



October 1977

UN/SA

SIXTH COMMITTEE

23rd meeting

held on

Wednesday, 19 October 1977

at 3 p.m.

New York

SUMMARY RECORD OF THE 23rd MEETING

Chairman: Mr. BOJILOV (Bulgaria)

later: Mr. GAVIRIA (Colombia)

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AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

ORGANIZATION OF WORK

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The meeting was called to order at 3.30 p.m.

AGENDA ITEM 116: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/32/33, A/32/58 and Add.1 and 2, A/32/133 and A/32/235; A/C.6/32/L.2 and L.3)

1. Mr. GYAWALI (Nepal) said that his delegation welcomed the report of the Special Committee (A/32/33), which reflected well the differing approaches to the attainment of the single objective of making the United Nations more effective. Since the drafting of the Charter the world had witnessed tremendous changes: many new nations had emerged and were now called upon to play an active role in international affairs and there had been spectacular progress in science and technology and, unfortunately, in the field of armaments as well. However, despite the noble social and economic goals enshrined in the Charter and the determination of the framers of that instrument to save succeeding generations from the scourge of war, neither poverty nor war had been eliminated. The Organization might never completely fulfil the expectations of the international community, unless all States acted as instruments for the support of its aims.

2. His country continued to express its unflinching faith in the United Nations and in its Charter. The Organization provided the only hope for many who sought the realization of a world in which human beings could live in peace and tolerance and to which each could make his contribution. The Charter, whether it remained in its existing form or was amended, must be a living document to be respected and applied by all sovereign States.

3. Mr. KOLESNIK (Union of Soviet Socialist Republics) drew attention to his Government's consistent position of principle on the question of the Charter and the strengthening of the role of the Organization, which was set forth in various letters from his Government addressed to the Secretary-General (A/8746, A/10102), in statements made by the Foreign Minister of the Soviet Union to the thirtieth, thirty-first and thirty-second sessions of the General Assembly (A/PV.2357, A/31/PV.7 and A/32/PV.8) and in statements made by Soviet representatives in the Sixth Committee and the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

4. His country had consistently favoured increasing the role and effectiveness of the United Nations, which was an important instrument for strengthening peace and international security, on the basis of strict observance of the Charter. However, it firmly and decisively rejected any attempts to review the Charter, which had withstood the test of time and fully met the interests of maintaining and strengthening peace and international security, which was the main task of the United Nations. As the result of the persistent efforts of the peace-loving countries, the main trend in world politics was now directed towards the relaxation of international tension. The present climate of détente offered broad possibilities for a fuller and more effective achievement of the purposes and principles of the Charter by making use of the enormous possibilities contained in that document. In turn, détente required that Governments should strictly observe the Charter.

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5. As one of the founders of the United Nations and a permanent member of the Security Council, his country felt that the effectiveness and prestige of the United Nations could be increased, not by disrupting the Charter, but by observing its provisions more closely and implementing the decisions of the Security Council and other United Nations bodies. When they joined the United Nations, Governments assumed the obligations set forth in the Charter, although in practice those obligations were often not carried out.
6. His delegation felt that attempts to increase the effectiveness of the Organization by revising the Charter were not only a serious error but were likely to distract the attention of the Organization from more timely and important problems and only played into the hands of those who sought to violate the Charter in their policies. He stressed that such efforts were fraught with the most dangerous consequences for the Organization and that the undermining of the Organization would in the first instance damage the interests of the small and medium-size countries and those of the developing countries. His delegation was deeply concerned about the maintenance of international peace and security and could not remain indifferent to attempts to weaken the prestige and effectiveness of the Organization.
7. When the Special Committee had been formed, his delegation had stated that it could serve a purpose only if it concentrated on ways and means of using more fully the possibilities contained in the Charter and on how Member States, working together and in conformity with the Charter, could advance the work of the Organization.
8. The report of the Special Committee (A/32/33) showed that there had been no agreement on the advisability of reviewing the Charter. His delegation welcomed the growing awareness among delegations that an increase in the effectiveness of the Organization could be achieved only through unwavering observance of the Charter. All delegations agreed that the Organization should attempt to increase its effectiveness and on that basis there could be co-operation among Member States. However, the report showed that not all members of the Special Committee had sought areas of agreement on matters relating to increasing the effectiveness of the Organization in accordance with the Special Committee's mandate (General Assembly resolution 3499 (XXX)). A group of delegations, agitating for revision of the Charter, had unfortunately attempted to impose its approach upon the Special Committee. As a result of their action, the Special Committee had, in a very real sense, been unable to adopt a report based on mutual agreement. The report before the Sixth Committee had been adopted by the extraordinary and illegal procedure of a vote and had in fact been supported by only 30 of the 47 members of the Special Committee. By their actions the group agitating for Charter revision had destroyed the spirit of co-operation, without which no committee could act. In view of the existing situation, his delegation had serious doubts as to whether the Special Committee could continue, or should even be allowed to continue, its activities.
9. Those who sought a serious examination of the question of increasing the effectiveness of the Organization and were realistic enough to realize that the Charter could not be amended without the agreement of the permanent members of the

