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SUMMARY RECORD OF THE 46th MEETING

Chairman: Mr. MENDOZA (Philippines)

CONTENTS

AGENDA ITEM 110: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

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

AGENDA ITEM 110: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (A/31/33, A/31/51 and Add.1; A/C.6/31/L.6; A/AC.182/L.2) (continued)

1. Mr. CHAVEZ (Peru) said that the world's radical economic, social and political development, together with the problems that had arisen since 1945, necessitated revision of the Charter. The aim was in no way to call in question the fundamental principles on which the Charter was based, but rather to perfect it and round it out by expressly setting forth therein new principles such as non-intervention in the internal affairs of States, international co-operation for development, collective economic security, economic equality, general and complete disarmament, and world-wide interdependence.
2. The Fifth Conference of Heads of State or Government of the Non-Aligned Countries, held in Colombo in 1976, had acknowledged that the United Nations was an effective instrument for promoting international peace and security, developing co-operation and establishing equitable economic relations between States, and promoting fundamental rights and freedoms. The participants in that Conference had also reaffirmed their adherence to the purposes and principles of the Charter and firmly declared that the almost universal nature of the United Nations had enabled it to play a greater role in the decision-making process and had therefore made revision of the Charter necessary.
3. The Group of Experts on the Structure of the United Nations System had indicated clearly in its report that the United Nations system could not deal with the challenges of the times unless it reflected certain realities, particularly the trend toward a relaxation of tensions, the growing interdependence of Member States, the discontent of a large part of the international community with the current state of international economic relations, and the gap existing not only between developed and developing countries but also between groups of countries that had not reached the same degree of wealth and had different technical means and social systems.
4. The goal of universality of membership of the United Nations, which had thus far not been attained, owing to the unjustified and unjustifiable application of Article 4, paragraph 2, of the Charter, and the new realities of the international situation made it necessary to revise the Charter.
5. The General Assembly had amended the Charter on three occasions, but those amendments had proved to be insufficient. It was to be feared that simple amendment of provisions that had become obsolete, such as Article 53, paragraph 2, Article 107 and Article 109, paragraph 3, of the Charter, or Article 38, paragraph 1 (c), of the Statute of the International Court of Justice would meet with no greater success. If revision of the Charter was undertaken it should be done in order to extend its purposes and principles and to restructure the United Nations.
6. In their first reading the Special Committee and its Working Group had been able to examine only the first 42 paragraphs of the analytical study submitted by

(Mr. Chavez, Peru)

the Secretary-General. The report prepared by the Special Committee after that examination revealed fundamental divergences on certain points, but also showed that a majority of countries favoured revising the Charter.

7. At its next session the Special Committee would consider questions of fundamental interest to third world countries, inasmuch as they concerned the General Assembly and the Security Council. His delegation, which was not a member of the Special Committee, keenly hoped that those debates would be fruitful and would not end in an impasse that would be detrimental to all the Members of the United Nations, and most particularly to the countries of the third world, which hoped that their current needs, and the principle of political as well as juridical equality of States, would be recognized.

8. His country was a sponsor of draft resolution A/C.6/31/L.6, and he hoped that it would be adopted by consensus, as was traditional in the Sixth Committee.

9. Mr. OLOGOUDOU (Benin) said that the Charter was a remarkable document that had responded very satisfactorily to the exceptional conditions which had existed at the time of its drafting, but noted that as the international situation had changed considerably since then, it was now necessary to revise or amend the Charter.

10. There was no question of modifying the Charter's purposes and principles, which should remain immutable. Questioning them would only lead to questioning the existence of the United Nations itself. Nevertheless, it should be possible to amend the organic part of the Charter and adapt it to the new situation brought about by the upheavals of the past 30 years in almost all fields of human activity.

11. Some claimed that revision of the Charter would jeopardize the stability of the United Nations and that the Charter was sufficiently flexible to adapt to new situations. Such an approach revealed the fear of certain countries that they would lose their control of the United Nations. Fearing that adaptation of statute to reality would deprive them of their arrogant privilege of the right of veto, through which they could currently oppose the admission of a State fulfilling the objective conditions stipulated by the Charter, those countries objected to any revision of the Charter.

12. His delegation did not, however, demand pure and simple elimination of the right of veto, inasmuch as such a measure would weaken the Security Council, which would have consequences equally as disastrous as abuse of the right of veto. Rather, it hoped that right could be modified. For the adoption of important decisions, an affirmative vote by three permanent members of the Security Council could, for example, be required. Consideration could also be given to distributing the permanent seats on the Security Council on a basis of geographic security. That organ was the only one whose composition continued to reflect domination by the founding countries of the United Nations. Over-representation of certain regions was the obvious sign of the desire for vengeance of the conquerors of former times who felt they were entitled to all rights, particularly that of being the only States watching over the maintenance of peace among nations.

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(Mr. Ologoudou, Benin)

13. He believed it would also be appropriate to increase the powers of the General Assembly, which was the principal organ of the United Nations, so that it could assist the Security Council in maintaining peace and security.

14. It would, however, be erroneous to believe that revision of the Charter would suffice to cure the ills of the United Nations. The principles embodied in the Charter, however strict, would remain a dead letter if the Members of the United Nations, especially those with particular responsibilities, did not demonstrate genuine political will. The Organization's credibility would depend on their attitude.

15. His Government would at a later stage submit observations on the various articles of the Charter that should be amended. The mandate of the Special Committee should be renewed so that it could complete its work.

