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SUMMARY RECORD OF THE 44th MEETING

Chairman: Mr. TUERK (Austria)

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The meeting was called to order at 10.15 a.m.

AGENDA ITEM 138: UNITED NATIONS PROGRAMME OF ASSISTANCE IN THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW (continued) (A/44/712, A/44/409 and Corr.1 and 2)

1. Mr. SALLAM (Yemen), referring to activities pertaining to the dissemination of international law, stressed the importance of the efforts carried out in that area by the United Nations and its specialized agencies, especially the United Nations Educational, Scientific and Cultural Organization (UNESCO). His delegation attached special importance to international law, which it considered to be necessary for the establishment of an international community based on peace, security and justice. In that regard, the seminar on international law, the United Nations Commission on International Trade Law (UNITAR) fellowship programme and the regional seminars sponsored by the Codification Division, as well as the documents published, attested to the work done by the United Nations in promoting the dissemination and wider appreciation of international law.

AGENDA ITEM 147: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY (A/44/26 and A/44/409)

2. Mr. MOUSHOUTAS (Cyprus), Chairman of the Committee on Relations with the Host Country, introducing the report of the Committee, said that it followed the format used in previous years. It consisted of four sections; the substance of the report was covered in section III, and the recommendations and conclusions were outlined in section IV. He expected that the Sixth Committee would wish to propose to the General Assembly the endorsement of those recommendations and conclusions. Finally, he wished to stress that the deliberations of the Committee, which provided an important forum for exchange of views within the framework of the United Nations, had been conducted in a constructive and business-like atmosphere.

3. Mr. SOTIROV (Bulgaria) said that he noted with satisfaction that the report of the Committee on Relations with the Host Country had not had to focus during the current year on the question of the security of missions and the safety of their personnel, a matter to which his delegation attached particular importance; he was pleased to note the host country's willingness to undertake the necessary measures in that area. His delegation had had to raise again the issue of revoking the travel restrictions imposed upon the personnel of a number of missions accredited to the United Nations; its position on the issue was extensively reflected in the report. He hoped that the delegation of the host country had a clear understanding of the problem and would proceed in a constructive manner to its solution.

4. He was aware of the difficulties involved in accommodating the needs of the diplomatic community in the city of New York and appreciated the efforts of the United States Mission in that regard. Finally, he stressed that one of the most important aspects of the work of the Committee on the Host Country was to build public awareness of the vital role played by the United Nations and the missions

(Mr. Sotirov, Bulgaria)

accredited to it, as pointed out in paragraph 45 (h) of the report. As a member of the Committee, his delegation would continue to contribute to the speedy and effective solution of current or future problems.

5. Mr. DELON (France), speaking on behalf of the 12 States members of the European Community, commended the Committee on Relations with the Host Country for its work and expressed appreciation for the measures taken by the New York City Commission for the United Nations and the Consular Corps to meet the needs of the diplomatic community.

6. Referring specifically to the questions relating to transportation and implementation of traffic regulations, the States members of the European Community wished to reiterate the importance which they attached to the implementation of article IV of the Headquarters Agreement and article 31 of the 1961 Vienna Convention; they hoped that the host country would take the necessary measures to fulfil its obligations in that regard. Finally, he stressed that the Headquarters Agreement was meant to be implemented with vigilance, courtesy and unconditional respect for international law.

7. Mr. ROSENSTOCK (United States of America) said that his country was proud to be host to the United Nations. He agreed with other speakers that the work done by the Committee on Relations with the Host Country was very useful, and he appreciated the spirit of co-operation shown by its members. It was inevitable that, in a diplomatic community as large as that of New York, conflicts should arise, but the spirit in which they had been dealt with had allowed for considerable progress to be made towards solving them. His delegation, which agreed with the Bulgarian delegation on the importance of the security of missions, felt that a much more constructive spirit had prevailed in the Committee than in previous years.

AGENDA ITEM 144: REPORT OF THE AD HOC COMMITTEE ON THE DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES (continued) (A/C.6/44/L.10)

8. The CHAIRMAN drew attention to the fact that the blank space in the testimonial clause of the Convention annexed to document A/C.6/44/L.10 would be filled in at a later stage. He understood that every effort was being made to have the Convention opened for signature by mid-January 1990.