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Security Council should first of all attempt to restore a spirit of co-operation. In that connexion, much depended on the decision which the Sixth Committee would now take on the matter. It was clear that draft resolution A/C.6/32/L.2 could not be seen as a suitable attempt to re-establish normal conditions in which the Special Committee could continue its work. In particular, the draft resolution made no mention of the manner in which the work of the Special Committee would proceed in the future, namely that it must abide by the principle of consensus and seek to arrive at mutually agreed decisions. His delegation could, therefore, not support the draft resolution in its existing form, but would study with interest the amendment submitted by the delegation of Cyprus (A/C.6/32/L.3).

10. Mr. WIDDOWS (Australia) announced that his delegation had decided to join the sponsors of draft resolution A/C.6/32/L.2.

11. The fact that the report of the Special Committee (A/32/33) reflected a broad range of views was not surprising, since the mandate of the Special Committee called for frank discussion of all aspects of the Organization. However, his delegation felt that the method of operation of the Special Committee should return to one of consensus. No worth-while long-term solution would be found by the short-term expedient of voting. Furthermore, attention should focus on the suggestions and proposals which were most likely to lead to positive action.

12. In its deliberations, the Special Committee might in the future pay more attention to the work and conclusions of other ad hoc and special committees of the General Assembly working in specific areas, such as the Special Committee on Peace-Keeping Operations. That would ensure that the most concise and up-to-date information was before the Special Committee and might help to avoid duplication. Furthermore, the Committee should perhaps bear in mind, in a more positive way, the flexibility of the Charter. The Charter was the constitution of a living organization and it extended and contracted to suit the mood and development of the body. It was only after the real limits of the Charter were seen clearly that calls for its revision could properly be investigated; any claims which merited attention should be carefully based on a real defect and not a mere apparent flaw.

13. Mr. Gaviria (Colombia) took the Chair.

14. Mr. MEISSNER (German Democratic Republic) said his delegation could only reaffirm that it saw no need for revision of the Charter. The effectiveness of the United Nations could be enhanced by making the fullest use of the potential which the Charter still contained. He regretted that the 1977 session of the Special Committee, in which his delegation had taken an active part, had given rise to a situation which was cause for serious concern and which his delegation felt obliged to point out to the delegations of States which were not members of that Committee. As noted in paragraph 11 of the report of the Special Committee (A/32/33), four members of the Committee had voted against the adoption of the report, two had abstained, and four had not taken part in the voting. That result reflected clearly the unsatisfactory situation in the Special Committee. Moreover, contrary to the wishes of a number of members, working papers which had not been substantially discussed in the Committee had been included in the

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annex to the report. Such inclusion was obviously a result of the efforts of some members to prejudice the work of the Special Committee. His delegation noted with concern that proposals for a revision of the Charter had been included in the annex. Far from increasing the effectiveness of the work of the United Nations, such proposals were liable to impair the well-balanced system of the provisions of the Charter. To implement such proposals would jeopardize the machinery and activities of the United Nations and entail negative consequences for the international situation.

