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at 10 a.m.
New York

SUMMARY RECORD OF THE 7th MEETING

Chairman: Mr. TURK (Austria)

CONTENTS

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

AGENDA ITEM 141: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

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The meeting was called to order at 10.25 a.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 (A/44/33)

AGENDA ITEM 141: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (A/44/460)

1. The CHAIRMAN invited Mr. Ruda, President of the International Court of Justice, to take the floor.

2. Mr. RUDA (President of the International Court of Justice) said that the Court was currently undergoing a period of intense activity. Various cases had been referred to it, including a request for an advisory opinion on a legal question emanating, for the first time, from the Economic and Social Council. The unusual variety of cases brought before the Court should enrich its jurisprudence. Moreover, the fact that they were submitted by parties belonging to all five continents was itself a vote of confidence in the Court, whose jurisdiction was based on the consent of the parties.

3. Mr. GBEHO (Ghana), Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, said that the report of the Special Committee was divided into five sections: the first was introductory in nature; the second contained the general views expressed by certain members of the Committee during the general debate on all of the items within the mandate of the Special Committee; and sections III, IV and V recorded the views expressed by members on each of the substantive items considered by the Special Committee.

4. In connection with section III, "Maintenance of international peace and security", the Special Committee had had before it two working papers which had assisted it in holding a useful discussion on the question of the fact-finding activities of the United Nations and in establishing the direction in which the Special Committee might continue in its consideration of the item. Since the two working papers were complementary - a fact generally recognized during their consideration by the Special Committee - the sponsors of the two documents might wish to consult among themselves in order to identify the elements common to the two documents and thus facilitate the Special Committee's efforts to prepare a unified working paper.

5. With regard to the rationalization of existing United Nations procedures, which was dealt with in section IV of the report, the Special Committee had achieved substantial progress towards settling some of the outstanding issues. It was to be hoped that, on the basis of a revised paper to be submitted by the sponsors of the working paper at its next session, the Special Committee would be in a position to continue its work towards a successful completion of its consideration of the question.

(Mr. Gbeho, Ghana)

6. Section V was devoted to the peaceful settlement of disputes between States, and in particular to consideration of the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations. As stated in paragraph 123 of its report, the Special Committee was recommending that the General Assembly bring to the attention of States the text of the proposal relating to resort to a commission of good offices, mediation or conciliation within the United Nations. It considered that States might take the proposal into consideration as providing useful guidance.

7. Section V also dealt with the progress report of the Secretary-General on the drafting of a handbook on the peaceful settlement of disputes between States. The report was summarized in paragraph 124 of the report.

8. Mr. MOCK (Austria) said that it had never been the sole objective of the Charter of the United Nations to prevent armed conflicts; its aim was also the advent of a world ruled by justice and respect for the dignity of man. Although, more than four decades after its adoption, those noble objectives had not yet been achieved, the United Nations had undoubtedly moved closer to them in recent years. In that regard, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization played a special part. Its report to the current session was proof of the willingness of its members to advance the work assigned to it by the General Assembly.

9. His country had consistently advocated the strengthening of the existing methods available to States under the Charter and numerous other instruments for the peaceful settlement of their disputes, and had repeatedly called upon States to make early use of those means in situations which threatened to degenerate into conflict, since they constituted a comprehensive system which, if appropriately used, could contribute significantly to the lessening of tensions and to preventing resort to arms.

10. Acceptance of the supremacy of law in international relations, however, must also lead to the strengthening of international judicial bodies. Members of the international community must therefore be aware of the opportunities for settling disputes offered by the International Court of Justice and of the need for States to accept its compulsory jurisdiction. His delegation was strongly convinced that the strengthening of the role of the Court was one important way of contributing to international peace and security. It was for that reason that Austria had declared its acceptance of the compulsory jurisdiction of the Court in 1971 and had accepted every Optional Protocol providing for the mandatory jurisdiction of the Court in the case of a dispute concerning the application or interpretation of a treaty. His delegation called upon all States which had not yet done so either to accept the compulsory jurisdiction of the Court under Article 36 of its Statute, or at least to refer particular disputes to it by special agreement.

11. His delegation was gratified to observe a significant shift in the attitude of States towards the mandatory settlement of disputes by a third party, in general, and the role of the International Court of Justice in particular. It welcomed the

(Mr. Mock, Austria)

Declaration adopted at The Hague, at the conclusion of the Meeting of Ministers for Foreign Affairs of the Movement of Non-Aligned Countries, on the question of peace and the rule of law in international affairs: the Declaration invited the General Assembly to proclaim a United Nations Decade for International Law which would place particular emphasis on the promotion and strengthening of peaceful means for the settlement of disputes between States, including resort to the International Court of Justice. It noted with great satisfaction that Poland intended to accept the compulsory jurisdiction of the Court.

12. His delegation had also noted with particular interest the intention of the Secretary-General of the United Nations to create a trust fund based on voluntary contributions to assist States in the settlement of disputes through the International Court of Justice. As the Secretary-General had pointed out, there might be cases where the parties to a dispute were prepared to seek a settlement through the Court, but could not proceed owing to the lack of legal expertise or funds.

