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SUMMARY RECORD OF THE 12th MEETING

Chairman: Mr. TÜRK (Austria)

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ORGANIZATION OF WORK

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The meeting was called to order at 3 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)

AGENDA ITEM 141: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued) (A/44/460, A/C.6/44/L.1)

1. Mrs. MULINDWA-MATOVU (Uganda) said that in the current political environment, when the United Nations was regaining the confidence of Member States in its capacity to resolve conflicts and maintain international peace, the momentum should not be lost. Although her delegation had been unable to attend the recent session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, it had closely studied the Special Committee's report and felt that the exchange of views and ideas had been quite fruitful.
2. Her delegation supported the idea that the Special Committee should consider means of expanding co-operation between the United Nations and regional organizations in the search for a political settlement of crisis situations.
3. Concerning the substantive work of the Special Committee with regard to the maintenance of international peace and security, she 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. Similarly, she welcomed the idea of establishing fact-finding mechanisms, since parties to a conflict were too embroiled in the situation to present an objective version of the facts. For those reasons, she was grateful to the co-sponsors of documents A/AC.182/L.60 and A/AC.182/L.62. Both papers had positive aspects and she hoped that it would be possible to combine them in a single document. Her comments on the documents were as follows: it was essential to co-operate with regional organizations in determining that a potentially dangerous situation existed; it should be made perfectly clear that fact-finding missions were optional; the impartiality and objectivity of the missions should be underscored through the exclusion of the parties involved to the extent possible; the consent of States parties to a dispute should be obtained, and the sovereignty and territorial integrity of States should be respected; the missions should be organized with caution so as to ensure that their results were not counter-productive; and fact-finding activities should be based on the provisions of the Charter.
4. With regard to the peaceful settlement of disputes between States, she noted with appreciation the completion of the proposal submitted by Romania on the resort to a commission of good offices, mediation or conciliation within the United Nations. She supported the Special Committee's recommendation to bring the proposal to the attention of Member States by annexing it to a decision to be

(Mrs. Mulindwa-Matovu, Uganda)

adopted at the current session of the General Assembly. Although various mechanisms for the settlement of disputes already existed, the addition of another option could not be harmful.

5. She noted with appreciation the progress made in the preparation of the draft handbook on the peaceful settlement of disputes between States.

6. On the rationalization of existing United Nations procedures, she thanked the co-sponsors of document A/AC.182/L.43/Rev.4 for having sought once again to accommodate the views expressed by delegations. She reiterated that her delegation supported rationalization so long as it was not used to limit the rights of Member States to express their will freely. For instance, proposal No. 2 should not forestall the possibility of Member States requesting a roll-call vote although an electronic voting system was available. The recommendation of setting an interval of two or more years for the discussion of certain items was not very realistic. Although the pre-determination of agenda items could promote greater efficiency, the right of each General Assembly to decide its agenda and of Member States to present items or resolutions which they deemed to be pressing should not be curtailed.

7. She supported the proposal made by the Austrian Minister for Foreign Affairs to create mechanisms to assist States in preventing environmental disputes and facilitate investigations of preventive measures. However, she pointed out that in developing countries, environmental issues should be addressed together with developmental issues, as the two were inextricably linked.

8. She reminded the members of the Committee that the maintenance of international peace and security depended on the political will of Member States, which should respect one another's rights and refrain from imposing their will and promoting their own interests, as that often transformed otherwise manageable conflicts into disastrous and interminable wars.

9. Mr. SOTIROV (Bulgaria) said that the current session of the General Assembly clearly reflected the new atmosphere prevailing in international relations and the conviction of a growing number of States that the solution to global issues required an efficient world organization.

10. Turning to chapter III of the report of the Special Committee, relating to the maintenance of international peace and security, he noted with appreciation that, after the adoption by the General Assembly 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, two important documents had been submitted to the Special Committee, A/AC.182/L.60 and A/AC.182/L.62, both of which dealt with fact-finding and went beyond the scope of the 1988 Declaration in touching upon all stages of disputes and potentially dangerous situations. An increasing number of States had expressed their preference for the fact-finding procedure as a means for the peaceful settlement of disputes.