16. Mr. ALKAFF (Democratic Yemen) said that the successes of the United Nations since its founding, particularly in the field of international co-operation, decolonization, and the struggle against all forms of racial discrimination and apartheid, could not obscure its failures. Such failures were not due to defects in the Charter, but rather to the attitudes of certain countries that did not respect the principles it contained, disregarded the resolutions adopted by the General Assembly when they were contrary to their interests and used the right of veto to prevent nations from participating in the work of the United Nations.

17. The role of the Organization could not be strengthened unless all countries, regardless of their social system, geographical situation and power, fulfilled their obligations under the Charter and accepted the decisions of the majority.

18. In a world in which the colonial and neo-colonial Powers continued to be so aggressive, one of the most serious problems the international community had to face was the maintenance of peace. In that field, as in all others, the co-operation of all States was necessary.

19. Although the Charter had stood the test of time, it had to be recognized, as was true of all instruments fashioned by man, that the Charter contained defects. The Special Committee would have to determine if the role of the Organization could be strengthened without amending the Charter or if revision would be necessary.

20. His country had undertaken to respect the principles of the Charter in its international relations, and had often stated that it favoured strengthening the role of the United Nations so that the latter could contribute more effectively to solving the problems relating to underdevelopment, the

(Mr. Alkaff, Democratic Yemen)

establishment of a new international economic order, disarmament, the elimination of racist régimes and the suppression of all forms of racial discrimination.

21. Mr. AL-ADOOFI (Yemen) said that the report under consideration showed that the Special Committee had made substantial progress and attained some of the objectives it had been assigned. Nevertheless, as the Working Group of the Special Committee had not been able to complete its consideration of the analytical study prepared by the Secretary-General, the mandate of the Committee should be extended.

22. Several reasons militated in favour of revision of the Charter, particularly the fact that the international situation had changed radically since 1945. His delegation was willing to support any measure that would enable the United Nations to participate more effectively in maintaining peace, developing international co-operation and eliminating all forms of discrimination.

23. He hoped that draft resolution A/C.6/31/L.6, of which his delegation was a sponsor, would be adopted by consensus, and that the Special Committee would conclude its work under the best possible conditions and make positive and realistic proposals that the General Assembly could adopt at its next session.

24. Mr. BIALY (Poland) said that the fundamental principles formulated at the San Francisco Conference by the founders of the United Nations should not be overthrown. The Charter of the United Nations remained the most solid foundation of international relations. As the Minister for Foreign Affairs of Poland had stated recently in the General Assembly, strengthening of the functioning of the United Nations did not depend on revision of the Charter but rather on fuller utilization of its provisions, especially with regard to the maintenance of peace, the establishment of more equitable economic relations and co-operation in the social field.

25. The blame for present-day international conflicts could not be laid on the United Nations Charter. It was not the source of the developments in the Middle East, which posed a threat to world peace, nor was it to blame for the infringement of the independence and territorial integrity of the Republic of Cyprus or for the suffering experienced by the peoples of South Africa, Namibia and Zimbabwe under the colonial yoke of racism. On the contrary, if the provisions of the Charter were properly implemented they could make it possible to end those situations, which had been condemned by the international community. Similarly, if the veto had been misused for purposes that had nothing to do with the responsibilities ensuing from the purposes and principles of the United Nations, the fault should not be sought in the Charter. If much remained to be done to ensure the economic and social progress of all nations, the Charter was not to blame; rather, it was the implementation of the Charter's principles that left something to be desired. Under current circumstances it would be premature to conclude that the principles themselves should be questioned. The rules should not be changed without first seeking to improve their implementation.

(Mr. Bialy, Poland)

26. The purposes and principles of the United Nations Charter were valid for future generations and were therefore sacrosanct. They constituted the foundation of a new international order under which the use of force was prohibited, the maintenance of international peace and security was the duty of each State, and international relations were governed by the principle of peaceful coexistence.

27. The work of the Special Committee on the Charter and of the Ad Hoc Committee on the Restructuring of the Economic and Social Sectors of the United Nations System overlapped in many aspects. Both committees were consequently bound to lose time or arrive at contradictory conclusions. His delegation therefore suggested that the question of review of the Charter should be taken off the agenda of the Sixth Committee or at least that the work of the Special Committee on the Charter should be suspended until the Ad Hoc Committee on Restructuring had finished its work and presented its conclusions.

28. Mr. FIFOOT (United Kingdom) said that he was approaching the discussion of the item with some diffidence; however, he did not feel it necessary to repeat the views of his delegation, since they were well known to all.

29. In the interest of efficiency, the Special Committee should confine itself to continuing its examination of the analytical study submitted by the Secretary-General. Despite the strongly divided views existing on certain issues, his delegation recognized the Special Committee's ability to give consideration to those and other, less divisive, issues in a workmanlike manner.

30. After observing that the current debate had to a great extent concentrated on procedural matters and that draft resolution A/C.6/31/L.6 confined itself to a renewal of the Special Committee's mandate for another year, he said that the draft resolution would probably be adopted by consensus.

31. Mr. DONORABAYE (Chad) said that the question under discussion was of great importance for the future of the United Nations and was of particular interest to the third world. The transformation at the preceding session of the General Assembly of the Ad Hoc Committee on the Charter of the United Nations into the Special Committee on the Charter of the United Nations and on the Strengthening of the Organization demonstrated the interest of States in that question.

32. The extremely positive results obtained by the United Nations in recent years had gained the confidence of States, particularly third world countries. Chad had repeatedly reaffirmed its faith in the United Nations and had great hopes for its future.