9. Mr. HAGOSS (Ethiopia), introduced draft resolution A/C.6/44/L.10 on behalf of the sponsors. He pointed out that the sponsors comprised the officers of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which was evidence of the collective effort made to draw up the Convention annexed to the draft resolution. Finally, he recommended that the Sixth Committee should approve the draft resolution without a vote.

10. Mr. NGUYEN TRUONG GTANG (Viet Nam) said that his delegation endorsed the draft resolution contained in document A/C.6/44/L.10 and expressed appreciation to those who had succeeded in concluding the draft International Convention against the Recruitment, Use, Financing and Training of Mercenaries. His Government reserved its position with respect to the content of article 1, paragraph 2 (c), which conflicted with the interests and experience of Viet Nam, and therefore could not join the sponsors of the draft resolution.

11. Mr. ABOU-HADID (Syrian Arab Republic) thanked the Working Group and the Drafting Committee for their efforts in drawing up the draft International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

12. His delegation would prefer it if article 1, paragraph 1 (c) ended after the word "conflict" and the words "nor a resident of territory controlled by a party to the conflict" deleted. In article 2, it would be preferable to replace the word "offence" by the words "criminal act", and, in article 5, it would be preferable if the reference to the obligation of States parties not to recruit, use, finance or train mercenaries referred not only to the exercise of the inalienable right of peoples to self-determination but also to resistance to foreign domination.

13. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to adopt draft resolution A/C.6/44/L.10 without a vote and to recommend to the General Assembly that it should adopt the draft resolution.

14. It was so decided.

15. Mr. AUST (United Kingdom of Great Britain and Northern Ireland) said that his delegation fully associated itself with the statement made by the representative of France on behalf of the 12 States members of the European Community during the debate on the item. That statement had drawn attention to the fact that the adoption of the draft International Convention against the Recruitment, Use, Financing and Training of Mercenaries had been the result of an initiative taken by Nigeria, a country which had suffered grievously at the hands of mercenaries. It was also of great significance that the Convention was the result of an initiative by a member of the Non-Aligned Movement.

16. It had taken 10 years to produce the Convention, because issues of extreme difficulty had been involved. The progress which had been made during the last 18 months had been due to the spirit of compromise and co-operation shown by the negotiating groups involved.

17. At one stage, it had seemed impossible to resolve problems such as whether in article 1, paragraph 2 (b), a mercenary had to be prompted by the promise or payment of "significant" material compensation. His delegation was satisfied by the final formula according to which a mercenary must be motivated essentially by the desire for "significant private gain".

18. There had been long discussions regarding the content of article 5, paragraph 2, but his delegation was satisfied with the result, which would leave to

(Mr. Aust, United Kingdom)

each State party a margin of appreciation as to what was appropriate. Governments would now need to consider the Convention with great care before deciding to become a party to it.

19. Mr. SCHARIOTH (Federal Republic of Germany) said that he welcomed the end of the negotiations on the draft International Convention against the Recruitment, Use, Financing and Training of Mercenaries and its adoption by the Committee. His delegation had taken part in the negotiations and contributed to the achievement of compromise solutions acceptable to all. The text of the draft was currently the subject of careful study in the Federal Republic of Germany. The interpretation and application of certain criminal law concepts - such as criminal attempt and complicity - should be determined, in accordance with the practice generally followed in matters of mutual legal assistance, by the law and practice of the requested State.

20. Mr. DELON (France) said that his delegation was glad that, after eight years of work, it had been possible to overcome the difficulties and achieve a definite result. The final text was the product of the great efforts to reach agreement made by those who had taken part in the work.

21. The adoption by States of such measures as might be necessary to establish their jurisdiction over the offences set forth in the Convention, which was mentioned in article 9, paragraph 2, of the draft, might encounter practical difficulties whose extent it was difficult to estimate. However, his delegation had been able to join in the consensus on that point.

22. The payment of material compensation as a criterion for the definition of a mercenary in situations other than one of armed conflict (art. 1, para. 2 (b)), should not be interpreted as including a simple payment made to someone who was not motivated by the desire for gain but was responding to political, moral or humanitarian aspirations.

