

80. Mr. SCHRICKE (France) suggested that speakers should take the floor for no longer than five minutes each.

81. Mr. EDON (Benin) suggested a time-limit of eight minutes.

82. Mr. LAMAMRA (Algeria) pointed out that there was a widespread practice at international conferences whereby delegations did not actually make statements but, rather, simply submitted written statements for reproduction in extenso in the records. That approach also meant that there were no rights of reply.

83. Mr. BERMAN (United Kingdom) said that, although ingenious, the practice just referred to by the representative of Algeria was altogether unprecedented, because the Committee had never been authorized to have verbatim records. He was in favour of a limit of ten minutes. Once five minutes had elapsed, the Chairman could perhaps draw that fact to the attention of the speakers.

84. The CHAIRMAN said that he wished to appeal to the members of the Committee to exercise self-restraint regarding the length of their statements under agenda item 123. He suggested that the Committee should decide, on the basis of the actual length of the statements made the following day, whether it would in fact be necessary to schedule a third night meeting on Wednesday. Serious consideration should be given to the suggestion put forward by the representative of France.

The meeting rose at 6.15 p.m.



SUMMARY RECORD OF THE 65th MEETING

Chairman: Mr. GASTLI (Tunisia)

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The meeting was called to order at 8.15 p.m.

TRIBUTE TO THE MEMORY OF MR. BERNARDO ZULETA

1. Mr. PARGA (Chile) paid tribute to the memory of Mr. Bernardo Zuleta, the eminent Colombian lawyer and diplomat who had held the post of Under-Secretary-General, Special Representative of the Secretary-General for the Law of the Sea. Mr. Zuleta had played a decisive role in the elaboration of the United Nations Convention on the Law of the Sea, the most important United Nations instrument adopted since the Charter. The Chilean delegation expressed sincere condolences to Mr. Zuleta's family, to Colombia and to the Secretary-General.

AGENDA ITEM 124: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES (continued)
(A/38/57, A/38/61-S/15549, A/38/89-S/15596, A/38/106-S/15628, A/38/132-S/15675 and Corr.1 and 2 (English only), A/38/164-S/15727, A/38/177-S/15743 and Corr.1, A/38/234, A/38/256-S/15809, A/38/267-S/15824, A/38/268-S/15825, A/38/269-S/15826, A/38/303-S/15877, A/38/308, A/38/321-S/15896, A/38/322-S/15900, A/38/324-S/15904, A/38/325-S/15905, A/38/327-S/15911, A/38/330-S/15915, A/38/343, A/38/407-S/15982, A/38/408-S/15983, A/38/432-S/15992, A/38/495-S/16035, A/38/507-S/16044, A/38/529, A/38/599-S/16118 and Corr.1; A/C.6/38/L.9)

AGENDA ITEM 134: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)
(A/38/33, A/38/358, A/38/61-S/15549, A/38/106-S/15628, A/38/132-S/15675 and Corr.1 and 2 (English only), A/38/253, A/38/288, A/38/343, A/38/367 and Corr.1 (English only), A/38/415, A/38/425, A/38/454; A/C.6/38/L.14)

2. Mr. STEPANOV (Ukrainian Soviet Socialist Republic) said that in the current extremely complex world situation, it was increasingly clear that the United Nations had an essential role to play. The problem of the maintenance of international peace and security took on growing importance as tensions rose, the risk of nuclear war increased and the situation in many parts of the world became more and more disturbing. It was now more necessary than ever to make maximum use of all the possibilities offered by the United Nations, but the latter could only fulfil its mission to maintain international peace and security if Member States strictly respected the goals and principles set out in the Charter.

3. With regard to the importance of the Charter and the role of the United Nations in contemporary international relations, his delegation wished to stress that, when States set up an international organization, they must recognize that its effectiveness depended on their good will. There was no doubt that the fundamental problems facing the international community, for example the danger of nuclear war, the arms race and disarmament, had not been resolved because of certain factors, including the less than constructive approach of certain States whose international policy was diametrically opposed to the obligations set out in the Charter. That was also true for the decisions of the Security Council.

4. His delegation, which shared the widespread opinion that it was necessary to strengthen the role and effectiveness of the United Nations in order to improve its

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ability to carry out its primary task - the maintenance of international peace and security - was firmly convinced that only strict and unconditional respect by all Member States for the principles set out in the Charter would make it possible to reach that goal. The validity of that conclusion was confirmed by the experience of the Special Committee on the Charter. It was significant that, during the consideration of the Manila draft declaration, many delegations had stressed the fact that the draft had been elaborated in conformity with the Charter and several other international instruments. At that time, even though States had differed on a particular question, it had been possible to reach an acceptable agreement because solutions accommodating the interests of all groups of States and of the international community as a whole had been sought in a constructive and realistic manner. Unfortunately, those efforts had been unjustly criticized.