15. A serious obstacle had thus been created to the renewal of the Special Committee's mandate. Not only had that mandate, set out in General Assembly resolution 3499 (XXX) and reaffirmed by General Assembly resolution 31/28, been ignored, but the agreed principle of consensus had been violated. Despite the efforts of a number of States, including his own, to adhere to that principle, the question had been decided by a vote. Resumption of the Committee's work in that spirit would lead not to results acceptable to all States, but to increased confrontation. Accordingly, his delegation believed that it would be useful and desirable to devote at least one year to reflection and consultations, to reduce and eliminate the existing differences. It was indispensable to reaffirm expressly the principle of consensus as the basis for procedures in the Special Committee. If that principle were guaranteed and if the Special Committee, in strict observance of operative paragraph 2 of resolution 3499 (XXX), accorded priority to consideration of those areas on which general agreement was possible, constructive measures for increasing the effectiveness of the United Nations could be arrived at. His delegation was prepared to continue participating actively in the work of the Special Committee on that basis.

16. Mr. LING Ching (China) said that the outcome of in-depth discussion at the two sessions of the Special Committee showed clearly that the overwhelming majority of countries, in varying degrees, supported revision of the Charter. It was mainly the super-Powers that adamantly opposed revision, particularly that super-Power which insisted that not a single word of the Charter should be touched. It was clear, however, that progress had been made in the work of the Special Committee and that the review and revision of the Charter represented the general trend and popular feeling.

17. The super-Powers had taken great pains to produce a variety of fallacious arguments in an attempt to obstruct revision of the Charter. It was argued that the Charter was entirely adaptable to the reality of the contemporary world. But the world situation had changed fundamentally during the previous 30 years. Owing to the emergence of social-imperialism, the original Socialist camp had long ceased to exist; the Western imperialist group had also disintegrated, and, on the other hand, the national liberation movements in Asia, Africa and Latin America had formed a mighty torrent, surging ahead vigorously, and a large number of newly independent countries had appeared on the international scene. Three interrelated and mutually contradictory worlds had emerged. The third world was the main force in the struggle against imperialism, colonialism and hegemonism. It constituted the overwhelming majority in the United Nations and was playing an increasingly important role. The Charter did not fully reflect that objective

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reality. Certain of its provisions were not conducive to the third world countries' playing their due role; instead, they permitted the super-Powers to misuse their privileges. Other provisions were evidently obsolete. Consequently, it was only logical to demand the necessary review and revision of the Charter.

18. Facts also proved that it was fraudulent to argue that the question before the United Nations was not the revision but the observance of the Charter. The deeds of the overwhelming majority of Member States showed that it was certainly not the numerous small and medium-sized countries which had failed to observe the Charter. It was the super-Powers themselves which were contending desperately for hegemony, engaging in aggression, subversion, interference, control and expansion everywhere and crudely trampling on the purposes and principles of the Charter. Yet, as a result of the misuse of their privileges, the United Nations had found itself helpless in the face of such a serious situation. Consequently, it was not only the pressing demand of numerous Member States, but also the urgent task of the United Nations to alter that unreasonable state of affairs and revise the Charter so as to give true expression to the principle of equality among all countries, large or small.

19. Equally empty was the argument that revision of the Charter would lead to a nuclear world war. The demand for Charter revision and the launching of a nuclear war were two entirely different things. Those who intentionally linked them together were trying to make others believe that whoever wished to amend the Charter must be held responsible for provoking a nuclear world war. Reasoning so absurd was rare indeed. But which country was desperately expanding its arsenals in an intensive nuclear arms race with another super-Power? Which country was stationing large numbers of armed troops in the territory of other countries, subjecting them to military control? Which country was audaciously making a show of its military force all over the world, threatening international peace and the security of all peoples? It was not difficult to see that the real aim of the proponents of that absurd argument was to use war threats to distort and reject the just demand of the numerous small and medium-sized countries, thereby covering up their own criminal deeds of frenzied arms expansion and war preparations. However, threats and vilification could in no way block the trend of historical development. They would, on the contrary, only further expose the true behaviour of social-imperialism before the people of the world. The longer the debate, the clearer the truth. The facts showed that the review and amendment of the Charter were a necessity dictated by the development of the international situation and were urgently demanded by many Member States and by the third world countries in particular. Such was the conclusion that the Special Committee should draw from its two years of work.

