded, more than 3,000 disabled as a result of the war, more than 5,000 people who had disappeared or been abducted and more than 14,000 orphans, while thousands had been compelled to flee the battlefields to save their lives. He had added that the ruin of agricultural land and the sabotage and destruction of ports, roads and industrial installations represented a great burden for the economy of a developing country like Nicaragua.

58. The Special Rapporteur was also of the opinion (para. 164) that there was proof of the presence in Nicaragua of foreigners answering to the description of mercenary agents within the terms of Additional Protocol I to the Geneva Conventions. Such persons were recruited to fight in an armed conflict, received material compensation for it, were not Nicaraguan nationals and were not on official duty as members of the armed forces of another State, since there was no State that admitted to being a party to the armed conflict in Nicaragua. In short, they did not take part for their own ends, but on behalf of those who recruited them to try to overthrow the Nicaraguan Government (loc. cit.).

59. His Government had done its utmost to promote the Esquipulas II Agreement, signed on 7 August 1988 in Guatemala by the five Central American Presidents: it had extended the amnesty in force since 1983, put an end to the national state of emergency, dissolved the Anti-Somoza People's Courts and begun a dialogue with the domestic opposition and with the counter-revolutionary forces to bring about a cease-fire, which had lasted four months. The Government continued to observe the truce, and the army acted in a defensive capacity only, although the contras continued their military action, principally in the north of the country. The next presidential elections would take place, as planned, in November 1990, together with municipal elections and the election of the authorities of the autonomous areas on the Atlantic coast. As a part of the Esquipulas II Agreement, there was to be a series of meetings between ministers for foreign affairs as well as a summit meeting of the five Central American leaders, in the course of which Nicaragua would put forward proposals concerning the countries of the region.

60. The change of President in the United States was a favourable development for Nicaragua. In contrast with his predecessor, Mr. Baker, the new Secretary of State, had stated his view that Esquipulas II was a satisfactory plan and had observed the need for appropriate monitoring machinery in close association with respect for human rights. His views coincided with the

Nicaraguan position and with the viewpoint of the Special Rapporteur, who stated, in the last of his recommendations (E/CN.4/1989/14, para. 198) that the Commission should strongly support that policy of peaceful settlement outlined in the Agreement, and any other that the Central American Presidents might also adopt, on the understanding that dialogue, the existence of machinery for verification and monitoring by third countries, disarmament and measures of internal reconciliation would help to bring hostilities to an end, avoid outside interference and encourage a lasting peace based on mutual respect, co-operation and realization of the sovereignty of the peoples of Latin America.

61. Lastly, he stated that his Government supported the observations and conclusions of the Special Rapporteur contained in document E/CN.4/1989/14.

62. Mr. OGOURTSOV (Observer for the Byelorussian Soviet Socialist Republic) said that there was general agreement that respect for the right of peoples to self-determination was at the heart of respect for all other human rights. For its part, the Byelorussian Soviet Socialist Republic was in the throes of a process of social renewal marked by the creation of new social organizations, by a democratic debate on development, by a pluralism of ideas and opinions and by the discussion of hitherto rarely broached subjects such as linguistic and cultural issues, the heritage of the past, protection of the environment and so forth.

63. The need for a change-over from confrontation to dialogue in order to facilitate a positive international evolution was henceforth apparent. The Geneva Agreements on Afghanistan were the first link in that process of settling regional conflicts. However, the right of peoples to self-determination remained a dead letter in South Africa, in Namibia and in Palestine. The Byelorussian SSR considered that, in order to settle regional problems, it was necessary to recognize the need for peace to rule the world and to respect the principle of freedom of choice.

64. Thanks to the efforts of Angola, Cuba and South Africa, a regional conflict in southern Africa was on the way to being settled. While it was perfectly normal for each conflict to require specific solutions, they should in all cases be based on the Charter of the United Nations and on the principles of international law, in particular the sovereignty of States, and should take account of world opinion.

65. In Central America, the climate for a settlement had been established and it was for the United Nations to avoid a deadlock in the negotiating process that had begun and to avert foreign military interference.

66. While solutions were urgently needed in all the cases he had mentioned, that was no reason to overlook the cases of some 20 other dependent and trust territories, such as Micronesia. The international community should not resign itself to accepting the imposition of a neo-colonial status on those territories, under the guise of a referendum or a plebiscite. To conclude, he stated that the Byelorussian SSR supported the extremely topical report by Mr. Bernales Ballesteros on the issue of the use of mercenaries (E/CN.4/1989/14), and considered it desirable for work to continue in that field.

67. Mr. POSAYANOND (Observer for Thailand) said that the Kampuchea problem had been of concern to the Commission for over 10 years. Optimism had been generated by the recent announcement that all Vietnamese troops would be withdrawn from Kampuchea by September 1989, and the peace process at last appeared to be yielding some results. The Commission should take into account that development, which would allow tens of thousands of displaced Kampucheans to return home, to exercise their right to self-determination and to practise their culture in their own homeland. His Government welcomed the withdrawal decision, which should be implemented in keeping with a clearly defined timetable and under effective international supervision.

