

GENERAL  
ASSEMBLY

THIRTY-SECOND SESSION

Official Records\*



UN/SA COLLEC...

SIXTH COMMITTEE

26th meeting

held on

Monday, 24 October 1977

at 3 p.m.

New York

SUMMARY RECORD OF THE 26th MEETING

Chairman: Mr. GAVIRIA (Colombia)

CONTENTS

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)

\* This record is subject to correction. Corrections should be incorporated in a copy of the record and should be sent *within one week of the date of publication* to the Chief, Official Records Editing Section, room A-3550.

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

Distr. GENERAL

A/C.6/32/SR.26

27 October 1977

ENGLISH

ORIGINAL: SPANISH

The meeting was called to order at 3.45 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.1-2, A/32/133 and A/32/235; A/C.6/32/L.2 and L.3)

1. The CHAIRMAN announced that Kuwait and Thailand had become sponsors of draft resolution A/C.6/32/L.2.
2. Mr. YACOUBA (Niger) said that the report of the Special Committee on the Charter of the United Nations made it possible to appreciate the magnitude of the ills afflicting the Organization, which made it essential to bring the Charter up to date so that the United Nations could fully perform the role entrusted to it. The events of the previous 30 years had changed the nature of international relations; the cold war had given place to détente, the number of nuclear States had increased, decolonization was almost complete and, in consequence, a large number of new States had entered the United Nations, changing the balance of forces.
3. That the United Nations was unable to fulfil some of its obligations was due largely to the situation prevailing in the Security Council, the organ specifically entrusted with the maintenance of international peace and security; as matters stood, the Council was not performing the noble task entrusted to it, on account of the use, and in certain cases the abuse, of the privileges granted to some of its members. It seemed that whenever national interests were at stake, international peace and security had to take second place; that was illustrated by the fact that as yet no decision had been adopted to impose effective sanctions against the South African régime, whose actions constituted a serious threat to international peace and security, and by the fact that certain permanent members of the Security Council had by means of the veto prevented the admission of some new States to the Organization.
4. His delegation was convinced that it was only by regulating the veto in the Security Council that the United Nations could take on a more democratic complexion reflecting the political and economic importance of the many Member States that had been admitted to the Organization since 1945. Provision should likewise be made for strengthening the role of the General Assembly so that it might act instead of the Security Council whenever the Council was impeded from adopting a decision on such fundamental questions as decolonization, self-determination or the admission of new Members. Although his delegation was well aware that it would be very difficult for States that held certain privileges under the Charter to accept the ideas he had described, it hoped that the dynamic changes that characterized contemporary international relations would persuade those States of the need to amend the Charter.
5. In any event, the revision of the Charter was not enough to solve all the problems facing the Organization. It was just as important that the provisions of the Charter should be faithfully obeyed and that all States should strictly uphold the principles contained in it. His delegation shared the view of those

(Mr. Yacouba, Niger)

delegations that had pointed out that the Charter contained many possibilities which had never been utilized, although it believed that that was due to the fact that States did not always demonstrate genuine political will. That was the underlying problem, since any debate on the Charter would be futile unless Member States were prepared at all times to fulfil the commitments they had undertaken by having accepted the principles on which the United Nations was based. Fortunately, the great majority of Member States represented in the Sixth Committee were fully aware of that problem and were accordingly prepared to encourage the Special Committee to continue its work which, if brought to a successful conclusion, would ensure that the hopes placed by the international community in the United Nations were not illusory.

6. Mrs. PEREYRA (Venezuela) said that one fundamental factor that had to be borne in mind in considering the item was that the Charter, whatever its short-comings, had been possible at the moment in history when it was signed precisely because of the political circumstances that had prevailed as a result of the Second World War and that if the international community were to try, in contemporary conditions, to establish a permanent structure on the pattern of the United Nations, its efforts would probably fail.

7. Although no Member State doubted the past and continuing value of the Charter as a legal instrument which had enabled difficult situations arising within the international community to be overcome and had provided historic opportunities for peoples, the normal course of history could not be constrained by a legal instrument. The new circumstances that prevailed, characterized by the entry of new States into the international community, interdependence, the acknowledgement of the right of developing countries to sovereignty over their natural resources and the new philosophies of coexistence, were factors that exemplified the need for multi-State concessions and structures compatible with the overriding need to establish a new international order. Just as from 1945 onwards one of the major goals of the United Nations had been decolonization, which had since then been virtually achieved, since 1975 the basic objective of the United Nations had been the establishment of a new, stable and just international economic order.