23. In conclusion, the existing body of particular provisions, which were intended to provide the framework for preventing and punishing a very specific offence, in no way prejudged the future course of discussions on other drafts, nor did it set a pattern for other international instruments.

24. Mr. VAN DE VELDE (Netherlands) said that the draft Convention attempted to bring the full force of national penal law systems to bear on the offences defined therein by obliging States parties to establish jurisdiction in respect of such offences committed in their territory or by their nationals. In addition, it obliged States parties to establish so-called universal jurisdiction, i.e., jurisdiction to prosecute or extradite offenders found in their territory who were not their nationals and had not committed the offences on their territory. As with previous conventions following a similar pattern, his Government had strong reservations as to the propriety of such universal jurisdiction in the context of the particular convention.

(Mr. Van de Velde, Netherlands)

25. Universal jurisdiction was likely to be ineffective and would run into major obstacles. No prosecution or conviction based on universal jurisdiction had ever been reported under existing conventions. Universal jurisdiction tended to blur a quintessential consideration, namely, that the primary responsibility for applying criminal justice rested with the jurisdiction or jurisdictions primarily affected by the offence. For those reasons, the Netherlands, while not opposing a consensus, was unable to accept that particular feature of the draft Convention.

26. Mr. WAEVER (Denmark) pointed out, in view of the remarks made by various delegations, that his own delegation's participation in the consensus was subject to Denmark's normal constitutional procedures regarding the signature and ratification of treaties.

AGENDA ITEM 145: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-FIRST SESSION (continued)

27. The CHAIRMAN said that two draft resolutions had been submitted to the Committee under agenda item 145, namely, draft resolution A/C.6/44/L.13, entitled "Report of the International Law Commission on the work of its forty-first session", and draft resolution A/C.6/44/L.14 entitled "Consideration of the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and of the draft optional protocols thereto".

28. China, Iceland, India, Jamaica, Mexico, Romania, Spain, Sweden, Tunisia, Viet Nam and Yugoslavia had joined the sponsors of draft resolution A/C.6/44/L.13.

29. Argentina, Bulgaria, China, Gabon, India, Jamaica, Mali, Mexico, Poland, Spain and Viet Nam had joined the sponsors of draft resolution A/C.6/44/L.14.

30. Ms. KEHRER (Austria), introducing draft resolution A/C.6/44/L.13 on behalf of its 41 sponsors, said that it followed the pattern of General Assembly resolution 43/169 and aimed at expressing the emphasis which the General Assembly placed on the progressive development and codification of international law and its role in relations among States.

31. In its preamble, the resolution repeated the General Assembly's consideration that in view of the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee, the process was facilitated when the Commission indicated specific issues on which expressions of views by Governments were of particular interest.

32. In its operative part, the draft resolution took note of the report of the Commission on the work of its forty-first session and recommended that the Commission should continue its work on the topics in its current programme.

33. The Commission was requested to pay special attention to indicating in its annual report those specific issues on which expressions of views by Governments would be of particular interest.

(Ms. Kehrler, Austria)

34. In order to intensify the dialogue between the Commission and the Sixth Committee, the sponsors of the draft resolution also proposed to introduce a new paragraph whereby the General Assembly invited the Commission, when circumstances so warranted, to ask a special rapporteur to attend the session of the General Assembly during the discussion of the topic for which he was responsible.

35. In addition, the draft contained a decision that the Sixth Committee should continue to bear in mind the possibility of reserving time at the forty-fifth session of the General Assembly for informal exchanges of views on matters relating to the Commission.

36. Finally, the draft resolution requested the Secretary-General to forward to the Commission, together with the records of the General Assembly's debate on its report, such written statements as delegations might circulate in conjunction with their oral statements.

37. Introducing next draft resolution A/C.6/44/L.14, which was sponsored by 20 States, she said that its operative part expressed the General Assembly's appreciation to the Commission and to the Special Rapporteur for their valuable work; it also contained a decision to hold informal consultations at the forty-fifth session of the General Assembly to study the draft articles as well as the question of how to deal with them further; finally, it also contained a decision to include in the provisional agenda for the forty-fifth session of the General Assembly an item with the same title as that of the draft resolution.

