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SIXTH COMMITTEE  
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at 3 p.m.  
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**SUMMARY RECORD OF THE 24th MEETING**

Chairman: Mr. GOERNER (German Democratic Republic)

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ORGANIZATION OF WORK

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The meeting was called to order at 3.15 p.m.

AGENDA ITEM 124: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)  
(A/39/56-S/16231, A/39/59-S/16241, A/39/60-S/16242 and Corr.1, A/39/71-S/16262, A/39/95-S/16304, A/39/110, A/39/126-S/16394, A/39/134-S/16418, A/39/158-S/16445, A/39/163-S/16460, A/39/187-S/16489, A/39/203-S/16496, A/39/226-S/16522, A/39/318-S/16637, A/39/360, A/39/396-S/16697, A/39/413-S/16707, A/39/448-S/16723, A/39/473-S/16734, A/39/495-S/16742, A/39/550-S/16767, A/39/552-S/16769, A/39/561-S/16774; A/C.6/39/L.2)

AGENDA ITEM 133: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)  
(A/39/33, A/39/79 and Corr.1, A/39/180 and Corr.1, A/39/441; A/C.6/39/L.2)

1. Mr. KAMARO (Nepal) said that the issue facing the Committee was not the restructuring of the United Nations Charter but its better implementation. The principal organs did not need to acquire additional powers or new means for settling international disputes; what was needed was to reinforce those which already existed.
2. The proposals submitted to the Special Committee for the prevention and removal of threats to the peace and of situations which might give rise to disputes needed careful study. Identification of potential threats to peace at an early stage would help in preventing conflicts, and the Security Council should always be on the alert to such threat. The Council's capabilities and credibility could be enhanced by the holding of periodic meetings to review the global situation, which would help it to prepare a healthy climate for dialogue between parties to disputes. It would also prepare the Council for taking other measures before potential threats assumed crisis dimensions.
3. Rather than simply adopting preventive measures when international conflicts actually arose, the United Nations should increasingly help to create conditions which would lessen the possibility of their occurring. If the Organization played an active role in solving international problems as envisaged by the Charter, it would help to establish durable peace. However, the process of maintaining peace and security was a complicated one which called for a broader view of the future. As long as existing world problems such as the arms race, food shortages, unemployment, population growth and ever widening gaps between levels of development were allowed to become worse, the future of mankind would remain in danger.
4. On the subject of the peaceful settlement of disputes between States, his delegation welcomed the proposals in the Report aimed at strengthening the role of the United Nations. His country had already endorsed the Manila Declaration on the Peaceful Settlement of International Disputes and the Political Declaration adopted by the non-aligned countries at their conference in New Delhi. The Working Group's report was a further move towards institutionalizing the means available to the United Nations, and action on the proposal to prepare a handbook on the subject would strengthen the Organization's ability to find solutions for international disputes through negotiation, consultation and good offices.

(Mr. Kamaro, Nepal)

5. His delegation had several comments to make on the rationalization of existing United Nations procedures. First of all, the decision-making process should be simple. Items should be discussed in depth in existing subsidiary bodies or ad hoc working groups, with the direct participation of all interested States, so as to achieve generally acceptable conclusions and solutions for submission to the General Assembly. Secondly, emphasis should be placed on discussing the agenda rather than on making speeches, for which time-limits should be set. Lastly, General Assembly resolutions should be implemented quickly, and it would be appropriate if the Assembly from time to time assessed the effectiveness of resolutions and decisions which it had adopted.

6. There was a pressing need to find ways of enabling the Security Council to play the more constructive role assigned to it by the Charter. The possibility had been mentioned that the work of the Special Committee might obstruct the Security Council's own efforts to find ways of improving its effectiveness. His delegation did not believe that could happen because the Committee would be acting on the basis of collective responsibility. As to the General Assembly, its powers under Article 11 of the Charter needed to be reinforced. However, the aim should be not to increase the number of issues before it but to limit them, so that crucial items could be dealt with more adequately. The office of the Secretary-General likewise needed to be strengthened to meet the challenge of threats to international peace and security. His country shared the Secretary-General's concern in that regard, in particular his concern about the need for greater support for his efforts to deal with issues threatening international stability. Clearer expression must be given to the powers of his office as defined under Articles 98 and 99 of the Charter.