33. Even more positive results could be obtained, however, if the United Nations mechanism responded more satisfactorily to current concerns. As the Minister for Foreign Affairs and Co-operation of Chad had stated in the General Assembly during its current session, although the fundamental principles of the United Nations were immutable, it was nevertheless true that the Charter contained certain

(Mr. Donorabaye, Chad)

obsolete provisions - particularly the right of veto, which certain permanent members of the Security Council abused to protect their own selfish interests. The Security Council should reflect the geographical makeup of the international community, and the maintenance of international peace and security should not be monopolized by the great Powers.

34. During the recent Conference of Heads of State or Government of the Non-Aligned Countries in Colombo, 86 countries, after reaffirming their adherence to the purposes and principles of the United Nations, had taken a stand in favour of revision of the Charter and especially of the right of veto. Exercise of the right of veto by a permanent member of the Security Council had prevented the Socialist Republic of Viet Nam and the People's Republic of Angola from being admitted to the United Nations, although they fulfilled all the conditions stipulated in the Charter for the admission of new members. The international community had the moral duty to take into account the legitimate demands of the non-aligned countries, which formed a dynamic majority in the United Nations.

35. The Special Committee should consider developments in the world since 1945. Despite the complexity of its task, it had done very useful work that had made a fruitful exchange of views possible. It should not be forgotten that treaties were created by the will of the parties concerned and could be revised if the parties so desired. It should also be noted that Chapter XVIII of the Charter authorized the General Assembly to review the Charter.

36. His delegation believed that the mandate of the Special Committee should be extended in accordance with the spirit of General Assembly resolution 3499 (XXX). It would vote in favour of draft resolution A/C.6/31/L.6, of which it was a sponsor.

37. Mrs. KONRAD (Hungary) said that the position of her country on the question under discussion had been stated in the observations her Government had sent to the Secretary-General and in the observations made in the Sixth Committee in 1975. The Minister for Foreign Affairs of Hungary had stated during the current session of the General Assembly that in order to make the United Nations more effective, the Charter must be implemented more coherently. He had added that during the past 30 years implementation of the Charter had contributed to the maintenance of international peace and security, the development of relations among nations, the accomplishment of economic, social, cultural and humanitarian tasks, and the expansion of international co-operation. His conclusion had been that it was not necessary to amend the Charter.

38. The report of the Special Committee took into consideration the fundamental divergences of opinion among Member States on certain questions, particularly the need to amend the provisions of the Charter. It seemed as if the Special Committee had not made sufficient efforts to determine in which areas the opinions of Member States did not differ fundamentally. In the future it was important for the Special Committee to give priority to those areas in which general agreement was possible, as requested by the General Assembly in operative paragraph 2 of resolution 3499 (XXX), since such areas did exist. For example, the members of the Special Committee had been unanimous in recognizing that the role of the United

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(Mrs. Konrad, Hungary)

Nations in maintaining international peace and security was of capital importance. Her delegation was of the opinion that the Charter offered the United Nations every possibility of performing that noble task.

39. The United Nations had been undeniably successful in many areas. On the basis of the provisions of the Charter, it had adopted documents of great importance, such as 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 in Accordance with the Charter of the United Nations, the Definition of Aggression, and the Declaration on the Strengthening of International Security, which proved that the Charter was sufficiently flexible to satisfy the demands of the contemporary world.

40. It was true that currently the United Nations still left much to be desired, but that could not be blamed either on the provisions of the Charter or on the Organization's structure, especially since the possibilities offered by the Charter were far from being exhausted.

41. The Special Committee should seek to determine what was preventing the Organization from becoming more effective. Such a study would certainly demonstrate that the principles and provisions of the Charter should be strictly observed and the resolutions of United Nations bodies rigorously respected.

42. Furthermore, the principles of the Charter could be specified in appropriate instruments. Her delegation was convinced, for example, that a world treaty on non-recourse to force in international relations could help to safeguard peace and strengthen the role of the Organization. The Special Committee should therefore make clear what fundamental provisions of the Charter could be strengthened and developed by specific instruments.

43. Mr. KONTA (Congo) said that his country was a member of the Special Committee and that certain comments and proposals in the Committee's report reflected his Government's views.

44. The People's Republic of the Congo had always upheld any move to adapt the Charter and the structures of the United Nations to the requirements of the modern world and for that reason it supported the proposals which had been made for the review of the Charter.

45. It was a fact that those who had promised the world peace at San Francisco, in 1945, were maintaining situations of injustice in defiance of international law. That being so, it might be asked whether certain States deserved to keep the privileges they had within the Security Council. The refusal to admit the People's Republic of Angola and the Socialist Republic of Viet Nam to the United Nations was a recent illustration of the abuse of the right of veto. The Congolese Minister for Foreign Affairs had recently stated before the General Assembly that the right of veto seemed to be one which certain Powers had granted themselves in order to maintain control over world affairs and that it constituted a

(Mr. Konta, Congo)

serious challenge which endangered the principle of the sovereign equality of all the nations, large or small, which were Members of the United Nations.

46. His delegation would contribute to any solution which helped to strengthen the role, authority and effectiveness of the United Nations. Consequently, it supported the proposal that the Special Committee's mandate be renewed, in order that that body might complete its task.

47. Mr. QAZILBASH (Pakistan) said that his delegation favoured the method adopted by the Special Committee for reviewing the effectiveness of the United Nations and indicating what legal and procedural modifications could be made in order to facilitate the fulfilment of the purposes and principles of the Charter. It was in that spirit that it had supported the establishment of the Ad Hoc Committee, and its transformation into the Special Committee.

