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Agenda item 133REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS
AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATIONReport of the Sixth CommitteeRapporteur: Mr. Mehmet GUNAY (Turkey)

I. INTRODUCTION

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the thirty-ninth session of the General Assembly pursuant to paragraph 10 of Assembly resolution 38/141 of 19 December 1983.
2. At its 3rd plenary meeting, on 21 September 1984, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. In connection with the item, the Sixth Committee had before it the following documents:
 - (a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; 1/
 - (b) Report of the Secretary-General (A/39/441);
 - (c) Letter dated 16 January 1984 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/39/79 and Corr.1);

1/ Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 33 (A/39/33).

(d) Letter dated 13 April 1984 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/39/180 and Corr.1);

(e) Letter dated 15 October 1984 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General (A/39/581-S/16782 and Corr.1);

(f) Working paper submitted by Nigeria, the Philippines and Romania entitled "Establishment of a commission for good offices, mediation and conciliation; functions and procedures" (A/C.6/39/L.2).

4. At its 6th meeting, on 28 September 1984, the Committee agreed on a timetable whereby items 124 (Peaceful settlement of disputes between States) and 133 (Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization) would be considered from 17 to 30 October.

5. The Committee considered the item at its 23rd to 31st meetings, from 18 to 31 October, and at its 64th meeting, on 6 December 1984. The summary records of those meetings (A/C.6/39/SR.23-31 and 64) contain the views of representatives who spoke during the consideration of the item.

II. CONSIDERATION OF PROPOSALS

6. At the 64th meeting, on 6 December, the representative of the Libyan Arab Jamahiriya introduced a draft resolution (A/C.6/39/L.4 sponsored by the Libyan Arab Jamahiriya, subsequently joined by the Islamic Republic of Iran. The draft resolution read as follows:

"The General Assembly,

"Having considered the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, in particular concerning the maintenance of international peace and security,

"Noting the increasing co-operation among all nations with the aim of maintaining the interests and aspirations of all members of the international community so as to achieve greater harmony for the United Nations system under the changed and present circumstances,

"Recognizing that the strengthening of confidence in United Nations organs requires the strengthening of their effectiveness in performing their functions, particularly the role of the Security Council as the organ entrusted with the primary responsibility for the maintenance of international peace and security,

"Expressing its concern that the Security Council has not always been in a position to discharge its responsibilities to ensure implementation of its decisions regarding the maintenance of international peace and security,

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particularly on matters relating to the exercise by peoples of their right to self-determination and the struggle against colonialism, all forms of racist policies, including apartheid, foreign domination and occupation, due to the method of voting in the Council,

"Recognizing that Articles 10 and 11 of the Charter vest the General Assembly with functions and powers in the field of maintaining international peace and security,

"Recalling resolution 486 (XXVII) adopted by the Council of Ministers of the Organization of African Unity at its twenty-seventh ordinary session, held at Port Louis from 24 June to 3 July 1976, which calls for a re-examination of the rule requiring the unanimity of permanent members, resolution 14 of the Fifth Conference of Heads of State or Government of Non-Aligned Countries, held at Colombo from 16 to 19 August 1976, resolution 3 (VIII) of the Eighth Islamic Conference of Foreign Ministers, held at Tripoli from 16 to 22 May 1977, and resolution 7 (VI) of the Sixth Conference of Heads of State or Government of Non-Aligned Countries, held at Havana from 3 to 9 September 1979, which calls for the amendment of the Charter, particularly its provisions relating to the functioning of the Security Council,

"1. Commends the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for the progress made in its valuable work;

"2. Decides that the Special Committee shall continue its work according to the relevant resolutions of the General Assembly;

"3. Decides that the Special Committee shall examine the adverse effects for the maintenance of international peace and security arising from the method of voting in the Security Council, taking into account, inter alia:

(a) The need to ensure that recourse to the unanimity rule is restricted with respect to questions relating to the inalienable rights of peoples struggling for self-determination and against colonialism, apartheid, foreign domination, interference, aggression and occupation;

(b) The fact that the maintenance of international peace and security is the common responsibility of all States Members of the United Nations, based on the principle of sovereign equality and democracy;

(c) The further refinement of proposals made in the Special Committee with a view to strengthening the role of the General Assembly according to Article 11, paragraph 2, of the Charter;

(d) The undertaking of a study of the extent to which it is possible to consider resolutions of the General Assembly relating to the maintenance of international peace and security as binding and to be implemented on an obligatory basis;

"4. Requests the Special Committee to submit a report on its deliberations concerning paragraph 3 of the present resolution to the General Assembly at its fortieth session.