7. Mr. GUNAY (Turkey) said that the Report of the Special Committee had once more brought out the complexity of the questions considered and the difficulty of the search for solutions. The Special Committee's mandate did not and should not allow for changes in the Charter and in the balance of powers, functions and responsibilities of the principal organs which it established. His delegation had reservations about some aspects of the proposal in working document A/C.6/39/L.2 to set up a permanent commission on good offices, mediation and conciliation for the settlement of disputes, since it seemed likely to encroach on the functions of United Nations organs established by the Charter. In addition, the institutionalization of procedures was likely to undermine the principle of free choice of the means of settling disputes peacefully and could lead to further overlapping which would be contrary to the aim of the proposal's sponsors. Finally, the proposal did not reflect the international community's practical requirements.

8. The proposal to draw up a handbook on the peaceful settlement of disputes between States had raised no problems, and his delegation awaited with interest the draft to be prepared by the Secretariat, which should include an exhaustive list of existing institutions and of the means of settling disputes, in particular direct and meaningful negotiations as one of the most flexible and effective means. As to the rationalization of United Nations procedures, the Committee should examine at its next session those proposals on which the Special Committee had been unable to

(Mr. Guney, Turkey)

reach agreement. His delegation would be ready to support any draft resolution on the report of the Special Committee which distinguished unequivocally between what could be achieved and what went beyond or counter to the end sought.

9. Turning to the subject of the peaceful settlement of disputes between States, he said that the obligation set out in the Charter was closely connected with the prohibition of recourse to the threat or use of force. The two were fundamental principles on which modern international relations should be based. His country had always supported initiatives aimed at strengthening the principle of the peaceful settlement of disputes as one of the essential principles of international law. Since, however, the settlement of disputes was left to States and required agreement between the parties directly concerned, States had to seek just solutions to their international disputes by peaceful means of their own choosing.

10. States were still reluctant to accept compulsory jurisdiction or to submit their disputes to settlements arranged on a regional basis. They had increasingly distanced themselves from the judicial settlement of international conflicts, as was shown by the fact that only about a third of all Member States had accepted the jurisdiction of the International Court of Justice, and the majority of those had made very broad reservations about their acceptance. Moreover, not one of the treaties adopted at conferences over the last two decades had allowed for compulsory jurisdiction except in the case of two articles concerning jus cogens. The main obstacle to judicial settlement was the continued attachment of States to the principle of national sovereignty.

11. Although the Charter offered the possibility of perfecting effective methods of settling international disputes, it was necessary to create conditions which would encourage States to have recourse to such procedures within the framework of the United Nations, and that had not so far been done. Because States had made little use of United Nations mechanisms, and because their reasons for not accepting compulsory jurisdiction could not quickly or easily be removed, it was essential that new initiatives for the peaceful settlement of disputes should reflect existing realities in the international community. That was precisely what had happened in the case of the initiative taken in the Special Committee which had resulted in the General Assembly's adoption of the Manila Declaration on the Peaceful Settlement of International Disputes. Since the Declaration contained all the necessary elements and explicitly underlined the necessity of pursuing efforts to promote the peaceful settlement of disputes, it could serve to give new impetus to efforts aimed at strengthening implementation of the principle of peaceful settlement. Consequently, it was in the interest of all States, and was even their obligation, to respect and promote the provisions of the Manila Declaration in good faith.

12. Mr. WETLAND (Norway) said that States should from time to time review the procedures for the peaceful settlement of disputes to see if they needed improvement or further elaboration. His delegation therefore welcomed the new working paper submitted by Nigeria, the Philippines and Romania (A/C.6/39/L.2). In that connection he said that Norway recognized that certain mediators or conciliators might be more successful than others because of the special respect

(Mr. Wetland, Norway)

and confidence they enjoyed. The three-Power working paper also gave greater recognition to the concept of third party settlement. The process of conciliation in particular, with which Norway had had only positive experiences, could be applied more often by States.

13. His delegation was, however, concerned about the possible relationship between the new procedures proposed in the working paper and the competence and powers of the principal organs of the United Nations as set forth in the Charter. Paragraph 4 of the working paper suggested that, when a dispute was submitted to the Security Council, the Council would consider first of all the opportunity to recommend to the parties the setting up of a commission for good offices, mediation or conciliation. Similar provisions applied to the General Assembly, while the parties to a dispute might also agree to set up such a commission following consultations with the Secretary-General. The further elaboration of the system proposed in the working paper strengthened his delegation's impression that it might encroach upon the competence and responsibilities of the principal organs of the United Nations. If implemented, the suggestions would create a new and subsidiary system parallel to functions and powers entrusted to the principal organs. That could, in the long run, prove detrimental to the role of the United Nations.