5. As consideration of the report of the Special Committee (A/38/33) revealed, some had attempted to push through recommendations designed to modify the operating mechanisms of the principle organs of the United Nations as established by the Charter. It was necessary, therefore, to help the Special Committee to overcome those adverse trends and to concentrate on the search for realistic means of truly increasing the effectiveness and authority of the United Nations.

6. In that connection, his delegation viewed any proposal aimed at abandoning or circumscribing the rule of unanimity of Permanent Members of the Security Council as unacceptable and even dangerous. It vigorously objected to the recommendations contained in document A/AC.182/L.29/Rev.1, according to which that rule would be abandoned when the Security Council was considering questions related to the peaceful settlement of disputes, the dispatching of military observers, the separation of the armed forces of States parties to a conflict and other subjects. Some had contended that the rule of unanimity was the principle cause of all the ills afflicting the United Nations. The absurdity of such statements had been thoroughly proven by the delegations which had continually objected to them. Many convincing arguments relating to the exceptional importance of that rule had been made. His delegation stressed that the rule of unanimity was fundamental in an international organization called upon to act in a world where there were States with differing social systems, since it forced States to work together to find decisions acceptable to all; the rule had also prevented unjustified and hasty decisions from being taken on important questions such as the maintenance of peace, the protection of the interests of national liberation movements and support for the struggle against colonialism. In fact, the rule of unanimity inconvenienced only those who sought to use the United Nations, and particularly the Security Council, to serve their own selfish interests and foreign policies, disregarding the general interest of the international community. The current world situation revealed that the way to strengthen the Security Council's effectiveness was not to modify or limit the unanimity rule but rather to display a keener sense of responsibility in applying the rule, in conformity with the Charter, and to implement the Security Council's decisions.

7. His delegation held that the proposals made at the Special Committee's preceding session designed to expand the General Assembly's role at the expense of

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the Security Council and to set up a permanent commission of mediation, conciliation and good offices for the settlement of disputes and the prevention of conflict among States were unacceptable. Those proposals were indirectly aimed at limiting the application of the unanimity rule, which would jeopardize the balance envisaged in the Charter between the General Assembly's powers and those of the Security Council. That balance was fundamental in an international organization like the United Nations which was devoted to the maintenance of peace and security. Experience had shown that efforts to set up organs in violation of the letter and spirit of the Charter had always harmed the effectiveness of the United Nations. His delegation also had very serious reservations on the proposal designed to "depoliticize" the role of the General Assembly, to limit the general debate and to make it more difficult to include urgent and important questions on the General Assembly's agenda. Political questions were of particular importance because their solution affected the solution of all other economic and social problems. The General Assembly was a unique institution in which practically all States were represented. It allowed them regularly to exchange their views on urgent questions and was one of the most important components of the United Nations. Its political role was crucial for the strengthening of the effectiveness of the United Nations. If the potential of the United Nations was to be used to the maximum, it was necessary not to cut back on general political discussions but rather to make them constructive and pragmatic. It must also be recognized that the changes characterizing the world situation were at the root of many problems which deserved to be considered thoroughly by States at the General Assembly's annual session or, failing that, in the various institutions where States could present their points of view.

8. His delegation also wished to discuss the manner in which the Special Committee must organize its work. During its last session, certain delegations had ostensibly sought to "shift" the mandate of the Special Committee, which was to consider proposals on which general agreement was possible and to arrive at viable solutions. The Special Committee's experience had shown that, in order to fulfill such an important function, it absolutely had to seek generally acceptable solutions that could be adopted by consensus. Indeed, it was the practice of many international bodies and conferences to follow that same course. In its draft resolution relating to the Special Committee, the Committee must underscore the advisability of working by consensus. Certainly any attempt to impose the adoption of recommendations by a vote in cases where consensus was not possible would only complicate the task of the Special Committee and doom it to failure in advance.

9. Mr. WOOLCOTT (Australia) thanked the Minister for Foreign Affairs of the Philippines for having placed in proper context the rather sterile disputes that had dominated the work of the Special Committee at its previous session. Australia was not a member of the Special Committee but had a continuing interest in working constructively to strengthen the role of the Organization.

10. The controversy over the working methods and the interpretation of the mandate of the Special Committee prompted some general comments. It would be wrong to exclude from review by the Special Committee any particular aspect of the

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Organization or its activities. At the same time, the range of the Special Committee's mandate and the contentious nature of its enquiry could be a source of weakness and required the Special Committee to impose some discipline upon its working methods. The traditional method of listing proposals and classifying them by categories had proven slow but useful, at least where the peaceful settlement of disputes and the rationalization of United Nations procedures were concerned. There was no reason, however, for a rigid insistence on applying that method to the maintenance of international peace and security as well, if it impeded the Committee's examination of the question. Nonetheless, care must be taken to maintain a certain discipline, and one possibility would be to limit the mandate for any particular session to a few specific topics.