7. At the 64th meeting, on 6 December, the representative of the Philippines introduced a draft resolution (A/C.6/39/L.18 and Corr.1 sponsored by Argentina, Australia, Belgium, Bolivia, Brazil, Chile, Congo, Cyprus, Egypt, Germany, Federal Republic of, Indonesia, Italy, Japan, Kenya, Malaysia, Mexico, New Zealand, Nigeria, Papua New Guinea, Paraguay, the Philippines, Romania, Rwanda, Samoa, Sao Tome and Principe, Senegal, Spain, Thailand, Venezuela and Yugoslavia, subsequently joined by Singapore, Brunei Darussalam, the Ivory Coast, Zaire and Zambia. The same representative proposed an oral amendment to the effect that the dates contained in operative paragraph 2 of the draft resolution should read "4 to 29 March 1985" instead of "8 April-3 May 1985".

8. The Committee had before it a statement submitted by the Secretary-General (A/C.6/39/L.20) on the programme budget implications of draft resolution A/C.6/39/L.18 and Corr.1.

9. At the same meeting, the Chairman stated that a group of States, namely Belgium, Germany, Federal Republic of, Italy, Japan, New Zealand and Spain, under rule 131 of the rules of procedure, had moved that the Committee take a decision first on draft resolution A/C.6/39/L.18 and Corr.1, as orally amended. The representative of the Libyan Arab Jamahiriya spoke against the motion. Put to the vote, the motion was adopted by 73 votes to 23, with 26 abstentions.

10. Also at the same meeting, the Committee adopted draft resolution A/C.6/39/L.18 and Corr.1, as orally amended, without a vote (see para. 12).

11. The representative of France, also on behalf of the United Kingdom of Great Britain and Northern Ireland proposed that, under rule 131 of the rules of procedure, the Committee should not take a decision on draft resolution A/C.6/39/L.4. The representatives of the Libyan Arab Jamahiriya, the Syrian Arab Republic, the Islamic Republic of Iran and Egypt spoke against the motion. Put to the vote, the motion not to take a decision on draft resolution A/C.6/39/L.4 was adopted by 46 votes to 36, with 39 abstentions.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

12. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Special Committee on the Charter of the
United Nations and on the Strengthening of the Role
of the Organization

The General Assembly,

Reaffirming its support for the purposes and principles set forth in the Charter of the United Nations,

Recalling its resolution 686 (VII) of 5 December 1952, 992 (X) of 21 November 1955, 2285 (XXII) of 5 December 1967, 2552 (XXIV) of 12 December 1969, 2697 (XXV) of 11 December 1970, 2968 (XXVII) of 14 December 1972 and 3349 (XXIX) of 17 December 1974,

Recalling also its resolutions 2925 (XXVII) of 27 November 1972, 3073 (XXVIII) of 30 November 1973 and 3282 (XXIX) of 12 December 1974 on the strengthening of the role of the United Nations,

Recalling especially its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its resolutions 31/28 of 29 November 1976, 32/45 of 8 December 1977, 33/94 of 16 December 1978, 34/147 of 17 December 1979, 35/164 of 15 December 1980, 36/122 of 11 December 1981, 37/114 of 16 December 1982 and 38/141 of 19 December 1983,

Taking note of the reports of the Secretary-General on the work of the Organization submitted to the General Assembly at its thirty-seventh 2/ and thirty-ninth 3/ sessions as well as of the views and comments expressed on them by Member States,

Having considered the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of the session it held in 1984, 4/

Taking into account the elaboration by the Special Committee of the outline for the handbook on the peaceful settlement of disputes between States and the conclusions thereon, 5/

Noting the importance that pre-session consultations among the members of the Special Committee and other interested States may have in facilitating the fulfilment of its task,

Conscious of the fact that the year 1985 marks the fortieth anniversary of the United Nations,

Considering that the Special Committee has not yet fulfilled the mandate entrusted to it,

2/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 1 (A/37/1).

3/ Ibid., Thirty-ninth Session, Supplement No. 1 (A/39/1).

4/ Ibid., Supplement No. 33 (A/39/33).

5/ Ibid., para. 133.