8. She pointed out that the refusal of certain States to consider the possible revision of the Charter reflected, rather than an expectation of defeat, the desire to maintain the existing components of international relations. Moreover, the Charter had never been designed to be immutable, and its authors had provided in Chapter XVIII for the possibility of periodic revisions. Obviously nobody had foreseen that the possible application of those provisions would cause so much alarm to some Member States, which had turned virtually into enemies of progressive development.

9. As matters stood, the efficacy of the United Nations, particularly in the economic and social sphere, was being questioned not only by Members of the Organization but also by world opinion; the Charter, created to be an instrument of peace and security, should therefore acquire a new dimension with a view to ensuring international justice. For those reasons her delegation was sponsoring draft resolution A/C.6/32/L.2, as an affirmation of its firm belief in the purposes and principles of the United Nations and of its support for any proposal which, on the basis of changes in international relations, would be conducive to more satisfactory conditions for the strict observance of those purposes and principles.

/...

10. Mr. KUNZ (Czechoslovakia) said that the Special Committee had been established on the basis of resolution 3499 (XXX) of the Assembly, which had been adopted only because it did not mention revision of the Charter. That resolution had reflected the common interest of Member States in strengthening the United Nations and increasing the effectiveness of its activities in implementing the principles and purposes mentioned in the Preamble and Chapter I, the validity of which had been contested by no State Member during the deliberations on the issue. In paragraph 2 of that resolution the Special Committee had been requested to examine the proposals which had been or would be made, with a view to giving priority to consideration of those areas on which general agreement was possible. In resolution 31/28, resolution 3499 (XXX) was fully confirmed and provision was made for the Special Committee to continue its work in keeping with it. The adoption of the later resolution had been made possible by the positive results achieved by the Sixth Committee in 1976, when a number of interesting suggestions had been made about the future orientation of the Special Committee. His delegation, however, was dissatisfied with the results attained by the Special Committee at its most recent session; indeed, the events which took place at that session were a matter of concern to his country, which had an eminent interest in maintaining international peace and security and in the observance and application of the principles and purposes of the Charter.

11. At the most recent session of the Special Committee there had been a one-sided interpretation of the mandate given to it by the General Assembly; that had disturbed the working atmosphere and infringed the principle of consensus, which was indispensable to its work. A question so important as the Charter of the United Nations and strengthening the role of the Organization clearly required the unanimous adoption of decisions acceptable to all Members, as specifically provided in resolution 3499 (XXX). Moreover, his delegation could not accept the attitude of some countries that were members of the Special Committee which had pressed for a vote on the proposal to include in its report certain documents containing proposals for the revision of the United Nations Charter which were unacceptable to Czechoslovakia. The problem was even more serious when it was borne in mind that the Special Committee had not made a detailed examination of those proposals. In view of the diametrically opposed positions of the members of the Special Committee about that issue, his delegation held that the Committee should adhere strictly to the principle of consensus of States in its work, and it trusted that all members of the Committee, whatever their fundamental positions on the Charter of the United Nations, would take a realistic approach to the further work of the Special Committee.

12. The position of his Government regarding the United Nations Charter and the strengthening of the role of the Organization was set forth in document A/32/58/Add.2, which stressed that the peaceful development of the world was conditional on international détente. If détente became a permanent factor in all parts of the world, it would be possible to apply to the greatest possible extent the principles embodied in the Charter, which provided many so far unused possibilities for strengthening the role and increasing the effectiveness of the United Nations. His delegation was convinced that the adverse experience in the application of certain provisions of the Charter did not warrant a radical revision of the entire structure of the United Nations. The basic problem did not lie in

(Mr. Kunz, Czechoslovakia)

the provisions of the Charter, but in the will of Member States to put them into practice. Whenever States with different social and economic systems and different levels of development joined forces to apply the principles and purposes of the Charter, the decisions of the United Nations had the necessary effectiveness.

13. His delegation was therefore firmly opposed to any proposals aimed at revising the Charter and, particularly, at revising the principle of the unanimity of the permanent members of the Security Council and the method of adopting decisions in that body. The right of veto of the permanent members constituted an expression of the principle of the peaceful coexistence of States with different social systems and a guarantee that no State would use the United Nations for purposes contrary to the Charter.

14. In the view of his delegation, the strengthening of the role of the Organization would depend on the political will needed to implement the objectives of the Charter through, among other means, the application of disarmament measures, a basic prerequisite for safeguarding international peace and security. Furthermore, the mechanism of the Charter made possible broad co-operation for economic and social development, as shown by the results of the sixth and seventh special sessions of the General Assembly and the adoption of the Charter of Economic Rights and Duties of States.