11. Regarding the dispute over whether the Special Committee had the right to make recommendations, his delegation believed that that was not the real issue, for without general agreement, any recommendations which it might make would serve no purpose. What mattered was for the Special Committee to endeavour to find common ground so that genuine progress could be made.

12. A distinguishing feature of the Charter was the fact that it recognized the realities of power, and thus gave primary responsibility for the maintenance of international peace and security to the Security Council and placed the five permanent members in a privileged position. Although many things had changed, the dominance of the two super-Powers remained. His delegation had some reservations regarding proposals that would abolish or amend the right of veto. Such action could exacerbate tensions, because a decision taken by the Security Council in the absence of the right of veto might place major Powers in a position of conflict. It should, however, be acknowledged that the powers given to the Security Council to deter or terminate aggression were no longer practical. The great Power consensus of 1945 on which they had been based had had to give way to an alternative *modus vivendi* built upon persuasion and consent. Indeed, it had become increasingly apparent that all the organs of the United Nations, but particularly the Security Council, must look at themselves systematically so as to identify the exact extent of the powers conferred upon them by the Charter and how they might best be utilized.

13. The questions of war and peace were too important to be left wholly to the five permanent members of the Security Council. Although his delegation regarded attempts to amend the Charter as currently impractical, it nevertheless had no doubts about the need to identify the areas calling for improvement. Non-members of the Security Council had a role to play in analysing ways to make it function more efficiently, and that role was not precluded either by the fact that members of the Council had themselves commenced informal negotiations or by some narrow reading of Article 12 of the Charter.

14. The revised draft recommendation submitted to the Special Committee by Egypt (A/AC.182/L.22/Rev.1) and the working paper submitted by Japan (A/AC.182/WG/55) were of particular interest. The Japanese proposal whereby the Security Council should treat questions in certain categories as questions of procedure, and as such

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outside the scope of the veto, deserved consideration. In that context, two areas were worthy of study; the question of fact-finding missions and the possibility of entrusting the Secretary-General with some dispute-settlement functions. In his 1982 report on the work of the Organization (A/37/1), the Secretary-General had proposed making greater use of the fact-finding capacity implicitly given to him by Article 99 of the Charter; in doing so, he would be co-ordinating his activities with the Security Council and enhancing its effectiveness. Australia had already specifically endorsed that proposal.

15. The mandate of the Special Committee should, in the view of his delegation, be limited, and the Special Committee should concentrate on examining ways of preventing international conflict. Whenever the Security Council was called together after the outbreak of hostilities, its public debates had generally not had a beneficial effect. Periodic and private meetings of the Security Council, as originally envisaged, might instead be useful in preventing conflicts.

16. His delegation reiterated its support for the French proposal regarding the convening of emergency special sessions of the General Assembly. The existing procedures established in resolution 377 (V) had been subject to repeated criticism, and it was time to update them.

17. His delegation also noted that progress continued to be made in rationalizing the existing procedures of the United Nations. Although the achievement was modest, it should not be lightly dismissed.

18. Regarding the peaceful settlement of disputes, the subject was quite rightly dealt with under a separate agenda item from that of the report of the Special Committee. However, his delegation wondered whether the Committee should not consider holding one single debate on three items which overlapped to a considerable extent - those on the review of the Charter, the peaceful settlements of disputes and the non-use of force. It supported the elaboration of a handbook on the peaceful settlement of disputes by the Secretariat. The idea of establishing a permanent commission on good offices, mediation and conciliation proposed by Nigeria, the Philippines and Romania also merited further consideration. Care should be taken, however, to ensure that the functions of any such commission did not affect the division of power made by the Charter between the Security Council and the General Assembly or infringe upon the discretion that the Charter left to any member State to choose the appropriate means for the peaceful settlement of a dispute.

19. The current problems of the United Nations system were rooted in the lack of political will on the part of States, but that did not obviate attempts to refine the existing machinery and if necessary create new machinery to meet the needs of a changing political climate. On the other hand, it would be futile to attempt to make radical changes in the Charter.

20. Mr. SCHRICKE (France) said that the adoption of the Manila Declaration by the General Assembly at its thirty-seventh session was a remarkable success and had prompted the hope that each session of the Special Committee on the Charter would

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culminate in a similarly auspicious manner. Such had not been the case with its last session, and the disappointment was therefore proportionate to the hopes aroused. It was useful in that regard to ask what had been the underlying cause of the difficulties encountered by the Special Committee. In the view of some delegations, they stemmed from the terms of the mandate given to the Special Committee by the General Assembly in its resolution 37/114 and, in particular, from paragraph 3 of that resolution, which mentioned the listing of proposals. In their view, that constituted a way of avoiding the consideration of proposals which did not meet with the approval of certain other delegations. His delegation was surprised by such an analysis since all of the many proposals which had been made to the Special Committee had already been discussed, some of them several times. Moreover, his delegation was very much committed to the right of all States to make whatever proposals they saw fit and to have such proposals carefully considered by the Special Committee.

