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SUMMARY RECORD OF THE 15th MEETING

Chairman: Mr. TUERK (Austria)

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The meeting was called to order at 10.10 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 (continued)
(A/44/33, A/44/409 and Corr.1 and 2, A/44/585 and 602)

AGENDA ITEM 141: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)
(A/44/409 and Corr.1 and 2, A/44/460, 568, 585, 591, 596 and 609, A/C.6/44/L.1)

1. Mr. PATEL (Pakistan) said that his country adhered scrupulously to the principles embodied in the Charter of the United Nations. The fact that millions of people had died in some 150 conflicts since 1945 was due, not to defects in that Charter, but to the attitude of those who had failed to abide by its provisions. In that respect, special responsibility fell upon the permanent members of the Security Council, since unrestricted use of the veto would eventually erode the role of the United Nations in preserving peace.

2. Recent years had seen a transformation in the international situation and a trend towards settling international disputes through the United Nations and its regional organizations. Another welcome development was the growing interest in international law and the willingness of countries to be bound by its rules. Three countries had accepted the compulsory jurisdiction of the International Court of Justice in the past year and the Soviet acceptance of its jurisdiction in human rights matters was important for its authority and stature. It was against that background that the Movement of Non-Aligned Countries had proposed that the 1990s should be declared the United Nations decade of international law, in order to promote public esteem for international law and the movement for the peaceful settlement of disputes.

3. The work done by the Special Committee to rationalize existing United Nations procedures was of great importance. It was desirable that decisions should be reached by consensus, but that principle should not be used to frustrate efforts to strengthen the Charter and the role of the United Nations as peacemaker. His delegation believed that changes to the Charter could and should be made only in the manner described in Article 108 of that instrument.

4. Pakistan had supported every effort aimed at the peaceful settlement of disputes and hoped that the Special Committee would successfully complete its consideration of the proposals concerning a commission of good offices, mediation or conciliation within the United Nations. His delegation favoured the establishment of fact-finding missions to deal with particular cases, believing that the Secretary-General could constitute such bodies whenever necessary and determine their composition with the consent of the parties concerned under the mandate of the Security Council or the General Assembly. The Secretary-General should be encouraged to bring the findings of such missions to the attention of the Security Council under Article 99 of the Charter. Pakistan also appreciated the work done by the Legal Counsel and the Office of Legal Affairs with the view to preparing the draft handbook on the peaceful settlement of disputes between States.

(Mr. Patel, Pakistan)

5. While the work of the Special Committee and the Sixth Committee would no doubt contribute to the peaceful settlement of disputes, conflicts between nations could in the long run be more effectively eliminated by eliminating their causes, a task which should continue to receive the full attention of the United Nations.
6. Mr. SALLAM (Yemen) said that his delegation associated itself with all the efforts to strengthen the role of the Organization in the peaceful settlement of disputes between States. While some of the most positive developments in the contemporary world were attributable to the United Nations and its active role in the service of international peace and security, that should not be a cause for self-satisfaction. The successes achieved by the United Nations in issues relating to Afghanistan, Cyprus and Namibia should provide an incentive for greater efforts to be made on those same issues and on the many others that still remained unresolved. One such issue was that of Palestine, which had preoccupied the international community for more than 40 years and which could be resolved only by a commitment to the principles of the Charter and the implementation of the relevant resolutions.
7. His country had always supported the dispatch of United Nations fact-finding missions and had publicly condemned all acts hostile to United Nations observers and peace-keeping forces.
8. The Charter would remain no more than an elegant literary expression of noble ideas as long as the international community did not strive for the speedy implementation of the principles it embodied, particularly in the context of a world undergoing rapid change because of scientific and technological developments.
9. Mr. CABRAL (Guinea-Bissau) said that his delegation shared the general satisfaction with the improvement in international relations, the growing co-operation among States and the trend towards the peaceful settlement of disputes. The work of the Special Committee had reflected the trend towards better international relations.
10. His delegation regarded the Special Committee as a major subsidiary body of the General Assembly and attached great importance to the proposals submitted to it on fact-finding missions as a means of strengthening the work of the United Nations. Such missions could play an important role in preventive diplomacy and Member States should co-operate fully with them whenever they were mandated by the relevant United Nations organs. In the modern world, the common good had to prevail over a nationalistic approach to sovereignty.
11. With regard to the rationalization of existing United Nations procedures, the Special Committee had an important part to play in helping to make the General Assembly work more efficiently. His delegation agreed with those who thought that, in view of the financial constraints on the Organization, there should be a better allocation of resources between the issues on the agenda.

