

UNITED NATIONS
General Assembly
FORTY-FOURTH SESSION
Official Records

SIXTH COMMITTEE
14th meeting
held on
Monday, 9 October 1989
at 3 p.m.
New York

SUMMARY RECORD OF THE 14th MEETING

Chairman: Mr. TUERK (Austria)

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Distr. GENERAL
A/C.6/44/SR.14
19 October 1989
ENGLISH
ORIGINAL: FRENCH

The meeting was called to order at 3.10 p.m.

AGENDA ITEM 146: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)
(A/44/33, A/44/409 and Corr.1 and 2, A/44/585, A/44/602)

AGENDA ITEM 141: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)
(A/44/460, A/C.6/44/L.1, A/44/409 and Corr.1 and 2, A/44/568, A/44/585, A/44/591, A/44/596)

1. Mr. ROJANAPHRUK (Thailand) said that, although both of the working papers reproduced in paragraphs 20 and 51 respectively of the Special Committee's report (A/44/33) seemed to be based on the principle that the sending of a United Nations fact-finding mission to a State must be dependent on the prior consent of that State, his delegation preferred the language of the second paper, paragraph 6 of which stated expressly that the sending of a United Nations representative or fact-finding mission into the territory of any State required the prior consent of such State. Furthermore the refusal to admit a United Nations fact-finding mission should not, in recognition of the principle of the sovereignty of States, be accompanied by reasons. However, the paper on the Organization's fact-finding activities which the Special Committee adopted should not prejudice the powers conferred upon the Security Council under Chapter VII of the Charter, which included the power to send a fact-finding mission into the territory of a State without its prior consent.

2. His delegation also supported the proposal of France and the United Kingdom regarding rationalization of United Nations procedures (ibid., para. 99) as well as the Special Committee's recommendation that the General Assembly at its present session should bring to the attention of States the Romanian proposal on resort to a commission of good offices, mediation or conciliation within the United Nations (ibid., para. 123).

3. Mr. GILL (India) said that his delegation welcomed the adoption in 1988 of the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (General Assembly resolution 43/51).

4. The strengthening of United Nations fact-finding activities for the purposes of international peace and security deserved careful consideration. However, such activities must not run counter to the provisions of Article 2, paragraph 7, of the Charter. Furthermore, to be effective they needed the full and complete co-operation of the States in whose territory they were carried out. It was therefore essential that fact-finding missions should be sent with the consent of the States in whose territory they were to operate.

5. Regarding the specific proposals, his delegation agreed with the ideas contained in paragraphs 1 to 3 of working paper A/AC.182/L.60 (see also A/44/33, para. 20). On the other hand, the proposal in paragraph 15 that a State should give reasons for its refusal to admit a United Nations fact-finding mission was

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(Mr. Gill, India)

impracticable. However, once a State had admitted a fact-finding mission to its territory, it ought to co-operate with the mission so that it could carry out its activities impartially and effectively. His delegation therefore supported in general the ideas contained in paragraph 16. The other working paper on the question (*ibid.*, para. 51) had the merit of describing in greater detail the modalities of fact-finding missions and the circumstances in which such activities should be carried out.

6. His delegation agreed with the proposals designed to reduce the Organisation's expenditure through the scheduling of meetings and conferences to make the best possible use of resources. It also supported the combining or grouping of certain agenda items if that would make more time available for substantive issues as opposed to procedural matters. But the reduction of the number of agenda items and the number of resolutions and decisions adopted by the General Assembly should not lead to the deletion or non-consideration of items of particular significance for the developing countries. Such items must have priority. The Indian delegation thanked the sponsors of the working papers on rationalisation of procedures and requested that the proposals contained therein should be referred to the Fifth Committee.

7. His delegation welcomed the progress made on the preparation of the draft handbook on the peaceful settlement of disputes between States, and it hoped that, even though the Secretariat had only limited resources, the work could proceed on a priority basis in 1990.

8. The Special Committee should endeavour to complete the task entrusted to it during its 1990 session. To that end, it should identify the points of convergence among the various working papers on each of the items before it and include them in a single paper which would be referred to a drafting group.

9. Mr. RIANOM (Indonesia) said that the two working papers on fact-finding missions (A/44/33, paras. 20 and 51) were to a large extent complementary and he hoped that at its 1990 session the Special Committee would try as a matter of priority to identify the points of agreement and draft a single document clearly defining the functions and purposes of fact-finding missions and explicitly recognizing the need to protect the rights of States vis-à-vis such missions.

10. With regard to the rationalization of the Organization's procedures, the proposals concerning the adoption by consensus of General Assembly resolutions and decisions and an increase in the number of meetings of the General Committee, the merging or grouping of agenda items and the convening of Main Committees deserved careful study. The General Assembly should adopt new resolutions on subjects on which it had already stated its position only if it was reasonable to call for specific measures within a stated period of time. Moreover, the number of items on the agenda must be reduced by removing those which had ceased to be relevant, deferring those which were under negotiation and grouping related issues. His delegation hoped that at its next session the Special Committee would resume active consideration of that question on the basis of the working paper and the other proposals.