21. At the same time, his delegation also believed that the work of the Special Committee should be directed, on a priority basis, into channels likely to lead to concrete results. One determining factor in the achievement of progress was respect for the rule of consensus. Given such circumstances, while his delegation acknowledged that all proposals should be considered, it seemed to it, on the other hand, contrary to the very objective of the Special Committee's mandate to concentrate its work on those which had little chance of meeting with general agreement. Paragraph 3 of General Assembly resolution 37/114 did no more than give expression to that fact. It was because that fact had been lost sight of that the Special Committee had not, at its last session, arrived at results as satisfactory as those of 1982.

22. His delegation also felt obliged to note that, with regard to the maintenance of international peace and security, the emphasis had been placed on certain proposals which were unlikely to meet with general agreement. They tended, in fact, to change appreciably the very nature of the Organization and the balance struck by the Charter between the functions and powers of the principal organs and within those organs themselves. His delegation felt that that balance was still in accord with the realities of the contemporary world and could not be changed without seriously jeopardizing the effectiveness of the role of the Organization. It was true that the achievements of the Organization with regard to the maintenance of international peace and security had not measured up to the hopes invested in it by the authors of the Charter. It was also true that the authority of Security Council decisions was not always respected, while, under Article 25 of the Charter, all Member States agreed to accept them and carry them out. He wondered if that authority would really be enhanced by altering paragraph 3 of Article 27 of the Charter, according to which decisions of the Security Council were made by an affirmative vote of nine members including the concurring votes of the permanent members, and whether it was not equally wise and realistic to ensure that measures taken by the Council were taken with the agreement of those States having particular responsibility for the maintenance of international peace and security if they were to be really capable of implementation and really effective.

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23. Strengthening the role of the Organization required that the Special Committee on the Charter should have an overall view of the provisions of the Charter. The Charter enshrined principles which were closely interlinked and which should therefore be considered together, as a synthesis, by the Special Committee on the Charter. Inferences should be drawn from them of a sufficiently global nature not to bring the overall view into question through a partial or fragmentary approach. His delegation also deplored the fact that such a body as the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations should exist, as well as the proposal submitted to the First Committee for the creation of a special committee on the implementation of the collective security provisions of the Charter. His delegation felt that such questions, as well as agenda item 42 concerning implementation of the resolutions of the United Nations, should be considered by the Special Committee on the Charter.

24. On the other hand, his delegation welcomed the fact that the Special Committee had also turned its attention to the principle of the peaceful settlement of disputes, to which France was very much committed. France favoured a mandatory system for the settlement of disputes and felt that that aspect of the Special Committee's work was essential.

25. In that regard, the adoption of the Manila Declaration had in no way exhausted the subject, concerning which several interesting proposals had been made. His delegation welcomed the agreement reached at the thirty-seventh session concerning the preparation of a handbook on the peaceful settlement of disputes, which it had proposed. It hoped that the Secretary-General would be able to submit to the Special Committee at its next session a preliminary outline on the possible contents of such a handbook, which his delegation felt should be of a practical nature and should bring to the attention of Governments the wide range of existing means and mechanisms for the peaceful settlement of disputes.

26. His delegation noted with interest the proposal submitted by Nigeria, the Philippines and Romania for the establishment of a permanent commission on good offices, mediation and conciliation for the settlement of disputes and the prevention of conflicts among States. That proposal deserved careful consideration by the Special Committee, which should take particular account of the problems that might arise from the introduction of such an institution among those already existing in that field.

27. The Special Committee had also examined the rationalization of existing procedures of the United Nations. That had been no mean task. On the one hand, concrete measures might be taken in that field of a kind appreciably to improve the internal effectiveness of the Organization. On the other hand, certain proposals had been made in that regard which had undeniable political implications. Such was, for example, the case with the proposal submitted by his delegation for amending the rules of procedure of the General Assembly in order to facilitate the convening of emergency special sessions. Other proposals also deserved the attention of the Special Committee and his delegation therefore felt that it should continue its work in that field in order to arrive at concrete results.

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28. Similarly, his delegation hoped that the work of updating the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs would soon be completed, in accordance with the mandate given to the Secretariat by the General Assembly in its resolution 36/123.

29. France, which had taken part in the founding of the United Nations, was very much committed to the Organization's role as an irreplaceable tool for the evolution of the international community, particularly by contributing to the emergence of new ideas for overcoming such potential sources of polarization in the contemporary world as the new international economic order or the right to development. It was still anxious to participate in a constructive manner in the work of the Special Committee, as it had shown by making several proposals and by considering proposals submitted by others without any preconceptions.