48. Since the substantive issues had already been ably discussed by the Special Committee, he would confine himself to outlining his country's general approach to the question of the review of the Charter and the strengthening of the role of the Organization. Pakistan believed that the United Nations effectiveness depended primarily on strict compliance by the Member States with the principles and norms established by the Charter and with the decisions and recommendations of the Organization. If all Member States judged each issue on merit, rather than on narrow considerations of national interest, the Charter could, by and large, serve to maintain international peace and security. The United Nations could claim credit for noteworthy achievements in certain fields, but it had not always been able to fulfil its primary responsibility, which was to maintain peace and security in the world. However, the Organization's inadequacy in that sphere could not be attributed to any serious flaw in the Charter itself, but to breaches of its provisions and to the intransigent attitude of certain Member States which refused to abide by the decisions of its organs. The permanent members of the Security Council had a special responsibility in that respect, and some of them had not set the most exemplary record of respect for the Charter or the decisions of the Organization and had on occasions abused their privileges. It might be worth while examining the best ways of limiting the opportunities for such abuse.

49. At the same time, it must be borne in mind that significant changes had taken place in the world since 1945. The centres of power and influence had shifted, the number of third world States which were Members of the Organization had multiplied, and the United Nations had addressed itself to new issues, such as the environment and the sea, which were hardly mentioned in the Charter. Some of those changes, particularly those in the economic field, needed to be reflected in the Charter. However, care should be taken not to derogate from the purposes and principles of that instrument, which represented a consensus concerning the conduct of international affairs which it was in the interest of every State, whether large or small, to maintain.

50. His delegation considered that a major part of the changes which were required to the Charter could be brought about through the procedures provided for in

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(Mr. Qazilbash, Pakistan)

Article 108. It was happy to see that the work on strengthening the role of the Organization and improving the Charter had become concrete in nature and hoped that the Special Committee would elaborate from the proposals and opinions reflected in its report a set of specific proposals which the Sixth Committee could consider at its next session. His delegation supported draft resolution A/C.6/31/L.6.

51. Miss ISSEMBE (Gabon) recalled that her country attached special importance to the question under study. On the occasion of the United Nations twenty-fifth anniversary, the President of the Republic of Gabon had observed that as early as the San Francisco Conference, mankind had established for itself a code of conduct, in the form of the Charter of the United Nations; he had asked what progress the United Nations had made along the course it had set for itself and had said that, as with all human endeavours, the results of its efforts had been both positive and negative. Those views coincided with the comments contained in the analytical study submitted by the Secretary-General (A/AC.182/L.2) and the report of the Special Committee (A/31/33). Although it believed unshakeably in the Charter, her Government favoured action to review the instrument, for it recognized that the United Nations must now adapt itself to a world which was very different from that of 1945.

52. The analytical study submitted by the Secretary-General showed that many Governments had criticized the right of veto reserved to the five major Powers. Some had recommended an increase in the number of permanent members of the Security Council and retention of the principle of unanimity among them. For its part, her Government proposed the elimination pure and simple of the veto. It was convinced that extension of the exercise of that right would not yield any positive change, but would be more likely to lead to complications. Abuse of the right of veto had on several occasions prevented the solution of major problems, including problems relating to the establishment of peace in certain regions.

53. In addition, the institution of the veto was contrary to one of the fundamental principles of the Charter, namely that of the sovereign equality of all Member States. With regard to the maintenance of international peace and security, the Security Council had primacy over the General Assembly, which was the most representative body of the Organization. Some had justified that anomaly by invoking the concept of the delegation of sovereignty, but while that notion might originally have been warranted, it was no longer so at the present day. There were numerous examples to show that certain Powers had abused the principle of unanimity in order to violate the Charter and so protect their own interests. For example, it was by virtue of the principle of universality that South Africa had not been excluded from the Organization, whereas Angola and the Socialist Republic of Viet Nam had been refused admission.

54. Finally, the principle of unanimity was contrary to the current trend and an anachronism, in that, in the sphere of multilateral diplomacy, it was the two-thirds majority rule which now prevailed in all the major international conferences. Her delegation therefore favoured substitution for the principle of unanimity of that of the two-thirds majority.

55. Mr. MUSEUX (France) noted that the question under study was still the source of major disagreements, but was certain that all delegations wished to enhance the role and effectiveness of the United Nations. Some felt that that goal could be achieved only through review of the Charter, whilst others, including his own, considered that the improvement should be sought through channels which relied more on co-operation and the political will of States. The consensus reached within the General Assembly in favour of the adoption of resolution 3499 (XXX) represented a happy contrast with the confrontations of recent years, and his delegation welcomed it.

56. The Special Committee had done important and serious work. The analysis it had undertaken, on the basis in particular of the analytical study submitted by the Secretary-General (A/AC.182/L.2), would provide valuable information. In addition, several States had submitted to the Committee working papers containing highly significant proposals.

57. France, which had taken an active part in the work of both the Ad Hoc and the Special Committees, had already made known its opinion in its written comments and during earlier debates in the Sixth Committee.

58. Some of the proposals made in the Special Committee to strengthen the structures or improve the functioning of the United Nations might have very serious and dangerous effects. Some of them were even intended to modify the purposes and principles of the United Nations although the General Assembly's support for the purposes and principles enshrined in the Charter was reaffirmed both in resolution 3499 (XXX), establishing the Special Committee, and in draft resolution A/C.6/31/L.6, which was now before the Sixth Committee. It was true that the Charter did not contain any precise economic provisions and did not mention, for instance, the need to establish a new international economic order.