15. In the field of the progressive development of international law, his delegation believed that the role of the United Nations would be considerably strengthened if the main principles of important instruments such as the Declaration on the Granting of Independence to Colonial Countries and Peoples were embodied in international treaties based on the United Nations Charter. Furthermore, steps could be taken to strengthen the principle of the collective responsibility of all Members of the Organization in the maintenance of international peace and security through the implementation of, for example, the provisions of Article 43 of the Charter.

16. The possibilities offered by the Charter showed that it remained fully valid. The Special Committee should therefore concentrate on the so far unused possibilities and not on questions which would require a revision of the Charter and consequently disturb the current structure of the system for the maintenance of peace and the development of co-operation for peaceful purposes in all spheres of human activity.

17. Draft resolution A/C.6/32/L.2 asserted without any foundation that the Special Committee had examined in detail the observations received from Governments. In fact the Special Committee had done no more than carry out a first reading of the documents received; furthermore the principle of consensus, which should be strictly observed so that all parties would be bound by the decisions taken by the Committee, had been violated at the end of the most recent session.

18. In those circumstances, his delegation considered that the most appropriate solution was to give all States Members of the United Nations an opportunity to examine carefully all the documents which had been submitted and formulate their positions at a future session of the General Assembly. In any event, and in a spirit of compromise, his delegation would support all efforts aimed at strengthening the role of the United Nations, provided that the necessary consensus

/...

(Mr. Kunz, Czechoslovakia)

was attained; in that respect, it considered that the amendment submitted by the delegation of Cyprus could be useful.

19. Mr. TOUHAMI (Morocco) recalled that during the general debate in the General Assembly, the head of his delegation had said that the United Nations had amply demonstrated, in the span of one generation, its indispensable role as bastion of the highest values of human civilization, and added that the appeal made by the Secretary-General, which summed up the aspirations of the international community regarding the work of the Organization, could not be disregarded by any Government which was aware of its duties. That was the spirit in which his delegation had co-sponsored draft resolution A/C.6/32/L.2, which recommended that the mandate of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, established unanimously by General Assembly resolution 3499 (XXX), and whose mandate had also been unanimously renewed by General Assembly resolution 31/28, should be renewed for the year 1978. That unanimous support showed that the Special Committee met a real need to consider from the legal point of view the functioning of the United Nations, which suffered from chronic paralysis in the economic and social spheres. The inability of the United Nations system to adapt the contemporary world to the far-reaching changes which had taken place since the Second World War justified the mandate of the Special Committee. As the Special Committee was still far from completing its work, there was no justification for the alarm of some delegations. Furthermore, despite the regrettable crisis which had occurred at the end of its most recent session, the Special Committee did not deserve such severe censure as the withdrawal, even on a temporary basis, of its mandate.

20. He believed that the collective wisdom of the international community would ensure that no Member State endangered the existence of the international institutions which depended on the continuance of universal adherence to the principles and purposes of the Charter. The Special Committee would thus be able to resume its work in a calmer atmosphere. It would no doubt have to apply the normal rules of procedure as appropriate in order to resolve questions of that nature, but should do so with a view to attaining an objective acceptable to the international community as a whole, as experience suggested.

21. Consequently, the Special Committee should be given a further reasonable period to complete its task. His delegation hoped that the relevant resolution would be adopted by consensus since, as the Secretary-General had said in his report on the work of the Organization (A/32/1, p. 3), "to yield constructive results the international negotiating and decision-making process requires the conscious application of political will, coupled with self-restraint and statesmanship. The penalty for failure in this regard may be severe, since it may involve an intangible but vital factor, the confidence of Governments in international institutions - a factor which has all too often been lost sight of in the heat of political debate".

22. Mr. KOSTOV (Bulgaria) said that the activities of the Special Committee created more problems than they solved. There were fundamental differences of opinion among its members on almost every subject under consideration. That was understandable, since there were two separate aspects to the Committee's mandate and the thesis that there was an urgent need to review the Charter in order to strengthen the role of the United Nations had never been accepted by a great number of Member States. Despite the assurances given at previous sessions of the General Assembly, some

/...

(Mr. Kostov, Bulgaria)

members of the Special Committee had made suggestions and proposals which would alter the political and juridical nature of the United Nations, particularly with regard to relations between the Security Council and the General Assembly and the abolition of the principle of unanimity of the permanent members of the Security Council. As the Minister for Foreign Affairs of his country had stated in the General Assembly, such proposals, far from strengthening the United Nations, would undermine the Organization and weaken the international basis for peaceful coexistence among States with different social systems.