13. Austria had always advocated recourse to compulsory dispute-settlement procedures which included the involvement of a third party. Under such procedures, the two parties were placed on the same footing and were equally bound by the final decision, irrespective of their power or size, that being the best way of safeguarding the principle of the sovereign equality of States.

14. The peaceful settlement of disputes should be seen in a broader context. First and foremost, it was necessary to avert disputes by promptly resolving certain situations which might lead to a dispute. For that reason, his country was following with interest the deliberations of the Special Committee on the question of fact-finding, and it was gratified to note that the sponsors of the two working papers submitted on that issue were engaged in intensive negotiations aimed at arriving at generally acceptable rules. Such rules would make a significant contribution to the strengthening of the role of the United Nations and its organs in the maintenance of international peace and security. His delegation also welcomed the fact that, after a number of years of discussion, the Special Committee on the Charter had completed its work on the proposal concerning resort to a commission of good offices, mediation or conciliation within the United Nations.

15. The international community must also find new and imaginative ways to combat the increasing deterioration of the environment, which constituted a potential threat to international peace and security. By competing with each other for increasingly scarce natural resources, States were in growing danger of confrontation on environmental questions. However, while a growing number of States and international organizations and bodies recognized the need for new rules to regulate the conduct of States in matters relating to the environment, no institution had yet been made specifically responsible for the prevention and settlement of environmental disputes or for investigations into certain environmental situations. His delegation therefore proposed the establishment in the environmental field of a system comparable to that which existed for

(Mr. Mock, Austria)

peace-keeping to: (a) assist States (i) in preventing environmental disputes which might arise or (ii) in settling existing disputes; (b) facilitate investigations into any situation which, in the opinion of the Secretary-General or the Executive Director of UNEP, constituted a threat to "the global commons".

16. Such a system would comprise a register of technical experts appointed by the Executive Director of UNEP in consultation with Member States, international organs and organizations, and scientific and environmental non-governmental organizations. Furthermore, an appropriate procedure would have to be provided whereby the Secretary-General would be requested to establish ad hoc environmental fact-finding panels from that register in consultation with the Executive Director of UNEP. Such panels could be established by the Secretary-General (a) upon request either from States involved in a situation likely to lead to an environmental dispute or from States already parties to such a dispute; (b) on his own initiative, if in his opinion an environmental situation was of such gravity that it threatened the maintenance of international peace and security; or (c) on his own initiative or upon request of the Executive Director of UNEP in case of a threat to "the global commons".

17. Those panels would conduct on-site fact finding and present a report containing their findings and recommendations for action. As in peace-keeping procedures, the consent of the parties concerned would form an essential element for the deployment of such panels. The reports of the panels would be submitted to the Secretary-General, who would forward them to the States which had requested assistance, to the States concerned by an environmental situation which threatened the maintenance of international peace and security, or to the States Members of the United Nations in case of a threat to "the global commons".

18. Finally, he observed that the world had long passed the stage when rule of international law relating to the regulation of warfare were considered sufficient to govern the conduct of States. As the interdependence of nations grew and environmental problems threatened the very survival of the planet, the challenges to international law-making would increase considerably. Although he was not suggesting that everything should or could be reduced to purely legal categories, he was firmly convinced that the strengthening of the rule of law in international relations was essential to the solution of global problems.

19. Mr. MARTINEZ GONDRA (Argentina) thanked the delegations which had submitted documents A/AC.182/L.60 and L.62, on fact-finding by the United Nations to assist in the maintenance of international peace and security, to the Special Committee on the Charter. He pointed out that his Government had in the past supported the concept that States should have recourse to a fact-finding process to settle their disputes by peaceful means. In many cases the activities of the fact-finding missions had actually contributed to the settlement of disputes. In the opinion of his delegation, the two documents complemented each other by approaching the question from different points of view. Under the Charter, the Security Council, the General Assembly and the Secretary-General could undertake fact-finding missions, but, in practice, it was generally the Secretary-General who was

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(Mr. Martinez Gondra, Argentina)

entrusted with that task. His delegation therefore believed that the mandate of the Secretary-General in that area should be strengthened and that preferably he should be entrusted with the task of directing and carrying out fact-finding missions. States should co-operate with those missions and facilitate their activities. However, the dispatch of a fact-finding mission and its activities in the field often raised sensitive questions involving the interests of States. Thus it was essential to obtain the consent of a State before sending a fact-finding mission into its territory. The spirit of Article 2, paragraph 7, of the Charter should be kept in mind.

20. His delegation supported the work of the Secretariat on the drafting of a handbook on the peaceful settlement of disputes between States. Such a handbook could be very useful as an essentially practical instrument which would go beyond the description of approved procedures under international law for the settlement of international disputes. It also welcomed the method adopted by the Secretariat for drafting the handbook: the results of consultations regularly held with members of the Permanent Missions were satisfactory, and his delegation hoped for more active participation by interested delegations.