20. According to General Assembly resolution 3499 (XXX), the primary task of the Special Committee was to examine suggestions and proposals of various Governments regarding the Charter. Many specific proposals, and even some working papers to that effect had been submitted, providing a good basis for the future work of the Special Committee, which should now proceed to sort out the proposals submitted by various delegations in their statements, in the plenary Assembly or in the Sixth Committee. It should classify proposals according to their nature and draw up a

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list for consideration by the Sixth Committee. Existing proposals fell mainly into three categories. The first consisted of proposals opposing the super-Powers' abuse of their privileges and calling for democratization of international organizations and equality among all countries, large or small, such as proposals to expand the powers of the General Assembly, change the composition of the Security Council, limit the scope of veto power and eliminate the right of veto. A second category called for embodiment in the Charter of the achievements of the struggle of the numerous small and medium-sized countries, for instance, affirmation of the important principles and provisions on the establishment of a new international economic order and the inalienable sovereign right of all countries to their natural resources and support to the struggles in defence of national independence and for national liberation. Thirdly, there were proposals for the elimination of outdated provisions, such as proposals to abrogate the trusteeship system and to delete the "enemy State" article. There were, of course, still other proposals. His delegation felt that all the proposals should be discussed. The first two categories deserved particular attention because they reflected the common interests and aspirations of the numerous small and medium-sized countries and represented the correct orientation for revision of the Charter. A reasonable solution acceptable to all could be found so long as all nations, large and small, carried on repeated discussions and patient negotiations on the principle of true equality for all. His delegation therefore firmly supported draft resolution A/C.6/32/L.2 and the renewal of the mandate of the Special Committee.

21. With respect to the rules of procedure of the Special Committee, in view of the difficulty and complexity of the task of Charter revision, that body unquestionably had to respect the proposals and suggestions of various representatives and enter into serious and full discussions and repeated consultations. However, the Special Committee could resort to voting when necessary, for that was consistent with the rules of procedure of the General Assembly. Some had suggested that a consensus had to be reached on all questions and under all circumstances, but the Special Committee would then be turned into an organ holding endless discussions without taking any decisions, or taking decisions which remained unimplemented. Its existence would become totally meaningless. Some had vociferously attacked the decision reached at the latest session of the Special Committee, accusing it of "violating the spirit of consensus" or even of "undermining the work of the Special Committee". What they in fact meant by "consensus" was that all decisions of the Special Committee must be approved by them, or be null and void. In other words, it was a case of veto power in disguised form. However, the attempt to undermine the work of the Special Committee did indeed exist. Since the very day of the formation of the Special Committee, some had tried by every conceivable means to obstruct its work, as was well known to all.

22. His Government had consistently held that the current state of affairs in the United Nations should be changed and that the Charter should be revised. His delegation firmly supported the reasonable proposals and just demands of the numerous small and medium-sized countries. The world was advancing and the United Nations should adapt itself to contemporary trends and play its due role with regard to the cause of promoting human progress.

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23. Mr. SETTE CAMARA (Brazil) said that the more the Special Committee advanced in its examination of the Charter with a view to updating obsolescent provisions or to exploring new possibilities for their application, the more evident it became that the apprehensions of those opposed to such an exercise were without foundation. Respect for the purposes and principles of the Charter had been reaffirmed time and again and even the suggestions for its amendment were modest, restrained and realistic. At its second session, the Special Committee had completed its examination of the analytical study of the Secretary-General (A/AC.182/L.2). When section II.A, entitled "Maintenance of peace and international security" covering the functioning of the Security Council, peace-keeping operations, relations between the General Assembly and the Security Council and Security Council voting procedures came up for discussion, heated debate might have been expected. However, the report showed that, even on that very delicate point, a degree of restraint had prevailed as compared with proceedings in the Sixth Committee. In discussing the structure and functioning of the Security Council, even those delegations in the front-line of the "reformists" had not resorted to extreme proposals to abolish the right of veto, but had confined themselves to insisting upon the idea of enlarging the present membership with the extension of the prerogatives of permanent members to other important areas of the international community. Although discontent with the privileged right of veto was as old as the United Nations, the boldest proposals of a few delegations had been limited to excluding the veto power from some specific areas, such as the admission of new members, the sending of investigative commissions and conflicts in which the vetoing State was involved.