14. His delegation would not be able to subscribe to the specific proposals in the working paper but, recognizing the importance of the subject, had an open mind on whether the establishment of such a commission in some form or other within the United Nations was a question that merited further study. It should be borne in mind that the Security Council, under Article 36 of the Charter, could recommend appropriate procedures or methods of adjustment, which might include the establishment of permanent or ad hoc commissions of mediation or conciliation.

15. More attention should be directed at implementing and strengthening established procedures for the peaceful settlement of disputes. His delegation greatly appreciated the working paper contained in document A/AC.182/L.38, which aimed at strengthening the role of the principal organs of the United Nations and was in keeping with the mandate of the Special Committee.

16. The information-gathering system of the United Nations could not be confined to what States might deem it appropriate to provide. The Secretary-General already possessed the necessary authority under the Charter to gather the information needed for the fulfilment of his responsibilities as the highest official of the Organization. His delegation was convinced that the necessary confidentiality would be observed in that process and that information-gathering could be intensified at an early stage. A corollary to the enhancement of the information-gathering system of the United Nations was the readiness of States to approach the principal organs at an early stage of a dispute. Consequently, his delegation broadly supported section II of the working paper.

17. The outline for a draft handbook on the peaceful settlement of disputes served a useful and practical purpose. It was, however, unnecessary to devote a subsection to the role of the International Court of Justice, since, according to



(Mr. Wetland, Norway)

the Manila Declaration, States should be fully aware of that role. He would prefer the handbook to provide a more specific and substantial introduction to the ways in which States could make use of the Court. The Registrar might be consulted during the drafting of the handbook to provide guidance to States that had no experience of the Court. The chapter on the Court should contain practical information and references to the Court's reports, statute and rules and to agreements referring specific cases to it. Such an approach would be more in keeping with Article 36, paragraph 3, of the Charter, which provided that legal disputes should as a general rule be referred by the parties to the International Court of Justice.

18. In conclusion, he said that his delegation was encouraged by the number of cases before the Court, in whose role it firmly believed.

19. Mr. HÜCKE (German Democratic Republic) said that, although the report (A/39/33) showed that the Special Committee had achieved progress in all the three substantive points of General Assembly resolution 38/141, views on ways of achieving the strengthening of the role of the Organization still differed widely among its Members. His country agreed with those States that considered it necessary to abide strictly by the letter and spirit of the Charter, which provided for adequate means of increasing the effectiveness of the United Nations in achieving its main goal, the maintenance of international peace and security. The point was not to revise the Charter but to ensure that all States fulfilled their obligations under it.

20. At its 1984 session the Special Committee had reached a preliminary conclusion on the first of the substantive points, namely the rationalization of existing procedures. His delegation agreed with the States which did not altogether exclude the possibility of renewed consideration of that subject in the Special Committee, which had proved its ability to submit generally acceptable recommendations to the General Assembly.

21. With respect to the peaceful settlement of disputes, the Special Committee's agreement on principles and guidelines in respect of the handbook was a step in the right direction. His delegation welcomed the emphasis placed on the linkage between the principle of the peaceful settlement of disputes and the other fundamental principles of contemporary international law. It endorsed the proposed procedure for the preparation of the handbook by the Secretary-General, in consultation with a representative group of competent individuals from Member States, but reserved the right to explain its position on the handbook in detail when the Secretary-General's report on the progress of work was submitted to the Special Committee at its next session.

22. On the other hand, his country opposed the establishment of a permanent commission on good offices, mediation and conciliation because it considered that what the international community needed was not new institutions and means for the peaceful settlement of disputes but rather an atmosphere of confidence and an improvement of the political situation. The revised working paper (A/C.6/39/L.2) did not overcome its serious doubts concerning the establishment of such a commission. In fact, the establishment of a new organ with far-reaching powers

(Mr. Hücke, German Democratic Republic)

might upset the balanced system of the division of competence between the various principal organs.

23. Although the Special Committee's report (A/39/33) dealt at length with the working paper on the prevention and removal of threats to the peace and of situations which might lead to international friction or give rise to a dispute (A/AC.182/L.38), the sponsors had indicated during the session that the draft would be revised in the light of the statements made in the discussion. It was therefore not necessary to refer in detail to specific points raised in the paper. His delegation wished to emphasize, however, that it would always view the various aspects of the matter in relation to the balanced functions and responsibilities of the principal organs of the United Nations, as formulated in the Charter.

24. The United Nations and especially the Security Council must take action in areas of international conflict before the conflict escalated, but the question should always be viewed in connection with efforts to promote effective steps towards arms reduction and disarmament. The socialist States had submitted numerous proposals on that matter.