38. She commended the two draft resolutions to the Committee for adoption without a vote.

39. The CHAIRMAN said that paragraph 14 of draft resolution A/C.6/44/L.13 could be interpreted as meaning that all member States had the right to have their statements circulated, regardless of whether they were orally delivered in the Committee, and suggested that, if a delegation wished its oral statement to be forwarded to the Commission, it should supply 34 copies of the statement together with a request for their transmission to the Commission. If there was no objection, he would take it that the Committee agreed to that procedure.

40. It was so decided.

41. Mr. KOTLIAR (Secretary of the Committee), referring to paragraph 5 of draft resolution A/C.6/44/L.13, said that the Office of Programme Planning, Budget and Finance had indicated that if a special rapporteur of the Commission travelled to New York to attend the Sixth Committee's debate on the topic for which he was responsible at any given session of the General Assembly, the cost of travel would amount to \$5,000. In that case, the amount would be absorbed under the travel of representatives item, paragraph 26.5 of the proposed programme budget for the biennium 1990-1991.

42. Draft resolution A/C.6/44/L.13 was adopted without a vote.

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43. Mr. ROSENSTOCK (United States of America) said that his delegation would participate in the adoption of draft resolution A/C.6/44/L.14 without a vote. However, he noted some errors in the draft, in particular in paragraph 2. It was not appropriate, in his opinion, for the General Assembly to take decisions at its forty-fourth session on procedural questions concerning its forty-fifth session. As for the substance, obviously everyone would be ready to take part in consultations on any problem with a view to enhancing the possibility of agreement. Presumably the paragraph meant something more than that, but his delegation nevertheless felt that it involved action that was premature. He recalled that the fruitful consultations held on the topic of "law of treaties between States and international organizations or between international organizations" had been prepared only after a decision had been taken on the next stage of work. He hoped that a similar approach would be adopted in the case of the present consultations.

44. Draft resolution A/C.6/44/L.14 was adopted without a vote.

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/C.6/44/L.12, A/C.6/44/L.15)

45. The CHAIRMAN said that the Committee had before it draft resolution A/C.6/44/L.12 the programme budget implications of which were set forth in document A/C.6/44/L.19. He himself, as Chairman, had submitted the draft decision in document A/C.6/44/L.15.

46. He also informed the Committee that Colombia, Gabon, Indonesia, Libyan Arab Jamahiriya, Philippines, Poland and Zambia had joined the sponsors of draft resolution A/C.6/44/L.12.

47. Mr. MADI (Egypt), introducing draft resolution A/C.6/44/L.12, said that the informal consultations on the draft resolution had been conducted in a constructive atmosphere, which had facilitated preparation of a text which met with general agreement, in particular regarding the Special Committee's new mandate for its next session. Accordingly, the sponsors of the draft resolution hoped that it would be adopted without a vote.

48. Draft resolution A/C.6/44/L.12 was adopted without a vote.

49. The CHAIRMAN, referring to the draft decision in document A/C.6/44/L.15, on resort to a commission of good offices, mediation or conciliation within the United Nations, said that the Special Committee on the Charter of the United Nations had completed its consideration of that question. There was general agreement that consideration of the proposal had contributed to a better understanding of the importance and value of good offices, mediation, and conciliation in the settlement of disputes and that the proposal would provide useful guidance to States in the light of the discussions in the Special Committee and the General Assembly, with a view to resort to those means of settling disputes. In accordance with the recommendation of the Special Committee (A/44/33, para. 123), if draft decision A/C.6/44/L.15 was adopted, the proposal on resort to a commission of good offices,

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(The Chairman)

mediation or conciliation within the United Nations, contained in the annex to the draft decision, would be brought to the attention of States.

50. Draft decision A/C.6/44/L.15 was adopted without a vote.

AGENDA ITEM 141: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)
(A/C.6/44/L.7, A/C.6/44/L.17)

51. Mr. VOICU (Romania), introducing draft resolution A/C.6/44/L.7, on the peaceful settlement of disputes between States, said that the following countries had joined the sponsors: Afghanistan, Albania, Cameroon, Cape Verde, Cyprus, Guyana, Libya, Arab Jamahiriya and Myanmar.