23. The summary records of the Special Committee showed that its report had been adopted in an atmosphere of confrontation which was demonstrated in particular by the fact that a number of delegations had regrettably deemed it appropriate to resort to a vote, thus violating the understanding that the Special Committee ought to work on the basis of consensus, an established principle in discussions on major international issues. That principle was more than a procedural device; its application meant that the parties were prepared to negotiate in a spirit of goodwill and mutual accommodation. The nature of the subject under consideration in the Special Committee called for strict observance of the principle of consensus.

24. His delegation was convinced that the Charter had withstood the test of time. It was a balanced, flexible, multilateral treaty which had enabled the United Nations to adapt itself to the ever-changing world and to play an important role in safeguarding peace and security and promoting development and co-operation among all States. The effectiveness of the United Nations had been increased through dynamic interpretations of the Charter such as the Universal Declaration of Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation Among States, the Declaration on the Strengthening of International Security, the Charter of Economic Rights and Duties of States and the Definition of Aggression. While it was true that the Charter was silent on various issues of contemporary concern, the lack of specific provisions had not prevented the United Nations from dealing with those questions, establishing the necessary subsidiary organs and specialized agencies or convening international conferences under its auspices whenever necessary. The United Nations was not and could not be a world government. It was an association of sovereign States that manifested their collective will through concerted action. Accordingly, its effectiveness depended on the will of its Members to respect the principles of the Charter and to strive to attain its purposes. Revision of the Charter could not solve problems deriving from the unwillingness of certain States to live up to those principles and purposes. Political problems had to be solved by political means. For that reason, his country fully supported the proposals submitted by the Soviet Union concerning the conclusion of a world treaty on the non-use of force in international relations and the deepening and consolidation of international détente and prevention of the danger of nuclear war.

25. The Special Committee should give priority to questions relating to the strengthening of the role of the United Nations. Its members should be given sufficient time to enable them to make a sober assessment of the work they had done so far, bearing in mind that the Committee's only possible course of action was the one which would enable it to resolve differences among its members on the basis of consensus.

/...

26. Mr. ECONOMIDES (Greece) said that one of the main aspects of the item under consideration was the question of full implementation of the provisions of the Charter and the decisions adopted in that respect by the principal organs of the United Nations, particularly the Security Council. Such implementation would automatically strengthen the effectiveness of the Organization, particularly with regard to the maintenance of international peace and security. Non-implementation of the provisions of the Charter was unacceptable on legal grounds, since they were not only binding on all Member States but, in accordance with Article 103, prevailed over the provisions of any other international agreement. Non-implementation of the decisions of the Security Council was also unacceptable, since such decisions were binding on those to whom they were addressed, particularly in the light of Article 25 of the Charter.

27. An organization's effectiveness was measured by the way in which it performed its functions. Consequently, there was an urgent need to carry out a detailed study of all means already explicitly or implicitly included in the Charter, which, given the will to put them into practice, would make it possible to deal effectively with the serious violations he had mentioned, thereby strengthening the role of the United Nations.

28. His delegation supported renewal of the mandate of the Special Committee in accordance with the provisions of draft resolution A/C.6/32/L.2, which had been sponsored by a large number of countries, and hoped that ultimately all delegations would accept that proposal. The amendment submitted by the delegation of Cyprus, based on the working paper of 8 March 1977 (A/AC.182/L.12/Rev.1) was a reasonable suggestion regarding the methods of work which the Committee should adopt.

29. Mr. PEDAUYE (Spain) said that strictly speaking, the Charter of the United Nations was nothing more than a multilateral treaty. However, the content and scope of its provisions gave it the status of a genuine constitution of the community of nations. Consideration of the advisability and necessity of reviewing so important a document was a difficult exercise of broad scope and great significance. However, the Charter, like the constitutions of States, contained provisions relating to amendments and, unlike multilateral treaties, which usually required that amendments be adopted unanimously, Article 108 of the Charter stated that amendments to that instrument came into force when they had been adopted and ratified by two thirds of the Members, including all the permanent members of the Security Council. That twofold majority requirement was further proof of the constitutional nature of the Charter.

30. The provisions of Chapter XVIII, concerning amendments to the Charter, had been one of the most important elements in the adoption of a legal document which in regulating the machinery of so important a body as the Security Council had formally established for the first time an enormously significant exception to the basic principle of the sovereign equality of States. Those States which, out of a sense of realism, had been obliged to agree to that exception, had obtained in return the inclusion of the measures outlined in Chapter XVIII, thereby ensuring the possibility of a future review of the Charter in the light of new circumstances. There was no doubt that, since the Charter contained provisions relating to review machinery, it could be reviewed, and any delegation which took steps to that end would be acting in accordance with the spirit and letter of the Charter.