59. The brevity of Article 1, paragraphs 3 and 4, and Article 62 of the Charter, should not be lamented but welcomed, for those provisions contained directives for action which were as valid today as they had been in the past. The essential changeability of economic factors would certainly make over-precise provisions out of date almost before they came into force. If the Charter was adapted to the existing situation in the present-day world, it would be only of temporary value and would not have the noble breadth of view of the present Charter, as had been pointed out by a member of the Special Committee. It was true, nevertheless, that organizations which did not adapt to a new environment were doomed. The United Nations was extraordinarily adaptable to changing situations; and what was more, it had played a decisive part in changing them.

60. Of course, the Charter was silent about some of the great concerns of the contemporary world, such as the economic applications of atomic energy, problems of the environment, peaceful and military uses of the seabed and outer space, the role of transnational corporations, the law of the sea, population and food problems and the depletion of natural resources. However, the Charter did not prevent the United Nations from dealing with those questions, which were discussed either by

(Mr. Museux, France)

the General Assembly itself or by the subsidiary organs it set up under Article 22. That was how UNICEF, UNITAR, UNRWA, UNHCR, UNCTAD and UNIDO had been established. Through its specialized agencies, the United Nations family also played an essential role in regulating most human activities.

61. For that reason, he did not think that the United Nations was a moribund organization incapable of adapting to the realities of the present-day world. Whereas the League of Nations had been unable to include enough States in its membership, the United Nations was on its way to including the whole international community. If the United Nations had not been able to respond properly to the hopes of Governments, the most dynamic of them would already have established a rival organization. If the Charter were to be drafted now instead of in the exceptional circumstances following the Second World War, the international community would probably not succeed in drafting an instrument that was so well adapted to the needs of today and of the future.

62. However, it was only fair to take a look at what had been achieved and what still remained to be done. The role of the Organization must be strengthened so as to make better use of the possibilities offered by the Charter. From now on, the United Nations should devote much of its effort to social and economic development. As the Minister for Foreign Affairs of France had recently stated in UNESCO, reasonableness and justice must be sought to replace the present chaotic world economic relations where might was right; global solutions must be sought for global problems; for the establishment of a new international economic order required a consensus that would reflect a positive acceptance, not resignation. In that connexion, he emphasized that only the United Nations could play such a role, because it was the biggest forum where questions of common interest could be dealt with and because it was in the best position to undertake a multidisciplinary study of the many diverse factors that entered into development.

63. An almost limitless field of action therefore lay before the United Nations if it was ready to use, in strict accordance with the Charter, the United Nations bodies and the possibilities they provided of establishing real international co-operation. Their task might be facilitated if the role of the Organization was strengthened through a rationalization of the structure of its organs and an improvement of their practice and rules of procedure. In the economic field, great efforts were being made towards restructuring. Some welcome changes had already been made, for instance, in the procedure of the Security Council with regard to consultation and the sending of fact-finding missions, and progress was certainly possible in other fields.

64. Mr. JANKOWITSCH (Austria) was happy to note that the report of the Special Committee was an improvement on the report of the Ad Hoc Committee on the United Nations Charter, which had been considered by the Sixth Committee the year before. Whereas the Ad Hoc Committee's report had merely reproduced in extenso the views of its members, a procedure that the Austrian delegation had criticized, the report of the Special Committee directly attacked the problems revealed by the Secretariat's analytical study. Of course, the Special Committee had examined

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(Mr. Jankowitsch, Austria)

only part of that study and its members were far from agreeing with each other but the work was worth continuing; the Committee's mandate should therefore be extended.

65. Both in the Sixth Committee, in 1975, and in the written observations it had communicated to the Secretary-General (A/31/51/Add.1), Austria had proposed that the Special Committee should concentrate on improvements which could be brought about without revision of the Charter. That did not mean that it was absolutely opposed to any idea of revision, but the Austrian Government wished to emphasize that not all the possibilities of a dynamic interpretation and a flexible application of the Charter had yet been explored. A perusal of the report gave the impression that the Special Committee was moving in that direction, since the flexibility and dynamic character of the Charter were frequently mentioned.

66. There were several references in the report to the legal status of the General Assembly's resolutions. Some Committee members had said that those resolutions were sources of international law, while others had felt that the binding nature of those resolutions depended on their object, their content and the amount of support they had mustered. The Austrian delegation had taken up an intermediate position: a distinction must be made between the legal effect a Member State's vote in favour of the resolution had for that State and the objective legal status of the resolution itself. In its judgement on the nuclear tests cases in 1974, the International Court of Justice had said that public declarations to the international community had the effect of creating legal obligations. The Special Committee should try to discover how far the vote of a delegation to the General Assembly might be considered equivalent to the acceptance of such a public declaration to the international community. As to the objective juridical status of such an instrument, the Austrian delegation shared the view of the Austrian publicist Verdross, who had pointed out when the United Nations was being established that an amendment giving the General Assembly legislative power had been rejected, and it would therefore be contrary to the principle of good faith to subject a State to a rule that had no juridical foundation. Verdross had added that the content of a resolution became a rule of international law even without a treaty in good and due form if the course of conduct of a State was such that it was possible to conclude that it intended to be bound by the content of that resolution. The resolutions of the General Assembly therefore had an important role to play in the formation of international customary law, for it was often to them that recourse was had when the content of a rule had to be precisely defined.

67. In the report under consideration reference was made to the secondary effects of a possible change in structure of the United Nations, that was to say, the effects which a revision of the Charter might have on bilateral and multilateral treaties based on the Charter. It was obvious that some treaties were linked to the organic structure of the United Nations, for instance, the State Treaty of 1955 which had re-established an independent and democratic Austria. That Treaty contained several references to United Nations bodies and entrusted them with important functions. That was why the Austrian delegation was of the view that thought must be given to historical links of that kind before modifying the institutional framework of the United Nations.