30. Mr. SANGSOMSACK (Lao People's Democratic Republic) said that consideration of agenda item 124 was of prime importance at a time when the world was going through a critical period marked by crises and wars and when the principle of peaceful co-existence among nations was being trampled underfoot, giving way to the law of the strongest. The principle of the peaceful settlement of disputes had meaning only for those peoples and States which strove for peace, justice, friendship and co-operation among nations. It remained a dead letter, on the other hand, for those States which pursued aims of exploitation and imperialistic and hegemonic domination. While the world had known considerable scientific and technical progress in recent decades, it was disappointing to note that, during that same period, there had been a significant decline in political morality.

31. The General Assembly's adoption by consensus, at its thirty-seventh session, of the Manila Declaration gave grounds for hoping that States would renounce the use of force and undertake to settle their disputes by the peaceful means provided for in that instrument. It had also been hoped that its implementation would reduce the numbers of, if not eliminate, crisis points throughout the world. Those hopes had, however, not been realized. In fact, not only had existing conflicts not been resolved, but new sources of tension were appearing in various parts of the world. Peoples and States that had opted for the path of independence and social progress had become the target of unprecedented acts of aggression and oppression, while there had been a frenzied escalation in the arms race, bringing the world to the edge of the nuclear abyss. The dangerous evolution in the current situation posed the greatest threat to international peace and security.

32. In the face of such dangers it was understandable that efforts should be made to find mechanisms capable of reducing tension and inducing States to resolve their conflicts through negotiation. Yet the effectiveness of such mechanisms did not necessarily depend, as was generally thought, on their composition or the powers vested in them but rather on the recognition of political realities and the national interests of the parties in conflict. In that connection it seemed to his delegation that the standing commission for good offices, mediation and conciliation, proposed in paragraph 98 of the report (A/38/33), would meet with certain difficulties. In addition to structural problems, such a commission would

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encounter two main obstacles: a conflict over competence and the sovereignty of States. It was hard to see how a United Nations organ entrusted with specific functions with regard to the settlement of disputes could avoid infringing on the exclusive competence of the Security Council, whose investigative, conciliative and mediatory functions were expressly provided for in the Charter. Similarly, the General Assembly, whose role in the matter was also established by the Charter, would find its prerogatives considerably curtailed. Such a commission would without any doubt upset the balance of power established by the Charter.

33. Moreover, if the proposed commission considered a dispute, either automatically or at the request of only one of the parties, that could encourage interference in the internal affairs of a sovereign State which was not readily acceptable. Even if the commission was to demonstrate its impartiality and objectivity, it was unlikely that it could convince the other party to come to the negotiating table. Experience showed that when a dispute was brought before a political forum at the request of one party, it frequently happened that the other party refused to take account of that body's views, since it viewed them as unilateral and as having been imposed on it. Instead of bringing the two parties to the negotiating table, the proposed machinery might arouse suspicion and aggravate differences. His delegation thus had serious reservations concerning the effectiveness of the proposed standing commission. Existing machinery already offered a wide range of methods for the settlement of disputes. What was lacking was the political will of States to make use of them.

34. With regard to a handbook on mechanisms for the peaceful settlement of disputes, his delegation thought that if Governments were tending increasingly to make use of force, it was surely not because they were unaware of such mechanisms, but because they lacked the political will.

35. Mr. PARGA (Chile) said that his delegation wished to thank the Minister for Foreign Affairs of the Philippines, Mr. Carlos Romulo, for having recalled in his statement to the Sixth Committee the hopes for peace and progress which mankind had placed in the United Nations. The statement should give renewed impetus to the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. His delegation regretted, however, that the Special Committee had not made more progress in its work on the maintenance of international peace and security. All the speakers in the general debate at the current session of the General Assembly had spoken of the need to strengthen the role of the Organization in preventing the use of force. His delegation also wished to emphasize the need to consider, in a constructive spirit, the system's current shortcomings in the field of peace-keeping. It often happened that international disputes were not brought before the Organization's competent bodies until force had already been used, in which case it became much more difficult for the Security Council to intervene effectively. His delegation had raised that problem in the Security Council the year before, and had stressed the fact that the Council should be able to actively monitor dangerous situations and, where necessary, begin talks with parties before a crisis occurred. His delegation

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welcomed the initiatives taken by the Secretary-General over the previous year to that end, as indicated in his latest report on the work of the Organization.