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;

2. Decides that the Special Committee shall convene its next session from 4 to 29 March 1985;

3. Requests the Special Committee at its next session:

(a) To accord priority by devoting more time to the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, in particular the Security Council, and to enable it to discharge fully its responsibilities under the Charter in this field; this necessitates the examination, inter alia, of the prevention and removal of threats to the peace and of situations which may lead to international friction or give rise to a dispute; the Special Committee will work on all questions with the aim of submitting its conclusions to the General Assembly, in accordance with paragraph 5 below, for the adoption of such recommendations as the Assembly deems appropriate. In doing so, the Special Committee should continue its work on document A/AC.182/L.38 or any revision thereof as well as other proposals which might be made;

(b) To continue its work on the question of the peaceful settlement of disputes between States and in this context:

(i) To continue the consideration of the proposal contained in the working papers in documents A/38/343 and A/39/C.6/L.2 on the establishment of a commission for good offices, mediation and conciliation;

(ii) To examine the progress report of the Secretary-General on the elaboration of the draft handbook on the peaceful settlement of disputes between States;

4. Requests the Special Committee to keep the question of the rationalization of the procedures of the United Nations under review, and to revert to its work on this topic when it deems appropriate;

5. Also requests the Special Committee to be mindful of the importance of reaching general agreement whenever that has significance for the outcome of its work;

6. Urges members of the Special Committee to participate fully in its work in fulfilment of the mandate entrusted to it;

7. Decides that the Special Committee shall accept the participation of observers of Member States, including in the meeting of its working groups;

8. Invites Governments to submit or to bring up to date, if they deem it necessary, their observations and proposals, in accordance with General Assembly resolution 3499 (XXX);

9. Requests the Secretary-General to render all assistance to the Special Committee;

10. Requests the Secretary-General to prepare, on the basis of the outline elaborated by the Special Committee and in the light of the views expressed in the course of the discussions in the Sixth Committee and in the Special Committee, a draft handbook on the peaceful settlement of disputes between States, and to report to the Special Committee at its next session on the progress of work, before submitting to it the draft handbook in its final form, with a view to its approval at a later stage;

11. Requests the Special Committee to submit a report on its work to the General Assembly at its fortieth session;

12. Decides to include in the provisional agenda of its fortieth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

B

The General Assembly,

Recalling its resolution 2837 (XXVI) of 17 December 1971 on the rationalization of the procedures and organization of the General Assembly,

Having considered the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization of its 1984 session, 6/

Conscious of the need to discharge in the most efficient manner the functions incumbent upon it under the Charter of the United Nations,

1. Approves the conclusions of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization as set forth in the annex to the present resolution;

2. Decides that the conclusions referred to in paragraph 1 above shall be reproduced as an annex to its rules of procedure.

6/ Ibid., paras. 151-162.

ANNEX

Conclusions of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization concerning the rationalization of existing procedures of the United Nations

1. The agenda of the sessions of the General Assembly should be simplified as much as possible by grouping or merging related items, after consultation and with the agreement of the delegations concerned.*
2. Specific items should be referred, where relevant, to other United Nations organs or to specialized agencies. The right of States to request that specific items be discussed in the General Assembly should remain unimpaired.
3. The recommendation in paragraph 28 of annex V to the rules of procedure of the General Assembly, according to which the Assembly should ensure, as far as possible, that the same question, or the same aspects of a question, are not considered by more than one Main Committee, should be more fully implemented, except when it would be helpful for the Sixth Committee to be consulted on the legal aspects of questions under consideration by other committees.
4. The General Committee should more fully play its role under rule 42 of the rules of procedure and paragraphs 1 and 2 of General Assembly decision 34/401, reviewing periodically the work of the Assembly and making the necessary recommendations.
5. The Chairmen of the Main Committees should take, in the light of past experience, the initiative to propose the grouping of similar or related items and the holding of a single general debate on them.
6. The Chairmen of the Main Committees should propose to the Committee the closing of the list of speakers on each item at a suitably early stage.
7. Agreed programmes of work should be respected. To this end, meetings should start at the scheduled time and the time allotted for meetings should be fully utilized.
8. The bureau of each Main Committee should periodically review the progress of work. In case of need, it should propose appropriate measures to ensure that the work remains on schedule.
9. Negotiation procedures should be carefully selected to suit the particular subject-matter.

* The view was expressed that the agreement of the delegations concerned was not an essential condition.

10. The Secretariat should facilitate informal consultations by providing adequate conference facilities.*

11. The mandate of subsidiary organs should be carefully defined in order to avoid overlapping and duplication of work. The General Assembly should also review periodically the usefulness of its subsidiary organs.

12. Resolutions should be as clear and succinct as possible.

* The view was expressed that this recommendation was not intended to have any financial implications whatsoever and was approved subject to that condition.