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(Mr. Cabral, Guinea-Bissau)

12. With regard to the peaceful settlement of disputes between States, his delegation welcomed the recommendation in paragraph 123 of the Special Committee's report (A/44/33). Resort to a commission of good offices, mediation or conciliation within the United Nations was a means of strengthening the trend towards the peaceful settlement of disputes. It was also encouraging to note the growing acceptance by States of the compulsory jurisdiction of the International Court of Justice, which Guinea-Bissau also accepted without reservation. In the last resort, everyone's security depended on compliance with the law and acceptance of third-party adjudication in conflicts between States.

13. Ms. NORIEGA (Panama) said that her delegation noted with satisfaction the work done by the Special Committee in connection with the proposal on the resort to a commission of good offices, mediation or conciliation within the United Nations. Her delegation supported the recommendation of the Special Committee that the General Assembly should bring the proposal to the attention of States by annexing it to a decision to be adopted at the forty-fourth session.

14. The Special Committee had wisely devoted most of its time to the item on the maintenance of international peace and security, thus buttressing a significant achievement of the forty-third session, namely the adoption without a vote 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. She hoped the Assembly would take a similar decision on the commission of good offices, mediation or conciliation.

15. The efforts to strengthen the work of the United Nations in the area of fact-finding were of fundamental importance in enabling the Organization to act with the necessary effectiveness in the contemporary world. Those efforts would also strengthen the aforementioned Declaration. Fact-finding was particularly important as a means of obtaining reliable and impartial information regarding existing or potential conflicts. It was also important as a means of verifying facts and compliance with the mandates of the General Assembly and the Security Council. The two proposals presented to the Special Committee on the question had aroused great interest and her delegation hoped that at its next session, the Special Committee could make substantial progress in its discussions.

16. Her delegation appreciated the work done by the Secretary-General and the Secretariat staff on the draft handbook on the peaceful settlement of disputes between States and hoped that that work could be completed without too much delay.

17. Her delegation was optimistic and encouraged by the work of the Special Committee, which was helping to strengthen the new climate of détente between the super-Powers that was reflected in the rest of the world. Her delegation was also encouraged by the renewed emphasis on the multilateral approach to international relations which had been evident over the past two years. On the other hand, it was deeply discouraged by the growing wave of regional conflicts, which were causing suffering to her own people. Such conflicts were provoked by those who had no compunction about violating the most elementary rules of truth, decency and

(Ms. Noriega, Panama)

international law, to the detriment of small countries which could in no way be a threat to anyone's security. Nevertheless, those power-hungry Governments went to incredible extremes to seek evidence which did not exist and to make up pretexts for their actions. The real threat to international peace and security came from those who were bent on inventing new doctrines, whether they were called anti-communism, the war against drug-trafficking, or the search for democracy by way of wars and coups in other countries. They replaced the concept of collective security embodied in the Charter of the United Nations with their own flawed concept of "national security", with its potential for infringing the rights of third parties for the sake of their own abusive interests.