36. However, the efforts made by the Secretary-General in the field of preventive multilateral diplomacy would never be really successful unless they were supported by the political will of Member States. The Special Committee was certainly one of the most appropriate organs to support the Secretary-General in that area. In that connection he referred to the ideas contained in the revised draft recommendation submitted in 1982 by Egypt on behalf of the non-aligned countries and reproduced in the report of the Special Committee (A/38/33), and which had served as a basis for the Committee's deliberations during its latest session. He trusted that the Special Committee would take a constructive decision on the matter at its next session.

37. Chile attached paramount importance to the peaceful settlement of disputes - the only method which it had traditionally used - preferably by methods resulting in mandatory decisions, such as recourse to a judicial organ or arbitration. Efforts should be made to establish a mandatory system for the settlement of all disputes which had not been settled by treaties. The International Court of Justice could in that way play the primary role envisaged for it by the Charter, which, in Article 33, listed a series of peaceful means for settling disputes. When parties could not agree on the choice of a particular means or when they chose a method of settlement which led to a decision that was not binding, they reached an impasse. Those were shortcomings in the system which should be rectified. The founders of the United Nations had not been able to establish a system of compulsory jurisdiction for all disputes since, at the time, it had been thought that such a system would derogate from sovereignty. Following the adoption of the Charter, progress had been made in that area. The Assembly had, in resolution 2625 (XXV), specified that recourse to a peaceful means of settling an international dispute could not be regarded as incompatible with sovereign equality. The Manila Declaration on the Peaceful Settlement of International Disputes also stated that recourse to judicial settlement of legal disputes, particularly referral to the International Court of Justice, should not be considered as an unfriendly act between States.

38. He had mentioned his country's position of principle on the matter to demonstrate to the Committee that a system of compulsory jurisdiction, even if it could not be established in the immediate future, was the desirable goal. The adoption of the Manila Declaration did not mean that the question of the peaceful settlement of disputes had become less urgent. In that connection, his delegation welcomed the idea of drafting a handbook on the peaceful settlement of disputes which would describe the means and machinery available. Similarly, it noted with satisfaction the initiative of the Philippines, Nigeria and Romania aimed at establishing a standing commission for good offices, mediation and conciliation for the peaceful settlement of disputes, a proposal which could serve as a basis for the Special Committee's work at its next session.

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39. Mr. ACERO (Colombia) said that his country had been keenly interested from the beginning in the collective security system of the United Nations. As early as 1945, his country's representative had objected, in the Preparatory Commission, to the adoption of the Yalta formula, arguing that the exercise of the right of veto would paralyse the Organization. When the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had been established, his country had closely followed its work with the hope that, thanks to that Committee and its recommendations and decisions, the United Nations would draw nearer to the realization of the common ideal so eloquently expressed in the preamble to the Charter, as in the case of the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes.

40. Currently everything seemed to indicate that the small countries - those making up the third world - were paying the price for the dialogue of the deaf being carried on by the major Powers, which was obstructing progress in the Special Committee itself. Nothing would be more serious than having the Committee's work become irremediably bogged down. The Special Committee must come to an agreement on the specific purpose of its work and the procedure to be followed in order to reach conclusions which would represent real progress in the performance of its task. It should also reach a preliminary agreement on the scope of its conclusions, their field of application and the means to implement them.

41. At its next session, the Special Committee would have before it the proposal of Nigeria, the Philippines and Romania on the establishment of a Permanent Commission on Good Offices, Mediation and Conciliation, which seemed to be a logical follow-up to the Manila Declaration adopted by the General Assembly at its thirty-seventh session.

42. Colombia had long followed a democratic tradition based on the principle of respect for the rights of others and tolerance both within its borders and in the context of international law and coexistence among peoples. It had always preferred timely and spontaneous dialogue to the sound of gunfire. Currently concerned as it was with what was happening in its sister republics of Central America, it hoped that the region would not become engaged in a fratricidal and inhuman struggle, which would only result in many more years of poverty and economic backwardness. The raison d'être of the Contadora Group was simply to seek a peaceful settlement of temporary disputes; the region must not become the scene of a test of strength between the two super-Powers. It was to be hoped that reason and common sense would prevail and that the parties would soon realize that Mexico, Panama, Venezuela and Colombia were motivated solely by their desire to help.

43. Mrs. DIARRA (Mali) said that, in order to remain effective, any institutional instrument must gradually adapt to changing times. The Charter of the United Nations was no exception to that law. The Organization had existed for 38 years and the number of its Members had more than tripled. The interdependence of nations was much more obvious than before, and peoples were much more aware of their common destiny. They also had a feeling of insecurity because of the resurgence of tensions and the development of terrifying weapons. The international community was crying out for the establishment of a new rational and

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(Mrs. Diarra, Mali)

civilized international order, and her delegation was more convinced than ever of the need to place international relations on a more democratic basis. The many failures and shortcomings of the Organization bore witness to that need.