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(Mr. Sotirov, Bulgaria)

Fact-finding activities should be carried out by the Security Council, although at the same time, the activities of the Secretary-General in that field could produce very good results.

11. Fact-finding missions should be constituted and granted powers in a manner that ensured the impartial and efficient fulfilment of their tasks. Prior to dispatching a mission, the agreement of the parties to the conflict should be obtained; such a stipulation did not exclude sending missions to the territory of one of the States at its request. Missions should be provided with all the necessary facilities for the fulfilment of their tasks.

12. Document A/AC.182/L.62 had the virtue of adhering strictly to the existing practice of the United Nations. His delegation supported the view expressed in paragraph 55 that the document presented "a clear structure and established in strict conformity with the Charter the link between the maintenance of international peace and security and the peaceful settlement of disputes". Furthermore, the two documents already discussed complemented each other and at its next session the Special Committee should consider the possibility of merging them into one document.

13. Turning to chapter V of the report, concerning the peaceful settlement of disputes, his delegation noted with satisfaction that the Special Committee had completed consideration of the proposal, submitted by Romania, on the resort to a commission of good offices, mediation or conciliation within the United Nations. He supported the recommendation contained in paragraph 122 that the document could serve as a useful guide to States envisaging a resort to those methods. One of the main virtues of the document was the optional character of the procedure.

14. His delegation supported the work being done to prepare a draft handbook on the peaceful settlement of disputes between States. It should be concise and practical and should be based strictly on the provisions of the Charter. His delegation also followed with particular attention the work on the rationalization of the United Nations procedures and was pleased that the Committee had made progress in that field, having before it the revised working paper submitted by France and the United Kingdom and the amendments and additional paragraphs submitted by the Soviet Union. He hoped that at its next session the Special Committee would be able to work on a single document reflecting the ideas contained in both proposals.

15. The Special Committee should continue its efforts to elaborate legal instruments and methods enabling the United Nations to function more effectively. Enhancing the role of the United Nations meant strengthening the role of international law in international relations. The memorandum submitted by the Soviet delegation (A/44/585) was comprehensive and far-reaching; among its points, he wished to highlight the idea of concentrating on the procedures and instruments of the peaceful settlement of disputes and the need to elaborate and adopt a comprehensive and universal document that would develop and give concrete form to all aspects of the principle of peaceful settlement of disputes.

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(Mr. Sotirov, Bulgaria)

16. His delegation attached great importance to the legal settlement of disputes and noted with satisfaction a growing trend towards acceptance of the compulsory jurisdiction of the International Court of Justice. Finally, he was pleased to inform the Committee that in 1989 his Government had ratified the optional protocol to the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations and its two optional protocols. His Government had also withdrawn its reservations with respect to certain articles of the Convention on the Privileges and Immunities of the United Nations and the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft. It was also giving favourable consideration to the possibility of withdrawing its reservations formulated with respect to 26 international conventions.

17. Mr. MBURI (United Republic of Tanzania) said that, with respect to the maintenance of international peace and security, there was general agreement regarding the vital importance of fact-finding missions, which could help prevent the occurrence of disputes or be of use in situations where disputes had already occurred. Fact-finding was not a new concept: in practice the United Nations Secretary-General, the General Assembly and the Security Council had been sending missions to deal with situations that might endanger international peace and security. The task before the Special Committee was therefore to make known an already existing practice through clarification of the character of such fact-finding missions. Before being dispatched, fact-finding missions should be identified by a specific name reflecting the nature of the situation and their mandate should be clearly defined.

18. The question of who should initiate fact-finding missions should be dealt with in a flexible manner. Without prejudicing the provisions in Chapter VII of the United Nations Charter, the General Assembly should play a central role in the maintenance of international peace and security.