52. He outlined the main points of the draft, which referred essentially to implementation of the Manila Declaration. The Declaration had been adopted by consensus in 1982 and was one of the most important documents adopted by the United Nations in the field of international law. Draft resolution A/C.6/44/L.7, which referred to implementation of the Declaration, should therefore also be adopted by consensus.

53. Mr. WAEVER (Denmark), introducing document A/C.6/44/L.17, said that a proposal for amending draft resolution A/C.6/44/L.7 had been submitted to its main sponsors in good time. Unfortunately, the sponsors had not been prepared even to consider the proposal. The Nordic countries, along with 11 other members of the Committee, had submitted some amendments (A/C.6/44/L.17) to draft resolution A/C.6/44/L.7) on the peaceful settlement of disputes between States. The amendments consisted of a replacement for the fifth preambular paragraph; deletion of paragraph 4; and replacement of paragraph 5 by a new paragraph 4. The sponsors of the amendments wished to bring draft resolution A/C.6/44/L.7 up to date, taking into account recent developments in the peaceful settlement of disputes between States and the decision to proclaim the United Nations Decade of International Law.

54. If the Committee adopted the amendments (A/C.6/44/L.17), the Nordic countries would vote in favour of draft resolution A/C.6/44/L.7 thus amended.

55. Mr. VOICU (Romania) said that his own delegation and those of most of the sponsors of draft resolution A/C.6/44/L.7 had been taken by surprise by the amendments in document A/C.6/44/L.17 and had not had time for consultation on them. The amendments showed a clear intent to delete a vital item from the agenda, namely the peaceful settlement of disputes between States.

56. In his opinion, the amendments should be taken one by one, not together. With regard to the first amendment, the words "Welcoming the growing tendency to settle regional conflicts by peaceful means" should not replace the wording of the fifth preambular paragraph of document A/C.6/44/L.7, but should be inserted as a new paragraph immediately before that paragraph.

57. His delegation could not accept deletion of paragraph 4 of the draft resolution, as proposed in the second amendment. However, he suggested as a

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(Mr. Voicu, Romania)

compromise that the report referred to in paragraph 4 should be submitted at the forty-sixth session instead of the forty-fifth.

58. With regard to the third amendment, although the peaceful settlement of disputes would also be considered during the United Nations Decade of International Law, there was no programme yet for the Decade. The question should therefore be considered as a separate item, independent of the programme, at the forty-sixth session of the General Assembly.

59. The CHAIRMAN suggested that the members of the International Law Commission, in particular the sponsors of the draft resolution (A/C.6/44/L.7) and of the amendments (A/C.6/44/L.17), might consider postponing a decision on the question until the following day, to allow time for consultations.

60. Mr. MIKULKA (Czechoslovakia) said that his delegation, which was not a sponsor either of the draft resolutions or of the proposed amendments, hoped that the question would be settled without a vote. He suggested that the sponsors of both documents should meet to endeavour to resolve their differences and propose a solution which might be adopted by consensus. To that end, the Committee should not take any decision at the present meeting, but should leave it until the next meeting.

61. He welcomed the first amendment in document A/C.6/44/L.17, which reflected the current situation in the international field.

62. Mr. MAIGA (Mali) agreed with the representative of Romania that in the circumstances, paragraphs 4 and 5 of draft resolution A/C.6/44/L.7 could not be deleted. The United Nations Decade of International Law, which had just been approved, had not as yet a programme. In view of its importance, the peaceful settlement of disputes, which was the subject-matter of Chapter VI of the United Nations Charter, should be placed on the agenda of the General Assembly as an independent item.

63. Mr. ROSENSTOCK (United States of America) said that the draft resolution as submitted did not reflect the current state of the world, since it spoke of deep concern at the emergence of new sources of disputes, the growing tendency to resort to force and the escalation of the arms race. It would not be acceptable, therefore, even if the wording were altered.