25. Subject to the observance by all members of the rules of procedure, his country was ready to continue its constructive co-operation in the work of the Special Committee.

26. Mr. CARAMURU DE PAIVA (Brazil) said that very few subsidiary organs of the General Assembly had had to show as much flexibility as the Special Committee, whose mandate had been repeatedly modified since its establishment in 1974. An analysis of that Committee's achievements showed that it had favoured exclusively the two non-priority subjects, namely the peaceful settlement of disputes and rationalization of existing procedures. It had reached conclusions on both those items but no objective results on the question of the maintenance of international peace and security. His delegation recognized that the 1984 session of the Special Committee had had positive aspects and was meant to be the starting-point of a new phase that it was hoped would be productive. General Assembly resolution 38/141 had been objective and therefore had facilitated the conduct of the discussions, whereas previous resolutions had suggested a method of work in two stages which had proved ineffective.

27. The outline of the handbook on the peaceful settlement of disputes left no room for doubt as to its nature: a document for the use of States, without legal character or consequence. His delegation understood that the future work of the Special Committee should be basically one of monitoring and assisting the Secretariat in its work. It hoped that the persisting divergency of views on whether the handbook required approval would be reconciled once the draft prepared by the Legal Office was received.

28. Although the amendments made by the sponsors to the proposal on the establishment of a permanent commission on good offices, mediation and conciliation (A/C.6/39/L.2) pointed in the right direction, his delegation was still not convinced that once a new United Nations mechanism specifically devoted to

(Mr. Caramurú de Paiva, Brazil)

conciliation, mediation and good offices became available, States would resort to it more frequently to settle their disputes. In its view once the parties to a dispute had decided to resort to conciliation, mediation or good offices, the establishment of a suitable mechanism should present no great difficulty. Previous attempts to highlight conciliation procedures had failed to receive the necessary support, and all aspects of a new mechanism must be thoroughly examined not only in the light of the practice and failures of United Nations organs but also from the standpoint of view of States' willingness to resort more or less frequently to the specific means referred to in the proposal. However, his delegation had no difficulty with the proposal's being examined by the Special Committee and appreciated the open-minded attitude of its sponsors.

29. His delegation had never been enthusiastic about the rationalization of existing procedures but had agreed to discuss it with an open mind in view of other delegations' interest. The 12 points agreed upon did not bring about significant innovations in the current methods of work of the General Assembly but were more in the nature of a reminder of specific provisions of the rules of procedure and previous recommendations made by the Committee. The General Assembly, its Main Committees and the General Committee must now put the conclusions into effect. The problem with respect to the whole item on rationalization was that general recommendations tended to have a modest impact, while on the other hand specific decisions could be examined only by the organs concerned on a case-by-case basis and could hardly be proposed by an organ like the Special Committee, which did not follow closely the work of each of the Main Committees and subsidiary organs. Each committee of the General Assembly must rationalize its own work on the basis of general guidelines. It would therefore be unwise for the Special Committee to proceed any further with rationalization.

30. It was on the question of the maintenance of international peace and security that the Committee at its 1984 session had really met the challenges of its work in a new way. The Committee must find a definite way to deal with the matter. His delegation had been a sponsor of the draft that had given rise to General Assembly resolution 38/141, and it considered the working paper in document A/AC.182/L.38 a valuable basis for practical conclusions. That document proposed certain points for discussion. Points such as the question of the conduct of States, to which some delegations attached great importance, might well be added, but each idea must be judged individually. After so many years of debates, it was difficult to agree that general points must still be examined before practical conclusions on specific issues could be reached. Some Committee members seemed to be exclusively concerned with the definition of what should not result from the Committee's work. His delegation felt that a more positive appraisal on the part of all delegations was still needed.

31. Brazil's Minister for Foreign Affairs had said in the General Assembly that the United Nations was not committed to immobility and the Secretary-General in his report on the work of the Organization (A/39/1) had reminded Members that the realization of the full potentials of the United Nations depended upon a willingness to take active steps to experiment with new approaches. The appropriate forum for discussion of those approaches was the Special Committee, and



(Mr. Caramurú de Paiva, Brazil)

his delegation would still like to believe in its capacity to reach meaningful agreements. The proposal before the Committee on that matter was not very unambitious but it should provide a basis for constructive conclusions.

