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SUMMARY RECORD OF THE 9th MEETING

Chairman:

Mr. GARBA

(President of the General
Assembly)

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BY CUBA AND NICARAGUA

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The meeting was called to order at 5.05 p.m.

ADOPTION OF THE AGENDA OF THE FORTY-FOURTH REGULAR SESSION OF THE GENERAL ASSEMBLY AND ALLOCATION OF ITEMS: REQUEST FOR THE INCLUSION OF AN ADDITIONAL ITEM SUBMITTED BY CUBA AND NICARAGUA (A/44/906)

1. The CHAIRMAN said that Cuba and Nicaragua had requested the inclusion of an additional item entitled "Grave situation in Panama". He drew the Committee's attention to the fact that he had been informed by representatives of Cuba and Nicaragua that paragraph 5 of the draft resolution annexed to the related document (A/44/906) should be deleted. The representative of Cuba had asked to participate in the discussion of the item in accordance with rule 43 of the rules of procedure.
2. At the invitation of the Chairman, Mr. Moreno Fernandez (Cuba) took a place at the Committee table.
3. Mr. MORENO FERNANDEZ (Cuba) said that the request for inclusion of an additional item was based on the urgent need to end the illegal aggression launched by United States troops against Panama, and was fully justified under the provisions of the Charter. The basic principles of the Organization were being violated, and his delegation therefore believed that the General Assembly should address the subject on a priority basis in plenary meeting.
4. The CHAIRMAN said that the representative of Nicaragua had asked to participate in the discussion of the item in accordance with rule 43 of the rules of procedure.
5. At the invitation of the Chairman, Ms. Moncada Bermudez (Nicaragua) took a place at the Committee table.
6. Ms. MONCADA BERMUDEZ (Nicaragua) said that delegations would be well aware of events in Panama, as a result both of discussions in the Security Council and of reports in the press. In a recent development, the invading United States troops had surrounded the Embassy of her country in Panama, necessitating the adoption of certain measures in her country's capital in response to the situation. The invasion endangered not only Panama but peace in the region as a whole. She drew attention to the fact that the request under discussion related, for the time being, only to the inclusion of an additional item on the agenda of the General Assembly and not to any recommendation on the part of the Assembly.
7. Mr. ROSENSTOCK (United States of America) said that the request was clearly inadmissible, under the provisions of Article 12 of the Charter. The text of Articles 12 and 24 had been carefully drafted because of the very real problems which had arisen in the League of Nations, where the respective jurisdictions of principal organs had not been clearly defined. His delegation recognized that, if the Security Council were to fail to exercise its primary responsibility for the maintenance of international peace and security, then it would no longer be exercising the functions assigned to it in the Charter, and the matter should be

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(Mr. Rosenstock, United States)

referred to the General Assembly. However, a situation of that sort, which was provided for under General Assembly resolution 377 (V), did not exist. The Security Council was actively considering the subject and had not yet reached a decision: indeed, no resolution had been put forward. The inclusion, by contrast, of a draft resolution in document A/44/906 strongly suggested that the General Assembly would be asked to make a related recommendation. His delegation would therefore, despite its normal liberal inscription policy, have no alternative but to vote against inclusion of the additional item.

8. Mr. MORENO FERNANDEZ (Cuba) found it astonishing that the representative of the United States should raise the question of violations of the Charter at a time when his Government was engaged in action which violated almost every principle of the Charter.

9. Mr. ROSENSTOCK (United States of America), speaking on a point of order, requested that the provisions of rule 40 of the rules of procedure be properly observed.

10. The CHAIRMAN advised the representative of Cuba to take note of rule 40 of the rules of procedure.

11. Mr. MORENO FERNANDEZ (Cuba) said that the provisions of Articles 12 and 24 of the Charter were also abundantly clear to his delegation. The delegations of his country and of Nicaragua were requesting the inclusion of an additional agenda item, not a recommendation on the part of the General Assembly. Once the item had been included, the Assembly would have full authority to decide how to apply the provisions of Article 12.

12. Ms. MONCADA BERMUDEZ (Nicaragua) said that the arguments of the United States delegation might be relevant if the request had related to discussion of a draft resolution in plenary meeting of the General Assembly. That was not the case, and his arguments were therefore invalid.

13. Mr. AUST (United Kingdom) noted that the Security Council, which held primary responsibility for the maintenance of international peace and security, was continuing to discuss the situation in Panama. Any Member of the United Nations wishing to take part in its discussions was entitled to do so. There thus appeared to be no need for a parallel debate on the subject in the General Assembly, which would indicate a certain lack of respect for the Council. While paragraph 5 of the explanatory memorandum had been deleted, its original inclusion pointed to an unjustified lack of confidence in the ability of the Council to address the issue. His delegation, like that of the United States, had always pursued a liberal inscription policy, but in the current circumstances, it would, if necessary, vote against inclusion of the additional item.