64. The matter under discussion was not support for the peaceful settlement of disputes, but the procedure called for under the draft resolution, which echoed the current problems hampering the operation of the United Nations. In that light, it made no sense for the peaceful settlement of disputes to appear as a separate agenda item.

65. Paragraph 4 of the draft resolution would entail a commitment of human, financial and budgetary resources inconsistent with the greater leadership role which the United Nations was supposedly enjoying and with the progressive

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(Mr. Rosenstock, United States)

development and clarification of international law. For the sake of legislative development, moreover, agreements that were adopted could not be tampered with. In that sense, the Manila Declaration was an unnecessary recommendation whose want of legal precision made compliance with it difficult.

66. Mr. KATRA (Lebanon) endorsed the Czechoslovak proposal to postpone any decision on the draft resolution so that the sponsors of documents A/C.6/44/L.7 and A/C.6/44/L.17 could consult each other.

67. Mr. LUKABU KHABOUJI N'ZAJI (Zaire) said he supported the idea of seeking consensus in order to resolve the question of the draft resolution and amendments. Not only documents A/C.6/44/L.7 and A/C.6/44/L.17 but also the amendments put forward by the representative of Romania would have to be considered.

68. Mr. DARC (Côte d'Ivoire) said it was an unfortunate coincidence that the question of the peaceful settlement of disputes was giving rise to disputes between States. He therefore supported the proposal that the opposing delegations should meet in an effort to come to terms. Consensus could then be reached on the draft resolution and the amendments. Any decision should thus be postponed to the following day.

69. Mr. AUST (United Kingdom) said that, although it was sponsoring the amendments, his country was not opposed to the peaceful settlement of disputes, as shown by its acceptance of the jurisdiction of the International Court of Justice. As had been pointed out, the peaceful settlement of disputes was on the agenda of the Special Committee on the Charter. Moreover, the General Assembly had just proclaimed the United Nations Decade of International Law, whose objectives included consideration of the peaceful settlement of disputes. The Sixth Committee would be discussing the item in that context at the next session. There was thus no reason for the peaceful settlement of disputes to appear as a separate item on the agenda for the next session, or the one after.

70. The chief sponsor of the draft resolution had so far shown no interest in negotiating in order to arrive at a consensus text. The proposals which that sponsor had put forward, modifying the amendments to the draft resolution, were of secondary importance but would deprive the amendments of their true intent. Nevertheless, his delegation was ready to negotiate whenever the other party indicated that it was really prepared to take account of the concerns of the sponsors of document A/C.6/44/L.17. That would require postponing any decision on the subject. If the amendments his delegation sponsored were accepted, he would vote in favour of draft resolution A/C.6/44/L.7.

71. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics) supported the Chairman's suggestion and urged the sponsors of documents A/C.6/44/L.7 and A/C.6/44/L.17 to consult in order to reach an acceptable decision. On the subject of the fifth preambular paragraph of draft resolution A/C.6/44/L.7, he said that the current situation in the world, where international tension was easing, must be borne in mind and reflected in the document. His delegation did not agree that

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(Mr. Ordzhonikidze, Soviet Union)

there was a growing tendency to resort to force or the threat of force. On the contrary, it felt that there was at present an exceptional opportunity to develop peaceful relations among States, not only in Europe but also throughout the rest of the world. Neither did it believe the reference to the escalation of the arms race to be appropriate, since it was generally known that both the Soviet Union and the United States of America were taking steps to reduce armaments, and that fact should also be reflected in the resolution.

72. There was also a growing tendency to resolve regional conflicts, as the situation in southern Africa showed. Negotiations had begun on ways to end the disputes in the Middle East and Central America. The Iran-Iraq war had been halted, to cite only a few examples. Those facts should all be presented in the resolution, and his delegation trusted that the sponsors of documents A/C.6/44/L.7 and A/C.6/44/L.17 would reach agreement on that point.