18. It was truly amazing that the highest levels of government of a Member State should openly discuss ways of overthrowing foreign Governments, of kidnapping and assassinating their leaders and of attacking the public institutions of other Member States, and that they should promote and finance insurrections which bordered on State terrorism, as legitimate ways to conduct foreign policy. They were the ones who represented a constant threat to international peace and security, the ones who fabricated, provoked and systematically and artificially maintained situations of conflict and aggression, who threatened the use of force, and who engaged in psychological warfare, provocation, physical and moral harassment, and economic coercion in order to interfere in the domestic affairs of small and weak countries which had no strength other than their firm determination to survive as independent and sovereign nations, with their own identity and character.

19. The items under discussion in the Special Committee were not abstract questions divorced from reality or from the concrete actions of Member States. It was deplorable and tragic that a permanent member of the Security Council was showing a total disregard for the international legal order, while posing, in other areas, as a model, using all kinds of euphemisms.

20. The situation her country was experiencing was more than a titanic struggle to settle its disputes peacefully, in the political sphere; it was a struggle for survival. That was why the Head of State of Panama had recently asked the General Assembly to focus world attention on the case of Panama, in an effort to find some impartiality and justice in dealing with the true facts. Her country had already become a centre of world attention in an infamous and destructive way, demonstrating the negative attitude and cruelty of its attacker. The Nazi-Fascist concept that the ends justified the means was being applied to her country, a country which had always been willing to settle its disputes peacefully, but which was currently unable to do so because of the devastating force which had relentlessly been used against it for more than two years.

21. Situations such as the one her country was experiencing severely tested the moral foundations of the entire legal and political order of States. Nevertheless, her delegation wished to end on an optimistic note by saying that her Government would continue in good faith with its struggle for the rule of reason and legality in international affairs.

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22. Mr. ROSENSTOCK (United States of America), speaking in exercise of the right of reply, said that as most Member States seemed to be moving into a new world of ever-broadening support for the goals of the Charter, as all speakers but one spoke to the issues before the Committee in apparent common purpose, one speaker had sounded a discordant note. There was apparently one régime that was as far removed from the spirit of the times as it was from the will of its own people. How easy it was to attempt to distract attention from corruption at home by blaming others. All dictators and demagogues sooner or later tried that tactic. The demagogic approach did not, however, obscure the fact that the right of the people of Panama to self-determination and a political system of their own choosing had been frustrated, not by any outside forces but by the Noriega régime, which had stolen an election it had lost. Neither did such demagoguery obscure the barbaric behaviour of the régime towards those in Panama who were part of the defrauded majority. Beatings, jailings and other horrors spoke for themselves. Those acts had produced the instability in Panama, which was the fruit of the practices of a corrupt and discredited régime. The members of that régime had done it to themselves and by themselves, and they had themselves to thank for it. Their vituperation against others only showed more clearly what they were. Sooner or later such a régime would disappear and seem little more than an anachronistic nightmare. When that happened, Panama would once again have friendly relations with representatives of other countries of the hemisphere. In the meantime, one could not but have compassion for the Panamanian people in their suffering.

23. Ms. NORIEGA (Panama), speaking in exercise of the right of reply, said that the United States delegation was continuing in its effort to defend the indefensible, and had once more chosen to repeat the same litany of unfounded accusations and distortions it used in all forums, for lack of legitimate arguments. Her delegation had mentioned concrete situations which her country was currently facing and which were known to the world, precisely because the United States had loudly publicized them through its mass media, which were clearly manipulated. She had not mentioned the name of any particular country, but evidently their conscience had accused them. If their own conscience had told them they were guilty of what she had said, that was encouraging to her, since that was precisely the point to which she had wished to lead them. International law, by its very nature, could not be coercive in the conventional sense of the word, and hence its guidelines could only be binding in their moral force. A delinquent against the international legal order might appear to go unpunished because he could not be taken to prison or extradited, but he had to bear on his shoulders the heavy burden of world opinion. The outrageous abuses committed by the United States, a super-giant, against tiny and defenceless Panama were, in the last analysis, a matter of conscience. They reflected the supreme cowardice of those who attacked only the weak, while presuming to hold themselves up as protectors of peoples, of human rights, of freedom and of democracy. She wondered what democracy the United States was talking about, since it was well known for entering into all kinds of complicity with the bloodiest dictatorial régimes of the continent and of the world. When the United States spoke of freedom and democracy and used other such euphemisms, it was automatically engaging in the "doublespeak" and "doublethink" mentioned by George Orwell in his book 1984. She hoped that those currently governing the noble people of the United States would continue to examine their own conscience.