44. The work of rationalizing existing United Nations procedures had not been as successful as had been hoped. If that rationalization was to make sense and lead to practical improvements in the United Nations system, her delegation believed that special attention would have to be paid to the Security Council because of its important role within the system. The paralysis of the Security Council, due to the improper and rash use of the right of veto, was the factor which most hampered the United Nations in pursuing its activities. That prerogative, which had initially been designed to serve the cause of peace and security, was weakening the Organization. Her delegation took note of the proposals made concerning the selective use of the right of veto.

45. With regard to the peaceful settlement of disputes, her delegation noted that, in spite of its efforts, the United Nations had not always managed to prevent certain crisis situations from degenerating into armed conflicts. In that connection, her Government reiterated its support for the Manila Declaration; however, although it was a significant step forward, it could not be implemented if States failed to manifest the requisite political will.

46. Her delegation welcomed the idea of formulating a handbook describing all existing means and mechanisms for the peaceful settlement of disputes.

47. With regard to the establishment of a Permanent Commission on Good Offices, Mediation and Conciliation for the Settlement of Disputes and the Prevention of Conflicts among States, her delegation considered that such a Commission should be viewed as a mechanism to set in motion the process of peaceful settlement of disputes. However, in order to prevent conflicts concerning the areas of competence of the Security Council or the General Assembly on the one hand and the Commission on the other, it must be clearly established that the Commission would be responsible only for the preliminary phase of dispute settlement. Her delegation hoped that the proposal made by Romania and the Philippines would be carefully studied on the basis of all the comments made.

48. It was time to put an end to the confusing anomaly which was paralysing the work of the United Nations and discrediting it in the eyes of the peoples of the world. The Organization should play its full role in the maintenance of international peace and security by controlling conflicts in accordance with the basic principles of the Charter, which in reality had not lost any of their value. That value would be enhanced if the principles were adjusted to the new requirements of the day and to the profound aspirations of peoples.

49. Mr. BRING (Sweden) said that the maintenance of international peace and security was listed first among the purposes of the United Nations laid down in Article 1 of the Charter and that peoples all over the world regarded it as the primary and most evident duty of the Organization. Nevertheless, the United Nations had repeatedly failed to live up to the expectations of peoples in that

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(Mr. Bring, Sweden)

regard, in particular in the past few years. Against that background, the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was highly appropriate.

50. Some considered that the failure of the United Nations to maintain international peace and security could be remedied if the Charter were amended and if the principle of unanimity in the Security Council were limited de facto in one way or another. However, it was illusory to believe that the political and moral problems currently faced by the Organization were due to the provisions of the Charter and could be solved by amendments, whether de jure or de facto. The United Nations could not be successful unless the Member States allowed it to be. The fundamental difficulty was that to a large extent the Member States disregarded the principles of the Charter, and in so doing, failed to live up to their obligations as Members of the Organization. The Organization would be strengthened only if practical measures were taken and Member States abided by the principles of international law and acted in close co-operation with one another and with the Secretary-General.

51. In a letter from the representatives of Denmark, Finland, Iceland, Norway and Sweden addressed to the Secretary-General (A/38/271), the Governments of those five countries had indicated that the measures to be taken to strengthen the Organization's role should in so far as possible be action-oriented and designed to gain broad support from the Member States. There was a need for the Organization to play a more active role in the prevention of international conflicts. The Nordic Governments supported the proposals made in the Secretary-General's 1982 annual report to develop a wider and more systematic capacity for fact-finding in potential conflict areas. Such efforts should of course be undertaken in close co-operation with the Security Council and should increase the possibilities for the Secretary-General to conduct preventive and quiet diplomacy. Those ideas were reminiscent of ideas put forward by the late Secretary-General Dag Hammarskjöld during his term of office.

52. According to Article 99 of the Charter of the United Nations, the Secretary-General could bring to the attention of the Security Council "any matter which in his opinion may threaten the maintenance of international peace and security". In the course of the work of the Special Committee on the Charter, a number of proposals concerning the role and powers of the Secretary-General had been introduced. Those proposals pointed to a flexible or even extensive interpretation of Article 99: the Secretary-General should bring matters of that nature to the attention of the Security Council and should be able to request a meeting of the Security Council when, in his opinion, the maintenance of international peace and security was threatened. It was to be noted that none of the proposals to widen the interpretation of Article 99 had met with unanimous approval in the Committee. In the opinion of the Nordic Governments, however, that approach deserved further study.

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(Mr. Bring, Sweden)

53. In that respect, it was appropriate to recall one of the recommendations by the Independent Commission on Disarmament and Security Issues - the so-called Palme Commission - to the effect that the Security Council itself must enhance its capacity to prevent conflicts, and that the permanent members, in particular, should seek to foster a close understanding and collaboration among themselves and encourage a mutually supportive partnership with the Secretary-General to facilitate initiatives under Article 99 of the Charter.