73. Mr. ENGO (Cameroon) said that his country, as a sponsor of draft resolution A/C.6/44/L.7, was not opposed to the consultations suggested. Nevertheless, he wished to point out to those who maintained that the first proposed amendment to document A/C.6/44/L.7 was important because there was a tendency to settle conflicts by peaceful means, that that tendency was not everywhere evident. The current situation in Namibia was not a tribute to South Africa's good will, but to the fact that circumstances had compelled it to go along with the settlement. The conflict between Chad and Libya had been resolved because neither party could secure a victory, and the Iran-Iraq war had ended principally for economic reasons. Similar circumstances obtained in the Middle East. While, therefore, there was some grounds for combining documents A/C.6/44/L.7 and A/C.6/44/L.17, his delegation could not accept the expression "growing tendency to settle regional conflicts by peaceful means" appearing in the second of those documents.

74. As regards the slowing of the arms race, care must be taken not to draw conclusions from the mere fact that the two major Powers were moving in that direction. The Treaty on the Non-Proliferation of Nuclear Weapons neither was nor had much hope of being observed in many parts of the world, because many countries still believed they must make ready for war, and the best way of doing that was to possess nuclear weapons. South Africa, for example, had bragged the previous week of becoming a nuclear Power, mentioning in passing some of the countries which had helped it to do so.

75. The deletion of operative paragraphs 4 and 5 of document A/C.6/44/L.7 and the substitution of paragraph 4 from document A/C.6/44/L.17 would mean dropping all discussion on an approved document without considering its application, which was ultimately more important. Document A/C.6/44/L.7 simply laid down the procedure for monitoring the implementation of the resolution. The United Nations Decade of International Law, on the other hand, represented a joint endeavour which did not exclude other possibly useful activities. Accordingly, his delegation believed that the proposed negotiations, in which he would participate with a will, should begin by paying special attention to the substantive, not merely semantic, aspects of the question.

76. Mr. WAEVER (Denmark) said he had no objection to negotiations either, but believed there must be a basis on which to conduct them. The Romanian proposal to add to document A/C.6/44/L.7 the first amendment proposed in document A/C.6/44/L.17 would not make sense. Neither would the other Romanian suggestions constitute a basis on which consensus could be reached. His delegation believed the amendments proposed in document A/C.6/44/L.7 would have to be used.

77. Mr. VILLAGRAO KRAMER (Guatemala) said that his country was a sponsor of draft resolution A/C.6/44/L.7. The debate had been constructive and had given his delegation pause for thought, for he did not understand what a generally acceptable consensus might mean when one group advocated a flexible position and another group was unable to entertain the suggestion. He had been satisfied by the Romanian representative's remarks about covering the point by incorporating paragraph 1 of document A/C.6/44/L.17 into operative paragraph 5. The twelve countries of the European Community and the group of Nordic States were contributing to the tendency to resolve conflicts by peaceful means. The same was true in Central America. It was also true that tensions between East and West had eased somewhat, creating a favourable climate. His delegation was ready either to discuss the ideas put forward during the debate or to vote on them.

78. Miss MONCADA BERMUDEZ (Nicaragua) said that her delegation had sponsored draft resolution A/C.6/44/L.7 and had participated, together with other non-aligned countries, in drafting the text on the United Nations Decade of International Law. She had listened to Romania's flexible proposal and supported the suggestion to wait until the following day. Although it was true that some situations had improved, others persisted, as in Central America, Africa and the Middle East.

79. Mr. TANG Chengyuan (China), referring to draft resolutions A/C.6/44/L.7 and A/C.6/44/L.17, suggested that consultations should be held between the sponsors of the two draft resolutions, and supported the proposal to take a decision on the following day.

80. Mr. DELON (France) said that his delegation was one of the sponsors of draft resolution A/C.6/44/L.17. He supported the introductory statement made by the representative of Denmark and shared his comments on the amendments proposed by Romania. The matter under discussion was not the peaceful settlement of disputes but the way in which international realities should be reflected in the text. What was being proposed was a "fossilized" text which in no way reflected current developments. None the less, his delegation supported the Chairman's call for consultations between the sponsors of draft resolutions A/C.6/44/L.7 and A/C.6/44/L.17, to be presided over by the Chairman of the Committee.

81. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee approved the procedure suggested by the representative of France.