(Mr. Jankowitsch, Austria)

68. It was also proposed in the report that use should be made of the services of States which had acquired some experience of United Nations relief operations in order to train civilian observers. Austria, which had taken part in several operations of that kind, was striving to spread knowledge of them by organizing seminars and courses at Vienna under the auspices of the International Peace Academy, with the assistance of the United Nations Secretariat. Those who had benefited from that initiative had become familiar with the procedures and development of relief operations, and they constituted a reserve ready for use in such operations.

69. Lastly, he recalled that, the previous year, his delegation had suggested a rotation system which would enable all interested countries to take part in the work of the Special Committee.

70. Mr. MANYANG (Sudan) said that his delegation favoured the renewal of the mandate of the Special Committee and was a sponsor of draft resolution A/C.6/31/L.6.

71. Sudan believed in the United Nations and would continue to respect the fundamental principles of the Charter. Nevertheless, States must be prepared to adapt to change before it overwhelmed them.

72. Regarding the veto power, he recalled that the Foreign Minister of Sudan had stated in the General Assembly in 1975 that the idea of doing away with the veto in the Security Council, though wanted, was not possible. That was still the position of his delegation, but it would not blindly continue to watch the misuse of the veto without considering other solutions. It was unacceptable to his delegation to see two sovereign and independent States being denied their legitimate right to be seated in the United Nations, contrary to the principle of universality of the Organization. The two racist régimes, Israel and South Africa, on the other hand, were consistently acting in contravention of the decisions of the General Assembly and the Security Council, and the veto was used in their favour. In that connexion, the delegation of Mexico had suggested that before the review of the Charter was undertaken, the permanent members of the Security Council should agree among themselves not to use the veto to block the admission of new Members. He expressed the hope that the States concerned would respond positively to that very sound suggestion.

73. The delegation of Sudan supported the view that Members of the United Nations who were not members of the Special Committee might be allowed to attend its meetings as observers. As the Committee was making progress in the right direction, it should be able to continue its work, particularly as it would continue to receive observations from Governments.

74. Mr. ROSENSTOCK (United States of America) noted with satisfaction that the Special Committee had conducted a responsible analysis of the issues before it. As the representative of the Philippines had indicated in introducing draft resolution A/C.6/31/L.6 on behalf of its sponsors, it was important to proceed cautiously and to concentrate on the search for common ground. The concept of "strengthening the role of the Organization", introduced into the title of the Special Committee, is one with which all must agree.

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(Mr. Rosenstock, United States)

75. In the Special Committee, his delegation had urged that the Committee concentrate on areas where general agreement was possible and avoid duplicating work that was going on in other bodies, such as those concerned with restructuring, peace-keeping and financial problems, or the ongoing work of the seven Main Committees of the General Assembly and the other principal organs of the United Nations; rather than engaging in an examination of substantive problems, the Committee should concentrate on the functioning of the system. His delegation had also formulated two questions to which a unanimous response should be given: Was the United Nations system working efficiently on tasks assigned to it? Were there recommendations to be made that would encourage greater use of the system? His delegation felt that a number of specific areas, including the decision-making process, could be usefully examined to that end. Some procedural reforms could also be made. His delegation had not, however, changed its basic position with regard to the Charter, a review of which could not be regarded as a useful exercise. It not only doubted that a review would lead to positive results; it was also concerned lest a review maximize disagreement and cause a hardening of positions, thereby impeding the flexible evolutionary development that had been such a source of strength to the United Nations.

76. At the preceding session of the General Assembly, his delegation had submitted a detailed list of developments that proved that the situation had definitely changed since 1945. The exercise of the right of peoples to self-determination and the new balance established in the Security Council were but two examples of the profound changes which had taken place. Moreover, a review risked giving rise to fruitless controversy, when there were other tasks that could be usefully undertaken. Those were risks which the Organization should not take. His delegation would continue to oppose any endeavour to review the Charter, and could not agree that certain provisions were outdated and justified a review.

77. In conclusion, his delegation urged the Members of the United Nations and specifically the members of the Special Committee, to concentrate on those areas where the work could be useful and could command general agreement. His delegation would continue to participate constructively in the common task - the strengthening of the role of the United Nations.

78. Mrs. RANA (Nepal) said that her delegation, as a member of the Special Committee, attached great importance to the item under consideration. As an ardent believer in the non-aligned movement, her country had immense faith in the United Nations as an instrument for promoting global peace, security and development. Since peace and development were indivisible, the United Nations must play as strong a role in the economic and social fields as it had done in the political arena.

79. From the political point of view, the Charter was generally recognized as a sound instrument which testified to the political wisdom of its drafters. Furthermore, it was through the Charter that certain changes which had occurred during the past 30 years had been possible. For example, the almost-completed process of decolonization had taken place on the basis of the Charter, and the liberation struggle of numerous colonially oppressed peoples could receive encouragement under the Charter, as the first generally binding instrument of

(Mrs. Rana, Nepal)

international law. The Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV)), which was based on one of the fundamental principles of the Charter, was another legal weapon of those peoples in their struggle for national independence. Yet much remained to be done to achieve the goals enshrined in the Preamble of the Charter. Although the United Nations had not always been successful, it had greatly contributed to maintaining world peace and solving important international problems. Like any human institution, it suffered from defects which needed to be rectified. Those defects were attributable partly to the shortcomings of the Charter and the procedures laid down in it, and partly to the political will and behaviour of the Member States.