(Mr. Pedauye, Spain)

31. His delegation considered that it was necessary to review the Charter in order to bring it into line with current world realities. It was concerned at the growing scepticism of world public opinion and the media in recent years concerning the United Nations real capacity to cope with the serious problems facing the world. Moreover, a growing number of issues of major significance were being discussed and negotiated outside the United Nations and either were never included in the agenda of United Nations bodies or were included only in the final instance and for the sole purpose of obtaining the Organization's approval wherever possible. If those trends were confirmed, there was a danger that the United Nations would become a bureaucratic organization with little or no influence on world events. His delegation believed that those trends could and should be corrected and that the Special Committee, which was currently the only forum in which those problems could be discussed, could make a contribution in that respect.

32. The report of the Special Committee (A/32/33) contained a number of ideas and proposals which could make a highly positive contribution to the strengthening of the role of the Organization; some of them involved amendment of the Charter, while many others did not. His delegation welcomed the wise decision to annex to the report of the Special Committee documents A/AC.182/L.12 and A/AC.182/L.15, which contained concrete proposals in that respect, and document A/AC.182/L.2, which contained the analytical study submitted by the Secretary-General pursuant to General Assembly resolution 3499 (XXX). Although the proposals contained in those documents only reflected the views of the delegations which had sponsored them and were consequently not proposals of the Special Committee, their inclusion in the report would open the way for consideration and discussion of those proposals by the large number of delegations which had not participated in the Special Committee's work. The proposal submitted by his delegation together with the delegation of Italy in document A/AC.182/L.15 took account of the need to contribute, as far as possible, to strengthening the role of the Organization, particularly in the maintenance of peace and security, the peaceful settlement of disputes and economic and social matters.

33. The question of revising the Charter was a complex and sensitive one, whose political implications were even more important than the purely legal ones. A realistic, pragmatic approach was essential in order to distinguish between what was desirable and what was possible at any given time. Every effort must therefore be made to ensure general agreement in the Special Committee, particularly in the final stages of its work. His delegation had taken part in the informal consultations held in the past few days with a view to finally arriving at a consensus on a draft resolution so as to avoid a confrontation. However, if the consensus rule was to be used as a device for paralysing the work of the Special Committee by raising questions of a purely procedural nature, his delegation would not hesitate to make use - as it had during the previous session of the Special Committee - of the voting system provided for in the Charter and in the rules of procedure of the General Assembly.

34. His delegation felt that since the Special Committee had not yet completed its work, its mandate should be renewed. It should resume its work in 1978, if possible on the same date and for about the same length of time as it had in 1977. When it reconvened, the Special Committee should complete its examination of the analytical

/...

(Mr. Pedauye, Spain)

study submitted by the Secretary-General and concentrate on consideration of those proposals which had aroused the greatest interest among the greatest number of delegations. That was not to say that the Committee could not take up at its next session any new proposals or suggestions that might be submitted by any Member State.

35. In conclusion, he recalled that in addressing the General Assembly at its current session his country's Minister for Foreign Affairs had stressed the need for all Member States to reach agreement on the institutional strengthening of the Organization by way of the Charter reform and had pointed out that, among other measures, his country considered of particular importance the strengthening of the Security Council, the establishment of a permanent peace-keeping system and the possible establishment within the Economic and Social Council of a permanent world economic commission.

36. Mr. BONILLA (Colombia) said his delegation felt that the item under consideration was of vital importance if the Organization was to continue to play its proper role in the maintenance of international peace and security. The atmosphere prevailing during the debate at the last session of the Special Committee had shown that other delegations took a similar view. The suggestion that the item should be placed on the agenda of the General Assembly only every other year was therefore unacceptable.

37. His delegation had brought to the attention of Member States several points on which it felt that changes could be made in the Charter. Those suggestions could be found in official documents and were summarized in annexes to the report of the Special Committee. One matter which had awakened special interest among Member States was the need to make changes in the Charter that would enable the Organization to deal with the economic problems confronting the international community. If it was agreed that there was a need for a new international economic order, it must also be recognized that the machinery for putting the new order into operation was not now available to the Organization. His delegation therefore supported the proposals made by some Member States to the effect that the United Nations should have permanent machinery for studying economic relations between countries, fair terms of trade, protectionism, obstacles to international trade and any measures affecting specific aspects of the economic life of nations; countries could not be expected to comply with other rules of the United Nations until international economic justice became a reality.

38. Some delegations had argued that it was dangerous to throw open a window to amendments to the Charter, because the Organization might leap into the void. The strongest rebuttal to that argument could be found in the responsible, serious and cautious manner in which the proposed amendments had been formulated. Not one of them had been proposed without due regard for the peaceful coexistence of the international community.