19. Both the proposals submitted by Belgium, the Federal Republic of Germany, Italy, Japan, New Zealand and Spain and that submitted by Czechoslovakia and the German Democratic Republic were important to the work as a whole. Once the minor differences between those proposals had been reconciled, the Committee could proceed with work on a single document.

20. With respect to the rationalization of existing United Nations procedures, the revised version of the working paper submitted by France and the United Kingdom and subsequent proposals by the Soviet Union merited immediate attention so that the work might be concluded as soon as possible. The reservations and objections to those proposals appeared to concern drafting issues only.

21. With respect to the peaceful settlement of disputes between States, his delegation was pleased to note that a definitive proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations, as submitted by Romania, was ready to be annexed to a decision adopted by the General Assembly at its forty-fourth session. While offering its unqualified support to the proposal, his delegation was nevertheless perplexed at the rate with which similar instruments were adopted without an evaluation of their practical application.

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(Mr. Mhuri, United Republic
of Tanzania)

22. His delegation had taken note of the Secretary-General's report on the progress of work on the draft handbook on the peaceful settlement of disputes between States and believed that increased efforts were needed in order to complete the task.

23. Lastly, he wished to draw attention to a situation which his delegation saw as the result of a lack of political will on the part of some Member States. At its forty-third session, the General Assembly had adopted without a vote resolution 43/51 entitled "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". At the same session the Assembly had adopted, also without a vote, resolution 43/170 entitled, "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization". Operative paragraph 4 of resolution 43/163 on the peaceful settlement of disputes between States, however, had been put to a vote because some States were not in favour of requesting the Secretary-General to continue to receive replies from Member States and relevant bodies on the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes. The irony was that the Assembly had reaffirmed the Manila Declaration in a preambular paragraph of the Declaration annexed to its resolution 43/51, yet no one had called for a vote on that paragraph. His delegation failed to understand why the paragraph in resolution 43/163 had been put to a vote when it too referred to the Manila Declaration.

24. Having examined the replies received by the Secretary-General as contained in his report (A/44/460), his delegation remained convinced that the only way for the Secretary-General to know that an instrument was being implemented was for him to receive written replies. The Manila Declaration was one of the well-established procedures for the peaceful settlement of international disputes and it was important therefore to know how it was being implemented. While it understood that some States were hesitant to implement the Declaration, his delegation was concerned at the double standard that was being applied. It hoped that States would reconsider their position at the current session and allow the Secretary-General to carry out unimpeded follow-up.

25. Mr. STEPANOV (Ukrainian Soviet Socialist Republic) thanked the Chairman of the Special Committee for his excellent presentation of its report. The positive changes which had taken place at the international level made it possible to take a different view of the role of the United Nations and its position and prospects for action in today's world. The United Nations had the capacity to help establish a stable international legal régime based on a broad approach to international security. Such a régime would fashion a world order which outlawed conflict and guaranteed the humanization and democratization of international relations and the conditions for establishing multilateral international co-operation. That, of course, entailed strict respect for international law and, first and foremost, for the Charter of the United Nations. The universally recognized validity of that instrument lay in the fact that, far from losing relevance, its fundamental

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(Mr. Stepanov, Ukrainian SSR)

concepts and provisions had gained in importance. That was because the Charter had been drafted at a time when the international community was united in the struggle for survival and had formed a common front against fascist aggression. At the time, everyone had felt that a new era was beginning and that for the first time in the history of mankind there was a chance of eliminating war forever. Peace had ceased to be a utopian vision. The unity of the countries which had formed the coalition against Hitler had soon disintegrated, however, and all traces of the earlier optimism had disappeared, to be replaced by the politics of confrontation.

26. The purpose of that brief historical digression was to point out that the United Nations was now beginning to occupy its rightful place in today's world. The politics of force, blocs and nuclear rivalry was yielding to a new political thinking - to a multilateral, democratic approach to the search for solutions to major international problems.