82. It was so decided.

AGENDA ITEM 140: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER

83. The CHAIRMAN announced that China, the Congo, Gabon, Ghana, Guatemala, Jamaica, Uganda and the United Republic of Tanzania had joined the list of sponsors of draft resolution A/C.6/44/L.6.

84. Mrs. SILVERA NUÑEZ (Cuba), introducing draft resolution A/C.6/44/L.6, said that the following countries should be added to the list of sponsors appearing therein: Burundi, Pakistan and Suriname. The draft contained the same provisions as those in General Assembly resolution 43/162. The only new elements concerned the biennial nature of the item. The draft resolution was in conformity with the Charter of the United Nations, and its objective was to continue promoting the progressive development and codification of international law. It was therefore recommended that the Committee should consider making a final decision at the forty-sixth session of the General Assembly on the question of which was the appropriate forum within the Committee to undertake the task of completing the codification and progressive development of the principles and norms of international law relating to the new international economic order. Consequently, the sponsors supported the inclusion of that item in the provisional agenda for the forty-sixth session of the General Assembly and requested that draft resolution A/C.6/44/L.6 should be adopted without a vote.

85. Mr. THIAM (Guinea) said that, as his country did not appear on the list of sponsors, the error should be corrected and Guinea should be included.

86. Mr. ROSENSTOCK (United States of America) said that his country appreciated the willingness of some delegations to explore the possibility of achieving a consensus through a purely procedural resolution on the item. Unfortunately, the effort had been obstructed by those who had insisted on maintaining a resolution which would include substantive issues. The United States in no way supported the possibility of the United Nations adopting new measures with regard to the so-called new international economic order, which contained outmoded economic concepts and was receiving less and less support in the industrialized and the developing countries alike. United Nations resources would be put to better use if they were assigned to other activities which could really help the developing world. The current draft resolution was slightly better than that of the previous year, to the extent that it provided for the item to be considered at the forty-sixth session of the General Assembly and not at the forty-fifth session. He hoped that, in the mean time, serious consideration would be given to the possibility of putting an end to further deliberations on the item. Since there was no international consensus on the new international economic order, there was no point in discussing draft resolutions on an item which created divisions. The divergent views and the interests and concerns of States should be reconciled and a consensus should be achieved before principles and norms were formulated which were not sanctioned by international custom or practices.

87. Draft resolution A/C.6/44/L.6 was adopted by 102 votes to none, with 25 abstentions.

88. Mr. DELON (France), speaking in explanation of vote on behalf of the Twelve States members of the European Community, said that their point of view had already been expressed at the meetings held on 10 and 11 October 1989. The study carried out by the United Nations Institute for Training and Research (UNITAR) gave a useful account of the current stage of development of the legal aspects of international economic co-operation. It also showed that much remained to be done in order to achieve a sufficient level of harmonization and general acceptance of legal principles in that field. Thus, a prerequisite for engaging in a process of codification was lacking. The most promising approach was to make use of a variety of legal instruments. Such flexibility was necessary if solutions were to be found to the many problems which international economic co-operation entailed. At the current stage it would be inadvisable to make new starts in the purview of the Committee. However, paragraphs 2 and 3 of the resolution just adopted suggested taking various initiatives, including some relating to codification. For that reason, the Twelve had abstained.

89. Ms. KEHRER (Austria) said that her country had always been very interested in the codification and progressive development of the principles and norms of international law relating to the new international economic order. That had been demonstrated by the full statement which her delegation had made during the debate on the item at the forty-first session of the General Assembly. In addition, an Austrian expert had participated in the work of UNITAR on the preparation of an analytical study on the question under consideration. No new developments had occurred since the completion of that study. Moreover, the time had not yet come for embarking on an extensive codification of the norms relating to the new international economic order and it was necessary to reflect more carefully on the issue. Accordingly, she had noted with satisfaction that paragraph 4 of draft resolution A/C.6/44/L.6 allowed time for reflection. Apart from that, the text reiterated the provisions of General Assembly resolution 43/162. For those reasons, Austria had decided to abstain in the vote. None the less, she regretted that a draft resolution which could have won general support had not been submitted, since a text adopted by consensus would have established a better basis for the future work of the Committee on the item.

The meeting rose at 1 p.m.