24. The CHAIRMAN said that the Committee had thus concluded its debate on agenda items 140, and 141.

AGENDA ITEM 140: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER (A/44/409 and Corr.1 and 2, A/44/455)

25. The CHAIRMAN reminded the Committee that item 140 had been put on the agenda in response to General Assembly resolution 43/162, which recognized the need for codification and progressive development of the principles and norms of international law relating to the new international economic order. In that resolution, the General Assembly had recommended that the Committee should consider making a final decision during the forty-fourth session on the question of the appropriate forum within its framework to undertake that task, taking into account the proposals and suggestions submitted by Member States. He hoped that the Committee would bear that recommendation in mind during its consideration of the item.

26. Mr. GILL (India) said that the importance of a new international economic order lay in its objective of correcting the inequitable existing order and introducing a modicum of mutual benefit and lasting support for development activities into international economic relations. The subject was of fundamental importance in view of the United Nations commitment to achieve international co-operation in solving international problems of an economic character and to promote conditions of economic and social progress and development.

27. The economies of the developing countries were currently in particularly bad shape, their problems having been aggravated throughout the 1980s by a number of adverse international factors. The diversion of resources to debt-servicing, the scarcity of capital and other resources and the instability of various economic systems were preventing developing countries from addressing their real problems and dealing adequately with mass poverty. Strenuous efforts had been made to cope with the crisis but the process of adjustment was proving to have unacceptably high economic and social costs.

28. In view of the mutual interests involved there was an urgent need for a more constructive response to the ideas of the developing countries. The economic crisis affecting those countries, together with recent developments in the world economy, had emphasized the need for the international community to adopt consistent and mutually reinforcing policies in the interrelated areas of finance, debt and trade. Developing countries had made various specific proposals designed to revitalize international economic relations as a whole.

29. The codification of international law in relation to world-wide efforts to put international economic relations on a more equitable footing was therefore of great importance and might help to promote specific proposals designed to solve the problems of developing countries. The Committee was concerned, in the first instance, with studying the progressive development of the principles and norms of international law relating to a new international economic order. India

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(Mr. Gill, India)

appreciated the efforts that UNITAR had made in 1981-1984 to help identify the linkages between international law and the concept of the new international economic order. Other international organizations such as UNCITRAL and the Asian-African Legal Consultative Committee had also involved themselves in codifying the rules of economic co-operation between developed and developing countries. India considered that the principles submitted by UNITAR constituted a "right to development" equivalent to the right to self-determination in international political relations. Any attempt to deny that right its place in international law would ultimately lead to a weakening of the whole United Nations system. Whatever methodology the Committee adopted, it was necessary to concentrate on the mechanism for applying international law to relations among States. Any process that would further that aim deserved attention.

30. Mr. THIAM (Guinea) said that the deteriorating international economic situation had particularly affected the least developed countries, which were extremely vulnerable to any crisis. Many bodies, including UNCTAD, the Group of 77, the Movement of Non-Aligned Countries, the Economic and Social Council, the General Assembly and UNITAR had all discussed the international economic situation and proposed a number of initiatives and recommendations. The endogenous and exogenous factors of the recession were well known. The time had therefore come to promote a new and favourable international economic environment by dealing with the immediate problems of growth and development.