80. Like any modern constitution, the Charter was a basic document which needed and allowed for reasonable evolution. For that reason, the drafters had included Articles 108 and 109, which provided for the setting up of machinery to amend the Charter, in keeping with the changing requirements of a new world order. The need to amend the Charter had been felt in 1963 and 1965, when amendments had been introduced which had undoubtedly improved the working of the Charter and had facilitated wider participation in the United Nations.

81. Her delegation felt that the provisions concerning economic and social development were not fully in keeping with present realities. Moreover, certain issues not dealt with in the Charter had become extremely important in the work of the United Nations. Peace-keeping operations and the study of such vital questions as the environment, outer space and the sea were necessary for the maintenance of peace, security and development.

82. In the Special Committee, many divergent views had been expressed by Member States with a view to improving and strengthening the future role of the United Nations. The review or revision of the Charter was a very important task which should not be conducted haphazardly. To enable the Special Committee to continue its work, its mandate should be extended. That was why her delegation had joined in sponsoring draft resolution A/C.6/31/L.6.

83. Her Government was especially interested in having the Charter amended in the economic and social fields. It strongly felt that a firm base for peace, prosperity and social progress was laid by the economic development of a country. It believed that world peace and prosperity were indivisible and that security would have no firm basis if economic and social problems remained unresolved. As a least developed and land-locked country, Nepal was greatly concerned about the contribution of the United Nations to the establishment of new, more equitable, international economic relations, in the context of the new international economic order. Moreover, the International Development Strategy for the Second United Nations Development Decade should be made binding upon all Governments. The Charter should also embody provisions for the full implementation of the resolutions adopted at the sixth and seventh special sessions of the General Assembly. In addition, the United Nations should deal more seriously with the problems of poverty, the widening gap between different levels of economic development, the depletion of the earth's resources, the environment, outer space and nuclear technology.

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(Mrs. Rana, Nepal)

84. The Special Committee should amend the Charter along those lines and should improve the working procedure of the United Nations. Furthermore, the political will of the Member States and the honest implementation of their commitments were vital factors for the strengthening of the role of the United Nations.
85. Mr. WILLIAMS (Sierra Leone) said that his country, which had participated in the work of the Special Committee, took the view that that Committee had made progress and should be given more time to complete its task.
86. His delegation, as a sponsor of draft resolution A/C.6/31/L.6, commended it for adoption by the Sixth Committee.
87. During the 30 years of its existence, the United Nations had given a new dimension to relations among States. The posture of confrontation which had characterized traditional inter-State relations was increasingly giving way to the posture of co-operation among all nations, irrespective of their political, economic and social systems. That new posture had manifested itself in increasing concern for the well-being of the individual.
88. Those who called for a change were not doing so out of cynicism, or for the sake of change. On the contrary, they called for change out of the conviction that the United Nations could ensure that all nations, whatever their size or strength, could enjoy peace and prosperity. The yearning for peace and prosperity was explicitly embodied in the very provisions of the Preamble of the Charter. Those provisions stated no more than the foreign policy objectives of all modern States, namely, security and the economic and social well-being of peoples.
89. The Charter was not a perfect legal instrument. The founding fathers had not lacked legal acumen; rather, they had been unable to achieve mathematical precision in the use of language. The moral obligation which the Charter imposed upon the Members of the United Nations was of unquestionable validity. The Charter ought, therefore, to be looked at as a moral testament for the regulation of relations among States. The absence of external enforcement machinery did not therefore detract from the validity of the moral precepts embodied in the Charter. Thus, the question of the strengthening of the role of the United Nations was not a juristic, but rather a political and moral question.
90. His delegation therefore suggested that the Special Committee should in future examine four particular issues: the voting system in the Security Council; the role of regional arrangements in multilateral relations within the United Nations; the absence, in Member States, of publicity machinery for United Nations activities; and the role of the International Court of Justice.
91. His delegation had time and again expressed its disapproval of the present voting system in the Security Council, without however questioning the principle of the right to exercise the veto. That right should be exercised out of a sense of responsibility and there was no justification for its exercise in relation to the admission of a new Member. In such a case, the veto ran counter to the principle

(Mr. Williams, Sierra Leone)

of universality laid down in the Charter. For that reason, his delegation was in favour of formulating the issues that should be the subject of the veto, in other words, of redefining what constituted a threat to international peace and security.

92. While his delegation recognized the useful role of regional arrangements within the United Nations system, it was concerned that such arrangements might ultimately conflict with the objectives of the Charter, as seemed to have happened already. It should be borne in mind that the Charter imposed moral responsibility on Member States, not regional groups, and that the objectives of the Charter should always take precedence over regional interests.

93. It was extremely regrettable that individual Member States did not publicize the increasingly important activities which the United Nations and specialized agencies undertook for the well-being of the individual. That applied not only to small developing States but also to developed States with adequate resources and technology.

94. A frequent criticism of the International Court of Justice was that it lacked the machinery to enforce its decisions. In his delegation's view, such machinery was not a sine qua non of the judicial process. It therefore called on Member States to subscribe to, and undertake to honour, Article 36 of the Statute of the International Court of Justice.

95. Mr. COPITHORNE (Canada) said that the debate on the question of the Charter review had in many respects reflected the pace of the changes which had radically altered relations among States since the Charter had been drafted. There had, in fact, been a shift of focus within the United Nations towards economic and social issues of pressing international concern. Despite that trend, the Charter, which was a flexible and adaptable document, had continued to provide the framework which had enabled a significant measure of progress to be made on the fundamental issues for the future of mankind.