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(Mr. Rianom, Indonesia)

11. It approved the recommendation to the effect that the General Assembly should adopt, at its current session, the proposal for the establishment of a commission of good offices, mediation or conciliation within the United Nations (A/44/33, para. 123). That proposal was consistent with the Charter and would strengthen its relevant provisions on the peaceful settlement of disputes.

12. Finally, his delegation had taken note with interest of the progress made on the draft handbook on the peaceful settlement of disputes. It was essential that the handbook should be practical and realistic and devoid of irrelevant historical precedents. Pre-Charter instruments and procedures which were still relevant should, however, be taken into account as also should General Assembly resolutions that elicited widespread support.

13. Mr. PHAM NGAC (Viet Nam) said that the principle of peaceful settlement of disputes constituted the basis of the foreign policy of his country, which had a profound understanding of the value of peace as it had been the victim of successive wars since its foundation. Strict respect for the fundamental principles of international law and the Charter of the United Nations represented one of the prerequisite conditions for the elimination of armed conflicts. His delegation favoured the application of all means for the peaceful settlement of international disputes on the basis of the principles of sovereign equality among States and free choice of means by the States parties to the dispute, in accordance with Articles 2 and 33 of the Charter. It also supported initiatives to seek new means of settlement, particularly the proposal on resort to a commission of good offices, mediation or conciliation within the United Nations. Among the existing means, negotiation and dialogue on the basis of mutual interest and non-interference from outside were the most effective. Fact-finding missions should be sent with the consent of the States concerned. Finally, his delegation welcomed regional initiatives to settle disputes and to establish zones of peace and nuclear-free zones. It strongly supported the proposal of the States of the Non-Aligned Movement to declare the 1990s as the United Nations decade of international law.

14. Mr. KOIRALA (Nepal) said that his delegation welcomed the consensus reached by the Special Committee on the proposal concerning resort to a commission of good offices, mediation or conciliation within the United Nations. On the question of fact-finding by the United Nations for the maintenance of international peace and security, the working documents (A/44/33, paras. 20 and 51) provided a sound basis for further discussion on strengthening the United Nations through the use of such missions. His delegation had also carefully studied the Secretary-General's progress report on the work concerning the preparation of a draft handbook on the peaceful settlement of disputes between States.

15. Mr. ABADA (Algeria) said that his delegation hoped that the General Assembly would, at its current session, adopt as it stood the recommendation contained in paragraph 123 of the Special Committee's report (A/44/33) concerning recourse to a commission of good offices, mediation or conciliation within the United Nations.

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(Mr. Abada, Algeria)

16. In connection with the chapter on the rationalization of existing United Nations procedures, his delegation was disappointed by the direction taken in the discussion on the proposal of France and the United Kingdom. While it had always entertained doubts regarding the usefulness of the Special Committee's work on the issue, it had consented to participate during the 1988 session and had made its contribution to the search for solutions acceptable to all, notably on the question of consensus. The amendments submitted during the 1989 session had, however, brought the Special Committee back to its starting point, and his delegation questioned once again the usefulness of such an exercise, which should have been completed in 1984 after the adoption of the 12 recommendations.

17. On the issue of the maintenance of international peace and security, the working documents reproduced in paragraphs 20 and 51 respectively of the report both contained interesting elements and, if combined in a judicious manner, should constitute a good basis for continuing the discussion. The new working document should take account of a number of concerns: (a) it should include, without going into too much detail, a clear definition of the function and purpose of fact-finding as defined in paragraph 28 of the report; (b) it was not necessary to go into detail in the matter of identifying on whose initiative fact-finding activities could be decided. A simple listing of the competent bodies should suffice; (c) acknowledgement of the Secretary-General's prerogatives in connection with fact-finding should go hand in hand with the search for greater effectiveness, but without prejudice to other bodies; (d) the success of a fact-finding commission would certainly depend on the speed with which it was set up and sent to the area; (e) it was not appropriate to retain the concept of a general unilateral statement which would oblige States to admit fact-finding missions to their territory; and finally, (f) the use of United Nations Information Centres and representatives of the Organization should be approached cautiously.

18. His delegation extended its warm thanks to the staff of the Codification Division for their efforts to complete the draft handbook on the peaceful settlement of disputes between States.

19. Mrs. OBI-NNADOZIE (Nigeria) said that advantage must be taken of the current general political environment, which was characterized by the lowering of global tension, in order to strengthen the role of the United Nations in the maintenance of international peace and security. The Secretary-General should be encouraged to utilize more often the powers vested in him by Article 99 of the Charter and to make more frequent use of fact-finding missions. That would require a greater willingness on the part of the Secretary-General to take political initiatives in the pursuit of peace and the support, at least tacit, of the members of the Security Council and the General Assembly for his efforts. It would also mean that more resources should be made available to him.

20. Her delegation therefore supported the proposals designed to strengthen the peace efforts of the Organization as contained in the report of the Special Committee; it should however not be forgotten that the co-operation of all Members of the Organization would be required if it was to become a more effective

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(Mrs. Obi-Nnadozie, Nigeria)

instrument for the maintenance of peace. Strict respect for the principles of international law by the great Powers would be a step in the right direction. Only in such an environment would the provisions of Article 2 of the Charter stand a chance of being observed.

The meeting rose at 4 p.m.