32. Mr. SCHAEFER (Federal Republic of Germany) said that he agreed with the Secretary-General's observation in his report on the work of the Organization (A/39/1) that new and imaginative steps should be taken to utilize the full potential of the United Nations for the maintenance of international peace and security and for the peaceful settlement of disputes. All Governments must have the political will to balance national and international interests, to develop practical policies, including the frequent use of existing multilateral mechanisms, and to undertake joint efforts to make the methods and procedures provided for in the Charter more effective. The Special Committee was the right place to start displaying such political will, and 1985, the fortieth anniversary of the foundation of the United Nations, was the right time to make a special effort to revitalize the Organization. The results of the 1984 session of the Special Committee were a step in the right direction.

33. His delegation welcomed the agreement reached in the Special Committee on the rationalization of existing procedures of the United Nations, although it would have preferred more far-reaching results. The Special Committee might, at a later stage, take up some of the questions on which no agreement had been reached. It might be useful to wait for the outcome of the efforts of former Presidents of the General Assembly, who were to consider the subject in 1985. He noted with appreciation the proposals made by the Asian-African Legal Consultative Committee on the rationalization of the procedures of the Sixth Committee. He also welcomed the assurances given by the Chairman that consultations would continue with a view to further rationalizing those procedures.

34. The peaceful settlement of disputes was a necessary corollary to the fundamental principle of non-use of force. His delegation welcomed all efforts directed at the practical implementation of the Manila Declaration and other existing instruments, particularly Chapter VI of the Charter. The preparation of a handbook on the subject could help Governments make fuller use of the means available for the peaceful settlement of disputes. His delegation supported the Special Committee's conclusion that the Secretary-General should be requested by the General Assembly to prepare, on the basis of the outline in the report and in the light of the views expressed in the Special Committee, a draft handbook. That draft handbook should be presented by the Secretary-General to the Special Committee for its formal approval, without any detailed assessment, at a later stage. It also welcomed the revised version of the working paper on the establishment of a commission for good offices, mediation and conciliation (A/C.6/39/L.2) and was ready to consider those proposals carefully.

35. He was particularly encouraged by the results achieved in the Special Committee's work on the maintenance of international peace and security. That progress was largely due to the new mandate contained in resolution 38/141, which reflected the widespread feeling that it was insufficient to concentrate the resources of the United Nations on crisis management alone. As his country's

(Mr. Schaefer, Federal  
Republic of Germany)

Minister for Foreign Affairs had said when addressing the plenary Assembly the peace-making influence of the United Nations must be strengthened so that conflicts could be nipped in the bud. For that purpose, there was a need for an effective early warning system permitting the Security Council and the Secretary-General to act swiftly. His delegation supported the proposals made by the Secretary-General on that matter.

36. The proposals and ideas set forth in the working paper in document A/AC.182/L.38 were the product of consultations among many delegations from all regional groups. Those delegations agreed that the Special Committee should concentrate as a matter of priority on one important part of the question of the maintenance of international peace and security, the prevention and removal of threats, with a view to reaching agreement on practical proposals, which should aim not at revising the Charter but at making earlier and more effective use of existing methods and procedures. It was likewise agreed that the Special Committee should conclude its work by making specific recommendations to the General Assembly. His delegation shared those views and felt that the approach should be realistic but imaginative. The Special Committee should concentrate on a few important aspects rather than being too ambitious. The proposals in document A/AC.182/L.38 could serve as a basis for general agreement in the Special Committee. The proposals concerning the early-warning capabilities of the United Nations were of particular importance. As far as preventive action was concerned, his delegation supported, in particular, the proposals aimed at enhancing quiet diplomacy both by the Secretary-General and by the Security Council. Such informal contacts would contribute to the rational and effective handling of potential disputes. What the sponsors of the working paper had in mind was more discretion, not secrecy, and the full use of the free choice of means guaranteed by the Charter, not a limitation of that principle. Like the other sponsors, his delegation was committed to the more efficient implementation of the existing provisions of the Charter.

37. The Special Committee's initial consideration of the working paper was very encouraging and had produced many valuable contributions and ideas. The working paper should be the basis of the Special Committee's further work on the maintenance of international peace and security. Its sponsors intended to introduce, at an appropriate time, a revised working paper taking into account the comments made in the Special Committee and the Sixth Committee. He hoped that the Special Committee would be able to make substantial recommendations on the subject to the General Assembly.

#### ORGANIZATION OF WORK

38. The CHAIRMAN said that if he heard no objection, he would take it that the Committee agreed that the list of speakers under items 124 and 133 should be closed on Monday, 22 October at 6 p.m.

39. It was so decided.

The meeting rose at 4.55 p.m.