24. Many interesting proposals had been made, notably with a view to establishing definite rules for peace-keeping operations, some delegations going so far as to propose the creation of a "Permanent Peace Force" to intervene between belligerents when necessary. Yugoslavia and Colombia had suggested the inclusion in the Charter of the Definition of Aggression, which had met with strong objections from some delegations which saw in it an attempt at interference in the discretionary powers of the Security Council in matters of international peace and security.

25. Regarding the relations between the General Assembly and the Security Council, the discussion had reverted to the old problem of strengthening the role of the General Assembly whenever the Security Council was paralysed by the veto.

26. Other interesting proposals had been made in connexion with section II.B, entitled "Means, methods and procedures for the peaceful settlement of disputes", for example, the elaboration by the United Nations of a general treaty on the peaceful solutions of controversies, proposed by Mexico, the establishment of a permanent commission of the General Assembly for mediation, conciliation and good offices, proposed by Romania, a recommendation that multilateral conventions concluded under United Nations auspices should always include a mechanism for the settlement of disputes, preferably through arbitration or judicial settlement, as suggested by the United States, and several proposals to enhance the role of the International Court of Justice, either by modifying some of the provisions of its Statute or by a better use of its potentialities.

27. In connexion with section II.C, entitled "Economic and social questions", some delegations had stressed the need to study the updating of Chapter IX of the Charter,



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so as to enable the Organization to play a leading role in the promotion of the new international economic order. In the field of social problems, several suggestions had been submitted regarding human rights.

28. In connexion with section II.G, entitled "Other matters", many delegations, in discussing the representative character of the Organization, had defended the full application of the principle of universality to the admission of new members. Colombia had suggested deletion of the term "peace-loving States" in Article 4 of the Charter, arguing that it embodied a subjective element connected with the historic circumstances of 1945. With respect to the "obsolete" clauses of Articles 53 and 107, some delegations had favoured their elimination, while others had said that they would be satisfied with a solemn declaration by the General Assembly that the Articles were obsolete. Those proposals had met with strong resistance on the part of delegations which felt they would be tantamount to brushing aside the terrible lessons learnt from the struggle against fascism.

29. Further evidence of the prudence with which the Special Committee had handled matters pertaining to amendment of the Charter could be found in document A/AC.182/L.12/Rev.1, containing a restatement and consolidation of the main proposals presented by a variety of delegations in the course of the session. Part I of that document, containing proposals for the strengthening of the role of the United Nations without amending the Charter, had been subscribed to by all the sponsors, while part II, which dealt with proposals entailing amendments to the Charter, had listed the proposed amendments and their sponsors individually.

30. There was no doubt that, under the law of the United Nations, revision and amendment of the Charter were not only possible, but encouraged by the wording of Articles 108 and 109. There was nothing whatsoever in the Charter that could be interpreted as prohibiting amendments. On the other hand, the provision of Article 108 that the Charter could not be modified without the consensus of the permanent members of the Security Council and the problem of a qualified majority constituted formidable, although not insuperable obstacles. The amendments concerning the membership of the Security Council and the Economic and Social Council, and corresponding provisions on required majority, adopted in 1963 by General Assembly resolution 1991 (XVIII) were eloquent proof that the Charter was amendable whenever there was the necessary political will on the part of the majority and the permanent members of the Security Council to change any of its provisions. Such a meeting of minds could occur again at any time, with respect to any provision of the Charter, should historical circumstances combine to bring about agreement among the permanent members. Without agreement, the whole mechanism was irrevocably blocked.