96. There was however, no reason to suppose that an international constituent instrument such as the Charter was not susceptible of revision, still less of review. To be effective, the Charter must reflect, to the maximum degree possible, the interests of all Member States, large and small.

97. His delegation had carefully studied the numerous proposals submitted to the Special Committee. It understood the motivation behind most of them but regretted that the Committee had been unable to identify more areas of consensus to serve as a basis for its further work. That was perhaps not surprising, since even a cursory examination of the subject revealed its complexity. It also raised fundamental questions concerning the objectives and basic role of the Organization as well as the distribution of powers. If the Special Committee was to expedite its work, it should single out those proposals which were likely to command widespread support among Member States and should study them to the exclusion of all others.

(Mr. Copithorne, Canada)

98. The Committee should also make sure that it did not duplicate the work of other bodies such as the Ad Hoc Committee on the Restructuring of the Economic and Social Sectors of the United Nations and the Special Committee of 31, whose report contained a number of recommendations which had already been implemented.
99. His delegation considered that, although it was clearly necessary to update the Charter in some respects, the time had not come to redraft it completely. Although not perfect, there was no doubt that the Charter was working and his delegation could not support any effort that might endanger the basic framework of the Organization in the present circumstances. For the time being, it was necessary to work within the basic structure of the Charter in such a manner as to enhance its authority and strengthen its ability to adapt to the changing realities of the international community.
100. Canada, for its part, would continue to seek realistic methods to strengthen the foundations of the Organization.
101. Mr. EL BARADEI (Egypt) said that his country had already had ample opportunity as a member of the Special Committee to express its views on both the Charter and the strengthening of the role of the Organization.
102. He wished, however, to stress that it was logical and necessary to review the Charter and, should the trend in international relations so require, to revise it. It was a general rule of international law that international instruments should be adapted to the prevailing world situation. The amendments already made to Articles 23, 27, 61 and 109 of the Charter, which related to the Security Council and the Economic and Social Council, provided firm proof of the need to modernize rules of international law and international instruments. Revision was moreover entirely in keeping with the spirit of the Charter. Article 13 entrusted the General Assembly with the task of promoting the progressive development of law, while Article 109, paragraph 3, laid down the conditions for the General Assembly to convene a conference to revise the Charter at its tenth session. As was clear from article 31, paragraph 3, of the Vienna Convention on the Law of Treaties, the progressive development of law was a matter of both interpretation and practice, which alone would enable international instruments to preserve their vigour.
103. His delegation was particularly gratified to note that all those who had spoken on the item under consideration had made it abundantly clear that they wished to increase the effectiveness of the United Nations with a view to promoting international co-operation founded on justice. Most of them had been mainly concerned with strengthening the role of the Organization rather than with revision of the Charter; in fact, if the Organization lacked effectiveness, it was all too often because many Articles of the Charter had never been implemented and certain bodies did not fulfil their task. After its first reading of the Secretary-General's analytical study, therefore, the Special Committee should examine only those comments which dealt, on the one hand, with the strengthening of the role of the Organization in matters concerning peace and security, and, on the other, with the introduction of a new economic order. Those questions, which would not give rise to any controversy, should be settled before examining possible amendments

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(Mr. El Baradei, Egypt)

to the Charter. That, moreover, was the order of priority as laid down in paragraph 2 of resolution 3499 (XXX).

104. The work of the Special Committee would make it possible to see what had been achieved thus far and, where improvements were needed and, in particular, to determine whether the defects lay in some of the provisions or in their implementation. The Special Committee therefore had a very important role to play and for that reason his delegation supported the renewal of its mandate.

105. Mr. BLUM (Israel), speaking in exercise of the right of reply, said that, by using the item under consideration, as well as many others, to attack Israel, the representative of Sudan had shown how obsessed his Government was with Israel. His statement was incompatible with the businesslike and lawyer-like atmosphere of the Committee and the Israeli delegation would not agree to pervert the debate in that way. However, since the representative of Sudan had chosen the path of controversy, he would remind him of the genocidal persecution which the tribes of the southern part of Sudan had suffered for more than a decade: people should practise what they preach, and their preaching should be based on the truth. Every system of law was based on the maxim: "He who comes to equity must come with clean hands."

106. Mr. MANYANG (Sudan), also speaking in exercise of the right of reply, said that he would refrain from any rejoinder since the representative of Israel knew full well where the truth lay. Admittedly, his country had had difficulties for 17 years but he would point out that they had been caused by interference from abroad, as the representative of Israel could prove by consulting his country's secret service files. Once the people of Sudan had realized the machinations of which they were the victim, they had united and the difficulties in question had been resolved.

107. The CHAIRMAN announced that China, Liberia, Nepal, the United Republic of Cameroon, Senegal and Tunisia had joined the sponsors of draft resolution A/C.6/31/L.6.

108. He informed the Committee that he had received a letter from the Under Secretary-General for Conference Services and Special Assignments pointing out the Secretariat's difficulties in providing facilities for additional meetings, and referring to the many hours which were lost because meetings started late, were adjourned before time or were cancelled.

109. He agreed that it was regrettable that some meetings started late, because that could be avoided. It was also regrettable that meetings were adjourned early when there were still names on the list of speakers; but sometimes a meeting rose early simply because the Committee had been able to complete its consideration of an item quickly. Further, meetings were occasionally cancelled to enable regional groups to hold consultations, which had proved to be extremely productive.

110. In conclusion, he again asked members of the Committee to be as brief as possible in their statements.

The meeting rose at 6.35 p.m.