27. As Mr. Mikhail Gorbachev had said in his address to the General Assembly on 7 December 1988 the United Nations was increasingly manifesting its ability to act as a unique international centre in the service of the peace and security of mankind. There was renewed confidence in the Organization and its authority and influence in international life were increasing daily. The progress made towards the establishment of an international régime as envisaged in the Charter was directly related to the improvement in the international political climate and to the realism and responsibility shown by most States in their foreign policies.

28. It was clear that without timely, reliable and complete information in each case of a dispute, the principal organs of the United Nations, particularly the Security Council, would not know enough about the objective circumstances to take appropriate action or decisions. There were some interesting ideas and proposals on that subject in the working papers submitted by Belgium, Italy, Japan, New Zealand, the Federal Republic of Germany and Spain (A/AC.182/L.60) and Czechoslovakia and the German Democratic Republic (A/AC.182/L.62), which provided the Special Committee with an excellent basis for drafting an international instrument which, for the first time in the history of the United Nations, would demonstrate the importance of an international fact-finding mechanism. Such a mechanism was essential if the Organization was to be able to perform its peace-keeping role, and should encompass a broad range of methods and means of investigation and information gathering on disputes and conflicts, provide for ways of defusing and settling disputes and conflicts, and monitor objectively any agreements reached for putting an end to conflicts.

29. At its latest session, the Special Committee had made significant progress in its consideration of peaceful means of dispute settlement between States and, ending a debate which had gone on for several years, had adopted by consensus basic rules of conduct for States resorting to a commission of good offices, mediation or conciliation. Based on a proposal by Romania, those principles considerably enriched the documentation on the peaceful settlement of disputes between States. His delegation supported the Special Committee's recommendation that the document should be brought to the attention of States by annexing it to the decision to be adopted on that matter at the current session of the General Assembly.

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(Mr. Stepanov, Ukrainian SSR)

30. There were tangible prospects for establishing a new international political order based on the rule of international law and the primacy of international commitments. It was quite clear that it would be possible to solve the variety of problems facing mankind only if international law was binding on all States. That required that universal legal principles and norms, including those set forth in the Charter of the United Nations, be respected.

31. In consolidating that new universal legal régime, the capacity of the United Nations to take effective action to defuse crises and potential conflict situations must be increased. It was essential not only to settle international disputes but also and above all to prevent them from arising. United Nations efforts should therefore be concentrated on preventive diplomacy, in order to prevent a proliferation of international crises and to perfect the mechanisms for peaceful settlement of disputes. At the present time, it was particularly important to give full effect to the Organization's peace-keeping capacities by lending its activities renewed momentum and dynamism.

32. It was the duty of all States Members of the United Nations to do everything in their power to help ensure the widest possible use of United Nations peace-keeping operations, the strengthening of the Organization's role in dispelling international tensions and solving regional conflicts, and the enhancement of its capacity to take practical steps in other areas of international relations as well.

33. His delegation believed that the United Nations should be transformed into a genuinely universal forum enabling the international community, through combined efforts, to solve the most pressing problems of the age. Such universalization could be achieved only by carefully balancing the interests of different States and by striving for mutual understanding and co-operation against the backdrop of the newfound interdependence and integration of the contemporary world. The Special Committee could make an important contribution to ensuring that the Organization fulfilled that task effectively. The Special Committee already had in its possession prestigious instruments which embodied and elaborated on the noble purposes and principles of the Charter, including the Manila Declaration on the Peaceful Settlement of International Disputes and 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. He noted with satisfaction that at the latest session of the Special Committee, during consideration of the item on the maintenance of international peace and security, a broad exchange of views had taken place on the important problem of increasing the effectiveness of investigatory and fact-finding mechanisms in the area of international disputes and conflicts. Multilateral consideration of the question would enable the United Nations to make a substantial contribution to preventing and eliminating such disputes and ensuring that they did not degenerate into armed conflicts.