21. The position of Argentina on the question of the rationalization of existing United Nations procedures was the same as that of many delegations, which felt that the Special Committee need not pursue its work on a question that had already been considered by other organs of the United Nations. Progress had, however, been made and specific proposals had been submitted, but his delegation once again noted that the proposal that decisions and resolutions should be adopted by consensus did not always make for unanimity. His delegation had already given its reasons for its opposition to the establishment of such a rule, and it hoped that the discussion of that question would soon be concluded so that the Sixth Committee could turn to other points of interest to the majority of delegations.

22. In its resolution 43/170, the General Assembly requested the Special Committee to complete its consideration of the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations and to submit conclusions thereon, in an appropriate form, to the General Assembly at its forty-fourth session. The Special Committee had completed its consideration of that proposal at its session in March and April 1989 and had concluded that States could profitably resort to such a commission for the peaceful settlement of their disputes. His delegation welcomed the agreement reached within the Special Committee on that question, and was of the opinion that a recommendation should be made that the General Assembly should bring the proposal regarding a commission of good offices, mediation or conciliation mentioned in section V of the report of the Special Committee to the attention of States by annexing it to a decision to be adopted at the forty-fourth session.

23. Mr. TANASIE (Romania) said that the issue of the peaceful settlement of disputes between States was more relevant than ever in the current international context. As was evident from general debate at the current session of the General Assembly, a steadfast commitment of all States to the fundamental principles of

(Mr. Tanasie, Romania)

international law was the sine qua non for achieving a just and lasting solution to international problems and for maintaining international peace and security. The Minister for Foreign Affairs of Romania had emphasized that, in order to improve the international political climate and ensure détente and peace, Romania had strongly advocated bringing an end to all conflicts throughout the world by means of equitable solutions based on strict respect for the legitimate interests of peoples.

24. The United Nations should reaffirm the obligation of States to refrain from the use of force in their relations and to respect the right of peoples to choose freely their own path of development, without external interference. It should also ensure that any actions for the settlement of a dispute did not jeopardize the progress already made by the peoples concerned. Specifically, the United Nations should organize, as soon as possible, an international conference on the problems of the Middle East with the participation of all the countries involved, including the new State of Palestine, Israel and the permanent members of the Security Council. There was also a pressing need for implementing Security Council resolution 435 (1978) in full in order to proclaim the independence of Namibia without delay.

25. The examination of the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes between States provided an opportunity for efforts to make methods of settlement and, in particular, United Nations machinery more effective. In its report to the General Assembly at its forty-fourth session, the Special Committee on the Charter recommended that the Assembly should adopt the proposal concerning resort to a commission of good offices, mediation or conciliation. The proposal could improve the United Nations machinery for settling disputes and help it to perform that essential function.

26. It was generally felt that the United Nations should take more resolute steps in the settlement of disputes. In addition to serving as a political forum when disputes had already reached a certain degree of seriousness, it should also give priority to acting as a forum of preventive diplomacy and to seeking to avoid conflicts by means of mutually acceptable solutions while there was still time.

27. In his report on the work of the Organization, the Secretary-General had emphasized the importance of the role of the United Nations in that area and had said, specifically, that "the conjunction of peace and justice is less liable to be overlooked by the conduct of multilateral diplomacy than by its alternatives". It was for that same reason that Romania and 53 other countries had sponsored resolution 43/163 of 9 December 1988 on the implementation of the Manila Declaration and the ways and means of increasing the effectiveness of that document.

28. Romania supported the initiative in the Hague Declaration, issued at the close of the Meeting of Ministers of Foreign Affairs of the Movement of Non-Aligned Countries, on the topic of peace and the rule of law in international affairs (A/44/191). Specifically, it invited the General Assembly to proclaim a decade of

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(Mr. Tanasie, Romania)

international law from 1990 to 1999. Execution of the programme for that decade would foster universal respect of the norms and principles of international law, as well as a better understanding of the role of law in promoting and maintaining international peace and security. In addition, note should be taken of the basic concordance between the provisions of the Hague Declaration and the seventh paragraph of the preamble of General Assembly resolution 43/163. That resolution also underlined the need for continued work on strengthening procedures for the peaceful settlement of disputes by gradually developing and codifying international law and by increasing the effectiveness of the United Nations in that field. In that connection, he recalled his country's concrete proposals in the report (A/44/460) of the Secretary-General submitted in accordance with paragraph 4 of resolution 43/163.

29. The Hague Declaration had reiterated the idea put forward by Romania in 1988 of formulating a universal legal instrument for the peaceful settlement of disputes. The decision of the non-aligned countries to assign to a working group the task of examining existing international instruments on the peaceful settlement of disputes with a view to drawing up a draft universal convention was extremely important, given the current state of international affairs. Romania supported that initiative which could make a valuable contribution to strengthening the principle and practice of the peaceful settlement of disputes between States.

30. The Romanian delegation was continuing its consultations with interested delegations with a view to formulating a draft resolution on the implementation of the Manila Declaration, which would be presented under agenda item 141. Romania emphasized once again the political, legal and practical importance of that Declaration, which was intended to promote the respect of the principles and objectives of the United Nations, to strengthen multilateralism and to bolster the confidence of peoples in the potential of the Organization as a guarantor of international peace and security.

The meeting rose at 11.40 a.m.