31. The radical changes which had occurred since the pre-nuclear days of San Francisco had led to a manifest need to update and revise the Charter. An instrument clearly intended to be flexible enough to cope with the needs of international life should not be fossilized once and for all in all its provisions. Accordingly, his delegation was happy to co-sponsor draft resolution A/C.6/32/L.2 aimed at renewing the mandate of the Special Committee, whose work had hardly begun. It should be kept in mind that the very useful analytical study (A/AC.182/L.2),

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which had served as a good framework for debate in the Special Committee, was nothing more than a logical arrangement of proposals and suggestions presented by Governments. Therefore, the analytical study should not be allowed to become a strait jacket restraining the work of the Special Committee. His delegation believed that the time had come for the Special Committee to discuss the substance of the numerous proposals submitted, some of which were most interesting. It would be inadmissible for the General Assembly to refuse to reconvene the Special Committee. The draft resolution before the Sixth Committee, which was restrained in wording and purpose, aiming only to keep the Special Committee alive with the terms of reference established by resolution 3499 (XXX), should be adopted by an expressive majority if not by consensus. To encourage efforts to review and update the Charter was perhaps the only way for the United Nations to win back its prestige, instead of being bypassed daily in favour of direct negotiations.

32. Mr. Bojilov (Bulgaria) resumed the Chair.

33. Mr. ZEHENTNER (Federal Republic of Germany) said that his Government attached great significance to the work of the Special Committee and endeavoured to take an active part in that work. The effective functioning of the United Nations was of fundamental importance for the future of the international community and his delegation encouraged all actions designed to strengthen the role and enhance the effectiveness of the Organization.

34. In the past, the United Nations had stood the test of radical change. Nevertheless, it seemed logical that many should ask whether the structure and machinery of the United Nations continued to meet the requirements of the modern world. His delegation was not unaware of the fact that, in a constantly changing world, it might become necessary to modify even proven forms of organization. On the other hand, there was still considerable potential within the existing framework and system of the United Nations which should be fully utilized. Much more could be achieved if the letter and spirit of the Charter were scrupulously observed.

35. His delegation was convinced that great care and a strong sense of responsibility must be exercised in attempting to strengthen the role of the United Nations. That aim would not be achieved if changes to the United Nations Charter were not acceptable to all Member States. Although it would be difficult to reach a consensus in that respect, with determination and goodwill, success could be achieved. It was in that spirit that his Government would wish the Special Committee to continue with its work.

36. Mr. BAROODY (Saudi Arabia) said that tampering with the Charter was not the right way to improve the functioning of the United Nations. The fault lay not with the Charter itself, but with the Member States, who failed to honour its provisions. Although changes had been made in United Nations machinery in the past, they had been of a structural rather than a substantive nature, such as the enlargement of the memberships of the Economic and Social Council and the Security Council. The principles and purposes of the Charter had not been affected. Furthermore, since any amendment to the Charter would have to be approved by the Security Council, the

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question should be considered directly by the Council rather than by the General Assembly. He deplored the fact that greater emphasis was placed on the letter than on the spirit of the Charter.

37. Mr. Gaviria (Colombia) resumed the Chair.

#### ORGANIZATION OF WORK

38. The CHAIRMAN read out the following letter dated 19 October 1977 from the Secretary-General, addressed to the Chairman of the Sixth Committee:

"In confirmation of my conversation with you on October 18, 1977, I wish to urge that the Sixth Committee accord highest priority to the consideration of item 119 entitled 'Drafting of an international convention against the taking of hostages: report of the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages'.

I realize that this would involve re-organization of the work of the Committee. However, in view of the urgency of the subject-matter as highlighted by recent events, I believe urgent consideration of this question would be in the interests of the international community.

In this connexion, I enclose for your information copies of the exchange of communications that I have had with the President of the International Federation of Airline Pilots Associations.

Please accept, Mr. Chairman, the assurances of my highest consideration.

(Signed) Kurt Waldheim"

39. He recalled that many delegations and regional groups, in particular the Latin American group, had expressed deep concern at the general situation, as highlighted by the recent hijacking of a Lufthansa aircraft. It might therefore be advisable to hold a meeting of the Chairmen of regional groups as soon as possible to consider the content of the Secretary-General's letter.

40. Mr. BAROODY (Saudi Arabia) said that, while it was laudable to give priority to such a momentous question, the Committee should proceed with great caution in drafting an international convention. Any hasty measure might make the situation more dangerous by creating a new class of kidnappers with a strong desire to make themselves martyrs.

The meeting rose at 5.45 p.m.