31. The rules which would provide the legal framework for the evolution of international relations between the rich and the poor should take into account the increasing integration of the world economy through trade, as national economies became more and more interdependent. His delegation was concerned that the relevant rules of law should be directed towards the participation of all economic actors in the process of growth and development. Every effort should be made to overcome the obstacles to economic growth which exacerbated tensions in trade relations, led to highly unstable exchange rates, brought down the prices of commodities, increased the burden of debt and created zones of protectionism.

32. Many economic indicators had shown that the major problems of the world economy could not be solved through measures taken at the domestic level alone. The rules governing the new international economic order should include provisions requiring States to use their available resources for the benefit of all, without exception, and to adjust their economies to the needs of the external environment. Such rules would help to stimulate and maintain non-inflationary growth for the domestic economies and enable them to play a greater part in balancing world trade.

33. The emergence, in recent years, of new economic and financial Powers made it even more necessary to create a legal framework favouring the development of a new international economic order that would provide a system for ensuring security, justice, co-operation and stability. It should also be borne in mind that not only trade and direct investment, but also technological innovation had a considerable influence on traditional structures of production and international trade. It was important to develop principles and norms of international economic co-operation in

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(Mr. Thiam, Guinea)

order to create a framework for reducing imbalances in trade and stabilizing markets. Such principles should take into account, on the one hand, macro-economic policies aimed at changing the structure of world supply and demand so as to enable countries to get rid of surpluses and reduce deficits in their balance of payments, and, on the other hand, micro-economic policies designed to increase the role of market forces in the private sector by liberalizing imports, attracting more foreign private investment, encouraging increased domestic savings and reducing the role of the public sector.

34. There was no need to fear the changes in domestic policies that would have to be made in order to bring about a new international economic order. The willingness of countries to co-operate on the basis of a constructive dialogue would surely mitigate the minor negative effects which gave rise to the misgivings of sceptics. When faced with recession, many third world countries, including the African countries, had proved that with good will it was possible to overcome the undesired effects of structural change. Unfortunately, despite the sacrifices they had made, their expectations had not been fulfilled. Instead, the poor countries had helped the rich countries to become richer while they themselves had become poorer. His delegation was therefore very pleased with the results of the conference of creditor countries recently held in Toronto. In particular, his country wished to express its satisfaction at the realistic decision taken by France to remit the debt of the poorest countries. That spoke eloquently of the solidarity of the French people and their Government's support for the third world countries. His delegation was also pleased with other favourable measures that had been taken by Canada, the Federal Republic of Germany and Japan to alleviate the debt burden of the poorest countries, and wished to encourage all the industrialized countries to make a greater effort to achieve the goal of providing 0.7 per cent of their GNP for official development assistance.

35. At a time when the international community was moving towards the peaceful settlement of disputes through negotiation and dialogue and international political relations were increasingly characterized by détente and understanding between the super-Powers, it was high time that the same dynamics should be applied to international economic negotiations. Thus, the development of a set of principles and norms in that area would make a valuable contribution towards eliminating disparities in development. His delegation felt that the best procedure to follow would be to establish a working group within the Sixth Committee to identify the basic legal issues involved, with a view to offering solutions, first of all, to those problems which threatened international economic security. General Assembly resolution 42/149 attested to the international community's interest in improving international economic relations.

36. So far, the means proposed for helping the poor countries out of their difficulties had produced only limited results. It was important to design and adopt more suitable corrective measures. The principles and norms of international law relating to the new international economic order should include provisions for reducing interest rates, eliminating interest on the debt of the poorest countries, extending the repayment term of loans, taking into account each country's payment

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(Mr. Thiam, Guinea)

capacity, improving the prices of commodities produced by developing countries and creating favourable conditions for their exportation, evaluating and promoting the factors and agents of economic growth within the developing countries, and converting into soft loans those loans which had been granted on market conditions by the multilateral organizations.

37. His delegation endorsed General Assembly resolution 43/162, paragraph 3, as it considered that the Sixth Committee was the appropriate body to develop the principles and norms of international law relating to the new international economic order.

The meeting rose at 11.15 a.m.