39. The United Nations represented the most nearly perfect of the many attempts at international organization made by mankind throughout history. However, his delegation feared that the Organization would suffer the same fate as its predecessors: death by paralysis, by premature aging, by ossification of its legal, economic and social structures. That fate would prove inexorable unless

(Mr. Bonilla, Colombia)

Member States were careful to note the changes inevitably occurring in the societies that made up the Organization and in the relations between them. After reviewing the main events that had taken place during the life of the United Nations as well as the scientific and technological revolution, the change in the balance of power in the world and the phenomenon of decolonization, he observed that the new world that had emerged could not be kept in the straitjacket of the old Charter.

40. For those and other reasons, his delegation felt that the Special Committee should continue its useful work, identifying those areas in which there was the greatest measure of agreement in seeking changes and reforms within the broad scope of United Nations rules, which permitted free, democratic discussion of issues. It was to be hoped that, by 1978, Member States would have submitted their views to the Committee, which by then should have tabulated and analysed them in such a way that the Sixth Committee would have a clear picture of what the wishes of Members were with regard to the Charter.

41. Mr. ROSSIDES (Cyprus) said that the Charter itself made provision for its amendment, which should therefore be regarded as something quite normal, particularly in a world which had undergone so many changes. Adjustments must be made in the Charter, but first it was necessary to identify those areas where the Organization's actions had been inconsistent with world realities. The main such area was to be found in the failure of the Organization to perform its most important function, namely, the maintenance of international peace and security. There was no world legal order, there was no international security, aggression was the order of the day, and States could not even enjoy peace and security within their own boundaries, since they were threatened by terrorism, kidnappings and other acts of violence. Could the Charter be blamed for all that? Did it not provide means of maintaining international security? Or was it that the Charter was not being applied?

42. The truth was that Chapter VII of the Charter was not applied, that no attempt was even made to implement decisions taken by the Security Council, after lengthy deliberations, in cases of threats to the peace or acts of aggression. That was the sad situation now prevailing: that the Security Council did not comply with or try to comply with its obligation under the Charter to make use of all the means available to it in order to enforce its resolutions.

43. Therefore, although he did not deny that there was a need to amend the Charter - the veto, for example, obviously hampered the working of the Security Council - he felt that the Charter must first be applied in those cases where there was a unanimous decision of the Security Council and where, nevertheless, nothing was being done to enforce it. There had been many recent cases in which resolutions that were vital to the maintenance of international peace and security had remained unenforced, thus enabling the aggressor to defy the international community with impunity.

44. He noted that document A/AC.182/L.12/Rev.1 contained suggestions and proposals for strengthening the role of the United Nations without amending the Charter. Those proposals showed the urgent need for all Member States to accept and carry out

/...

(Mr. Rossides, Cyprus)

all decisions and recommendations of the United Nations and to ensure that the action for the maintenance of international peace and security provided for under the Charter was taken with respect to threats to the peace, breaches of the peace or acts of aggression. Those proposals were absolutely logical, and it was obvious that solutions must be found to the problems he had mentioned before proposals for amending the Charter, which might present further difficulties, were taken up.

45. That being the case, he urged members of the Sixth Committee to give favourable consideration to the amendment proposed by Cyprus in document A/C.6/32/L.3, which could greatly facilitate the work of the Special Committee, since the proposals that had awakened special interest were clearly those which did not involve amendments to the Charter and, moreover, those proposals dealt with areas in which general agreement was possible.

46. Mr. LOVO CASTELAR (El Salvador) expressed his country's interest in the work of the Special Committee, of which it was a member, as demonstrated by the fact that it had joined in sponsoring the Sixth Committee resolution which had been adopted as General Assembly resolution 31/28. The two items under consideration by the Special Committee were closely related, since any reform of the Charter should help to strengthen the role of the Organization and that strengthening could not be achieved without amending numerous provisions of the Charter. Nevertheless, progress could be made towards strengthening the Organization's role without amending the Charter, for example, by means of international conventions or resolutions of various United Nations bodies.

47. His delegation did not share the view of those who held that the text of the Charter was sacrosanct. The increase in the membership of the United Nations and the lessons gained from experience showed that the Charter should be revised for the benefit of the peoples suffering from under-development, the vestiges of colonialism and racial segregation, and the harmful influence of the dominance and rivalry of certain nations. There was no reason to be held back by the belief that until such time as the principle of equality of States emerged from the romantic stage of being enshrined in international documents, it would not be possible to change the rules which granted certain nations the right of veto, to enlarge the membership of the Security Council or to grant the Council's members a semi-veto on a rotating basis. The inequalities among men and among States should be corrected by introducing unequal rights for the benefit of the weak in order to achieve legal equality. The veto contradicted the principle of the equality of all nations, since it made the powerful stronger and the defenceless weaker. Improper use of the veto to prevent the Security Council from taking action to deal with a conflict or to block the admission of new States to the United Nations did not help to strengthen the role of the Organization. Every free and sovereign State had the right to become a Member of the United Nations.