34. It would unquestionably be of practical value to prepare a handbook describing the variety of existing mechanisms and means for the peaceful settlement of

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(Mr. Stepanov, Ukrainian SSR)

disputes and conflicts for use by States in their relations with each other. He took note of the information on the preparation of new portions of the draft handbook dealing with international arbitration, and hoped that it would soon be completed.

35. Consideration of the rationalization of existing United Nations procedures had played a prominent role at the latest session of the Special Committee. The debate had been based on the revised version of the working paper submitted by the United Kingdom and France and also on the Soviet proposal on the subject. There had been great interest in ensuring that the General Assembly did more fruitful work and made a greater contribution to solving international problems in the context of the new political thinking.

36. He shared the view that one of the most effective ways of strengthening the role of the Organization, which was after all the most representative international forum, was to draft and adopt resolutions on the basis of consensus. Active use of that method within the United Nations would reflect the current trend in the process of the codification of law towards the co-operation of all States and the search for agreements which took into account the legitimate interests of all members of the international community. He did not, of course, mean to detract in any way from the moral and political force of resolutions which were adopted by means of a vote. The main thing was that such resolutions should not be a mere formality but should be aimed at achieving actual results. From that standpoint, consideration should be given to the proposal for a gradual reduction in the excessive number of resolutions adopted by the General Assembly, especially those which were repeated year after year without achieving any practical results.

37. Obviously, the search for effective mechanisms for implementing the resolutions and decisions of the General Assembly must go on. The effective application of resolutions adopted by the United Nations, particularly those adopted by consensus, and the monitoring of their implementation were important prerequisites for increasing the Organization's effectiveness and strengthening its prestige.

38. The Special Committee could be entrusted with co-ordinating the efforts made by the United Nations to rationalize and improve its overall functioning. The Special Committee could undoubtedly foster to a large extent the processes of renewal taking place within the Organization and strengthen and develop the positive trends emerging in its activity. To that end, the Special Committee must expand and intensify its dialogue with other organs so that the United Nations could help to create political and legal guarantees of international peace and security, strengthen the international legal régime and ensure the rule of law in international relations.

39. Mr. SANDOVAL (Ecuador) said that his Government was very interested in the Special Committee's work on United Nations fact-finding activities. There were two aspects to the peaceful settlement of disputes: the observance of substantive norms, according to which all international disputes must be settled by peaceful

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(Mr. Sandoval, Ecuador)

means, and adjusting the means to the nature of the conflict. His delegation supported the work of the Special Committee and was aware of the importance of the two documents which it was currently considering, which provided a good basis for future negotiations.

40. It was necessary to give decisive support to the rationalization of existing United Nations procedures and even to set a strict deadline for concluding discussion of the item, so as to break the vicious circle which had come to characterize that discussion.

41. He believed that consensus could be the most appropriate way of adopting resolutions if it served to reconcile extreme positions with the majority opinion in the search for common ground. However, consensus carried with it the risk of not satisfying all the parties fully. Voting made it possible to confirm the majority opinion and at the same time allowed the expression of dissent. The voting system adopted by the Organization placed States under the obligation to comply even with those resolutions for which they had not voted.

42. The peaceful settlement of disputes had always been a corner-stone of his country's foreign policy. Its national legislation and foreign policy were perfectly in accordance with the Manila Declaration on the Peaceful Settlement of International Disputes. Peace was not only the absence of all violence but also co-operation for the development of peoples. In its bilateral relations, his country had attempted to solve its territorial problem through peaceful means and the search for co-operation and understanding, creating circumstances favourable to confidence-building. In that connection, his delegation welcomed and supported fully the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, adopted at the forty-second session of the General Assembly.

43. With regard to the manner in which the document on the resort to a commission of good offices should be adopted, he supported the Special Committee's recommendation that it should be annexed to a decision. He also supported the efforts made towards completion of the draft handbook on the peaceful settlement of disputes between States.

ORGANIZATION OF WORK

44. The CHAIRMAN declared open the list of speakers on agenda item 140, "Progressive development of the principles and norms of international law relating to the new international economic order".

The meeting rose at 4 p.m.