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14. Mr. GUTIERREZ (Costa Rica) said that a debate on the interpretation of Article 12 of the Charter could take hours of the Committee's time. He wondered whether, under the General Assembly's rules of procedure, it would be possible to request the Office of Legal Affairs to state its opinion on whether Article 12 permitted the granting of the request made by Nicaragua and Cuba.

15. Mrs. GAZEAU-SECRET (France) said that her delegation was surprised by the current debate. A discussion on Panama was taking place in the Security Council, a discussion which her delegation fully supported and in which it had participated. Article 12 unequivocally stated that while the Security Council was exercising the functions assigned to it in the Charter, the General Assembly should not make any recommendations. She supported the application of Article 12 and could not accept the request for the addition of a new item, especially in view of the circumstances under which it had been submitted.

16. Mr. LOZINSKIY (Union of Soviet Socialist Republics) said that he had listened carefully to the Cuban and Nicaraguan arguments in favour of the inclusion of an additional item, and had found them very convincing, in that they related to the grave situation in Latin America created by the United States intervention against a sovereign State. The Cuban and Nicaraguan representatives had also given a convincing explanation of the procedure which they envisioned so as to take into account Article 12, namely, not to adopt any recommendation but simply to give consideration to the item. The practice of the General Assembly showed that it sometimes considered a wide range of matters in conjunction with the Security Council. He therefore supported the proposal.

17. Mr. TELLMANN (Norway) said that his country had always followed a liberal policy with regard to the inclusion of items on the General Assembly's agenda and would continue to do so. However, when the Security Council was actively engaged in debate on a particular issue, it was not appropriate to bring the same issue up for debate and recommendation in the General Assembly on the basis of a given interpretation of Article 12. Moreover, the two delegations which had proposed the inclusion of the new item had also circulated a draft resolution for consideration by the General Assembly. It would be more appropriate to allow the Security Council to continue its discussion of the item.

18. Mr. GUTIERREZ (Costa Rica) regretted that his suggestion of seeking an opinion from the Office of Legal Affairs had not been taken up by the Committee, as it had been intended to avoid a discussion of Article 12. In his view, there was a clear contradiction between the Cuban and Nicaraguan proposal and the provisions of Article 12. The representatives of Cuba and Nicaragua had not limited their request to the inclusion of an item but had requested that it should be given urgent and priority consideration in the Assembly. It appeared therefore that the Committee was being asked to violate the Charter on the grounds that another violation had allegedly been committed. The Committee was engaged in a procedural discussion, and before any action was taken, the views of the Office of Legal Affairs should be sought.

19. Mr. AL-MASRI (Syrian Arab Republic) said that the current discussion involved two separate issues. One was the Cuban and Nicaraguan request for the inclusion of a new item, while the other related to the General Assembly's consideration of that item. It was up to the Committee to take a decision on whether to include the item in the agenda, but it was up to the General Assembly to decide whether to consider the item or to defer consideration of it. His understanding of Article 12 was that it did not prevent the General Assembly from considering any item which was before the Security Council, but did prevent it from making any recommendation. For the time being, the Committee should consider only the request for the inclusion of the item.

20. Mr. MORENO FERNANDEZ (Cuba) said that if the framers of the Charter had intended to prevent any discussion at all by the General Assembly of an item being considered by the Security Council, they would have formulated Article 12 differently. The representative of Costa Rica had supported the Cuban interpretation of Article 12, perhaps without intending to, in noting that Cuba and Nicaragua had only requested the consideration of an additional item by the General Assembly. He supported the suggestion made by the representative of the Syrian Arab Republic.

21. Mr. BEN MOUSSA (Morocco) said that the problem faced by the Committee was not that Article 12 prevented the General Assembly from debating an item which was before the Security Council, which it clearly did not, but the fact that the end of the present session was at hand. It would be useful to know the date on which the session would be suspended. Had Cuba and Nicaragua submitted only their explanatory memorandum at the current meeting, as required under rule 20 of the rules of procedure, there would have been no possibility of confusion with regard to Article 12 and the pre-empting of the debate in the Security Council. However, if the proponents of the new item had not submitted their draft resolution at the current meeting, they would have been precluded from submitting it at all by rule 120 of the rules of procedure, which required all proposals to be submitted in writing to the Secretary-General and circulated to the delegations not later than the day preceding the meeting at which the proposal would be considered. In view of the imminent suspension of the session, they could not have complied with that rule. He therefore felt that the Committee should adopt the most liberal policy possible with regard to the inclusion of a new item on the agenda.

22. Mr. HURST (Antigua and Barbuda) said that, as the Committee did not appear to be close to a consensus, he moved under rule 118 of the rules of procedure that the meeting should be adjourned.

23. The motion was adopted by 14 votes to 8.

The meeting rose at 6 p.m.