48. His delegation felt that, in order to strengthen the Organization's role, a greater number of functions should be conferred on the General Assembly, without, however, making the Security Council become dependent on it. Maintaining the equilibrium between the two bodies was one of the most difficult problems to solve, and the solution was not to be found by placing one body above the other.

(Mr. Lovo Castelar, El Salvador)

49. In the current state of international law, no effort should be made to transform the United Nations into a supra-national organization or world government which overrode the sovereignty of States. In any event, the General Assembly had a sufficiently broad field in which to perform its role without its being necessary for the Charter to be amended and for its resolutions to be adopted by consensus. Many General Assembly resolutions had led to the conclusion of international conventions, although it was to be regretted that some of them contained provisions which permitted some States to evade their legal rules even in cases not involving reservations, declarations or denunciation, which were provided for by international law. In order to help to strengthen the role of the Organization, it was essential for those conventions to be ratified by the States which had not yet done so.

50. His delegation had co-sponsored draft resolution A/C.6/32/L.2, and it rejected the suggestion that the decisions of the Special Committee should be taken by consensus.

51. Mr. MACAULAY (Nigeria) reaffirmed his country's commitment to the high ideals that had prompted the founding fathers of the United Nations some 30 years previously to establish the Organization as a machine to fashion a world without wars. Reality had not always accorded with the immortal words of the Preamble of the Charter, but, although Chapter XVIII provided a procedure for amendments, the mere invoking of that Chapter divided the Members of the United Nations into two groups. Between 1965 and 1968, Articles 23, 27, 61 and 109 of the Charter had been amended without major difficulties. Now, on the other hand, debates were becoming polarized, since some founding Members were defending their entrenched interests.

52. His delegation supported a selective approach in considering any necessary amendments to the Charter. The Special Committee's mandate was no doubt a formidable one, but that body should begin by agreeing on the least contentious aspects of the problem. The maintenance of international peace and security and the attainment of the high ideals of the Charter would be impossible without the active co-operation of the entire international community. That approach in no way threatened the existence of the Security Council or its permanent members. However, the maintenance of international peace and security had ceased to be the exclusive responsibility of the permanent members and Articles 10, 11 and 24, which endowed the General Assembly with residual powers should be applied whenever the Security Council was unable to carry out its primary responsibility. After all, the manipulation of the veto had not saved South Africa from being excluded from the General Assembly.

53. Nevertheless, if the right of veto and the principle of unanimity were to be maintained, further abuses should be avoided by agreeing to limit their application to certain specific cases. The fundamental instruments of the United Nations could be reviewed without questioning the principles enshrined in the Charter. For example, the Conference of the Committee on Disarmament should be strengthened, thus facilitating the participation of China and France in its work; efforts should also be made to keep important peace-keeping matters within the competence of the United Nations even if that entailed the use of Articles 39 to 42 of the Charter and the adoption of any necessary measures to implement Article 43.

/...

(Mr. Macaulay, Nigeria)

54. It could not be denied that there were short-comings in the Charter, which did not contain any provision relating to the establishment of a new international order and did not provide against the risk of interference in the internal affairs of other countries or the use of force in international relations outside the scope of Chapter VII. The Charter was also silent about many of the concerns of the contemporary world, such as the economic application of nuclear technology, environmental problems, the uses of the sea-bed and outer space, transnational corporations, the law of the sea, and population and food problems.

55. In spite of all that, an effort was being made to persuade the so-called "tyrannical majority" that the Charter had stood the test of time and was in no need of change. However, that argument had not prevented the formation of regional organizations outside the purview of the Charter, organizations which had frequently been successful in establishing outside Article 52, their own machinery for consultations and the settlement of disputes as well as binding legal instruments of undoubted validity but restricted application. Some provisions of those instruments were often quoted widely, and he ventured to say that it would not be too long before the Sixth Committee, and perhaps the Special Political Committee as well, was called upon to implement some of them to meet "more important" global situations.

56. His country had joined in sponsoring draft resolution A/C.6/32/L.2 on the firm understanding that the idea of reaching a consensus meant a conscious effort by all members of the Sixth Committee to make progress towards an agreement to extend the mandate of the Special Committee without the need to have recourse to a vote. If a vote proved necessary, he thought that the rules of procedure of the General Assembly would have to be applied.