68. However, the international community should continue to press for the earliest possible withdrawal of the troops from Kampuchea. As in previous years, the member countries of the Association of South-East Asian Nations (ASEAN) had prepared a draft resolution reflecting the major developments which had taken place since the previous session. The Philippine delegation had already stated that the draft, whose main thrust would be to continue to deplore the continued presence of foreign troops in Kampuchea and to call for their withdrawal, while reaffirming the need for all States to adhere strictly to the principles of the Charter of the United Nations, of self-determination and international law, would be submitted in due course.

69. Until the Kampuchean problem had been solved, his own country would have to continue facing the problem of providing relief to refugees and displaced persons from Kampuchea who had fled on account of that country's occupation. Since the previous session of the Commission, the number of displaced persons from Kampuchea in Thailand had increased from 260,000 to approximately 300,000, and Kampucheans continued to arrive at camps along the border. That influx of displaced persons was compounded by the high birth rate of approximately 4.5 per cent.

70. The first problem was that of providing those persons with shelter and basic necessities, and it had been tackled with the help of many Governments, of UNDRO, of international relief organizations and NGOs. The second concern was to provide adequate protection in the camps. To that end, his Government had established a unit known as "Task Force 80", made up of volunteers trained for combat duty rather than for standing guard or police work. It had proved unsatisfactory and a number of former members of the unit had been charged with breaking the law and several were currently in prison. In order to provide better protection for the Kampuchean camp residents, his Government had thus set up the Displaced Persons Protection Unit (DDPU) whose seven companies, totalling 760 persons, consisted of commissioned officers and trained recruits. One company, comprised entirely of women, had been specially trained to cope with the social and psychological problems of the camp residents. It was hoped that the creation of the unit, many of whose personnel were university graduates, would make it possible to provide better protection for the displaced Kampucheans.

71. His Government had also decided to improve the primary education provided for the 62,000 children living in the camps along the border. It was well aware of the need to provide education for older children, and currently provided vocational training at any rate. His Government was pleased to play a role in preparing those Kampucheans for their eventual return to their own country as productive and literate citizens.

72. The some 200,000 Thai villagers living along the border had suffered just as much from across-the-border shelling as their Kampuchean brothers. The announcement of the troop withdrawal gave hope that peace would also come to the affected Thai villagers near the border.

73. His Government was firmly convinced of the need to co-operate with the United Nations and the international community in order to seek a durable solution for the Kampuchean crisis. The conflict would have to end and all foreign troops be withdrawn, so as to enable the Kampucheans to exercise their right of self-determination and to achieve national reconciliation.

74. His delegation thanked the United Nations High Commissioner for Refugees for the comprehensive package solution his Office had prepared for Indo-Chinese refugees, including the Vietnamese boat people, which had received support from many countries, including Thailand, and was currently being considered by Viet Nam. An international conference on Indo-Chinese refugees was due to be held in June 1989 under the auspices of the United Nations.

75. Ms. RICARD (Pax Romana) said she regretted that she had once again to raise the issue of East Timor where, in December 1988, large numbers of people had been imprisoned and tortured, as confirmed by witnesses. The Bishop of Dili had himself recognized that, in October and November 1988, the police had carried out mass arrests and committed acts of torture, and had furthermore expressed his indignation against the fraudulent propaganda claiming that there were no human rights violations in Timor. It was disgraceful that neither the persons who had accompanied General Suharto, when he had visited East Timor on 1 and 2 November 1988, nor the 12 Australian journalists who had accompanied the Prime Minister from 9 to 14 November, had made any mention of those arrests, thereby demonstrating once again that the colonial authorities did everything and very effectively too, to conceal the situation in East Timor.

76. A number of officials of the occupying administration had asserted that access to East Timor would be completely free towards the end of 1988, although others had said that only 8 out of the 13 districts would be concerned by that measure. On the latter assumption, more than half of the surface of East Timor, with two thirds of its population, would remain beyond scrutiny. However that might be the colonial administration's concern was rather to facilitate the circulation of persons, goods and capital between East Timor and Indonesia in order to mitigate the existing serious economic crisis than to allow foreigners freely to visit the country.

77. The economic situation in East Timor was extremely serious, and the rate of unemployment was constantly rising. Approximately 90 per cent of the population did not speak Indonesian, approximately half was virtually illiterate while, on the Governor's own admission, the infant mortality rate was extremely high. Young people who had been to school could not find work. In spite of the repression, they demonstrated openly in the streets against the economic and social situation.

78. At the beginning of the year, several individuals had been banned from entering East Timor by the security forces. Large-scale military operations were currently under way, particularly in the south, and the serious incidents which had taken place in Dili in December 1988 had left dozens of soldiers dead and had sparked off a new wave of repression.

79. It was high time that the population of Indonesia and the whole world became aware of the unlawful acts being committed by the occupation authorities and the genocide carried out by the armed forces. Large-scale human rights violations would continue until the Timorese were able to exercise their right of self-determination. Her organization appealed to the people of Indonesia to encourage dialogue and change instead of waging a war of extermination. It also called upon all Governments, and in particular the members of the Commission on Human Rights, to set aside their own interests and work for the achievement of the rights of all peoples.

The meeting rose at 12.30 p.m.