57. Mr. MAKAREVITCH (Ukrainian Soviet Socialist Republic) said that the Charter was a document which governed the activities of the United Nations and that its main objective was the maintenance of international peace and security and the prevention of war and acts of aggression. Only if the United Nations was successful in that activity of maintaining peace could it be successful in social and economic spheres. The Charter should be a kind of code of conduct for the international community and an effective instrument for the development of mutually beneficial co-operation between States with different economic and social systems.

58. The history of the United Nations showed that it had performed an important role in the solution of major international problems. Thanks to the efforts of the United Nations and of the peace-loving countries, mankind had not suffered the horrors of a world war in the past 30 years. That was not only the most important accomplishment of the United Nations but also proof of the viability and solidity of its Charter.

59. Some countries had submitted proposals for completely or partially changing the Charter, but many convincing arguments had also been put forward in favour of maintaining it without change. At the present stage of the debate, it served no purpose to examine the arguments in favour of the specific proposals for review, the enumeration of which was rather monotonous and had been repeated from one

/...

(Mr. Makarevitch, Ukrainian SSR)

session to another. Neither was it necessary to advance arguments to show that such statements lacked any foundation. It was sufficient to stress that the Charter had successfully withstood the test of time and had demonstrated its viability in contemporary international relations.

60. What was needed was a thorough study of all activities of the United Nations and its organs with a view to finding means of strengthening the role of the Organization, strictly on the basis of the principles laid down in the Charter. There were two main ways in which the role of the United Nations could be strengthened; the first was through strict compliance by all States with the commitments they had assumed at the time of their admission to the United Nations, and the second was by making full use of the potential of the Charter. United Nations activities could not be effective if some countries complied with their obligations and others did not.

61. If the United Nations was to be genuinely strengthened, the causes of its short-comings must be determined. A study of its activities in special situations showed that those short-comings could be attributed to the failure of some countries to comply with the provisions of the Charter. Certainly, in some critical situations, the United Nations had not risen to the occasion. However, that did not prove the need to amend or revise the provisions of the Charter, especially those relating to the functions and powers of its principal organs, their voting procedures and the nature of their decisions.

62. Some of the proposals for change which had been submitted were aimed at a complete restructuring of the United Nations. Any such intention called for the greatest caution and a tremendous sense of responsibility on the part of all States. Unlike the League of Nations, which, as Lenin had said, had been characterized by inequality among nations, the United Nations was based on the sovereign equality of States, irrespective of their social systems or levels of development. Accordingly, the concept of a new world organization serving the cause of peace and security was already incorporated in the Charter, which not only set forth objectives and principles but also established machinery for achieving them.

63. One basic foundation of that machinery was the requirement of unanimity among the permanent members of the Security Council, which was the main safeguard against any attempt to use that principal organ for the maintenance of international peace and security in such a way as to convert it into an instrument for domination by one group of countries. His delegation was convinced that, if that principle did not always produce satisfactory results, the reason was that some parties had turned it against the principles of the Charter itself. Those who argued that that principle was no longer in keeping with the new world situation should remember that it had been responsible for preventing another world war.

64. He noted the levity with which some proposals for reapportionment of the powers of the principal organs of the United Nations were being advanced.

65. From a realistic standpoint, it was impossible to give the General Assembly greater powers at the expense of the Security Council, since the United Nations was

/...

(Mr. Makarevitch, Ukrainian SSR)

not a world government but a forum for sovereign States. The Ukrainian SSR, motivated by concern to strengthen international peace and security, was therefore opposed to any amendment of the Charter, because that would weaken its foundations and be detrimental to the international situation and to relations between States.

66. The report of the Special Committee (A/32/33) showed how much contention there had been in that Committee at its last session. His country believed that the Special Committee should concentrate on positive factors which would serve to reconcile divergent positions, and priority should therefore be given to proposals for improving the effectiveness of the United Nations without its being necessary to amend the Charter. In any event, there should first of all be a second reading of the analytical study prepared by the Secretariat, and he deplored the attitude of certain delegations which were trying at any price to accelerate the work of the Special Committee.

67. Equally deplorable was the attitude of those States which had pressed for a vote on whether to include in the Special Committee's report certain documents that had not been considered in substance during the session. That action would be detrimental to the efforts to reach a general agreement. The fact that a consensus had not been achieved on that question reflected the critical situation which prevailed in the Special Committee on the Charter, owing to the fact that some delegations were merely trying to attain their own objectives. As a result, the spirit of co-operation in the Special Committee had been destroyed, and his delegation had serious doubts as to whether it could continue its work. In any event, if the mandate of the Special Committee was to be renewed, it was essential for the resolution on the subject to state specifically that all the Special Committee's decisions, procedural or substantive, must be adopted by consensus.

The meeting rose at 6.10 p.m.