54. The role of the Security Council could also be strengthened by the more frequent application of Article 28, paragraph 2, of the Charter, providing for periodic meetings of the Security Council. That provision, however, had never been fully utilized. The reason why the Security Council had been by-passed by events at moments of crisis seemed not to be any institutional weakness, but the failure of the major Powers to agree to make use of the Council as the supreme organ of the United Nations collective security system. In their study, the Nordic Governments had suggested that periodic meetings of the Council in accordance with Article 28, paragraph 2 of the Charter should be considered as an important step towards making the United Nations more effective in maintaining international peace and security. To the same end, the permanent members should reach an understanding concerning the use of the United Nations machinery for anticipatory and preventive action. In that context, the Independent Commission on Disarmament and Security Issues had suggested the despatch of fact-finding missions or military observer teams. The Palme Commission had also suggested that the permanent members of the Security Council should agree to support, or at least not vote against, collective security measures aimed at preventing breaches of the peace in certain types of conflict. The purpose would be to prevent the conflicts from being settled by armed force, not to pronounce on the substantive issues involved.

55. However, giving the Security Council increased capacity to deal with the prevention of conflicts would be of little use unless it was matched by a greater readiness on the part of Member States to avail themselves of the services of that body. The Charter provided that decisions of the Security Council were binding on all Member States. The Council should therefore devote more attention to the implementation of its decisions, and States Members of the Organization should live up to their obligations under the Charter.

56. The question of the peaceful settlement of disputes was directly related to the maintenance of international peace and security. His delegation had studied with interest the two proposals which the General Assembly, in draft resolution A/C.6/38/L.9, paragraph 3, would request the Special Committee on the Charter to consider during its session in 1984. It supported the idea of drawing up a handbook on the peaceful settlement of disputes. As to the proposed commission on good offices, mediation and conciliation, the first thought that came to mind was that the problem was not due to any lack of organs and procedures, but rather to the failure of States to utilize existing institutions. For instance, it had already been pointed out that the Secretary-General had the competence to engage in good offices, mediation and conciliation efforts. That did not exclude the possibility that a new organ might play a useful role in practice, and his

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(Mr. Bring, Sweden)

delegation would await with interest the next report of the Special Committee on the subject. As matters stood, it would like to know more about the mandate, composition and working methods of the proposed commission before commenting on the desirability of establishing the new body.

57. Several speakers had noted that the results of the most recent session of the Special Committee on the Charter had not been very encouraging. Nevertheless, it was the view of his delegation that the Special Committee could play a useful role in the search for means of strengthening the collective security system of the United Nations. His delegation shared the view put forward by some delegations that the work of the Committee would be facilitated and would produce better results if the Committee's mandate was more concise and specific. The emphasis should be on using existing machinery in a more constructive manner rather than on revising the Charter. In his delegation's view, that seemed to be the only approach which could help the Special Committee to fulfil its urgent task of strengthening the role of the United Nations.

58. Mr. CHEBELEU (Romania) said that his country attached the greatest importance to the existence of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and was taking part in its activities with interest. It thought the Special Committee provided an excellent framework for the consideration and in-depth discussion of States' proposals relating to the Charter and the role of the Organization in world politics, as well as for the formulation of recommendations to be put to the General Assembly and Member States.

59. The international community as a whole increasingly had need of the United Nations as a forum which allowed States to solve international problems of general concern. In moments of crisis, which had multiplied in recent years, the hopes of people throughout the world turned towards the United Nations. Nevertheless, it was also true that the Organization was not always capable of coping with the responsibilities entrusted to it by the Charter and satisfying the hopes of the peoples. That was particularly true in periods of international tension such as the one the world was currently experiencing.

60. By its structure, its functions and its character as an international forum, the United Nations occupied a prime place in world politics and it was more than ever necessary to strengthen its role in maintaining world peace and security, promoting international law and democratizing inter-State relations.

61. The Organization should ensure greater participation by all States, whatever their social system, size or economic or military strength, in solving international problems in conditions of complete equality. In particular, small and medium-sized developing and non-aligned countries should be permitted to play an even more active part in considering and solving all the problems arising in inter-State relations. It should not be forgotten that the countries of the third world already constituted the great majority of the Earth's population and should therefore have greater weight in world politics as a whole. Those countries had

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(Mr. Chebeleu, Romania)

frequently proved their ability to make a constructive contribution to the settlement of certain very difficult international problems, and they should have the opportunity to participate fully and actively in solving major international problems. In that respect, it was unquestionably necessary to make some improvements in the functioning of the Organization, which should become a dynamic and effective mechanism for solving inter-State conflicts and tensions by political means and, in general for organizing multilateral negotiations on matters of common concern.

62. Bearing in mind the importance and urgency of such tasks, the results of the Special Committee's work since its creation had been far from satisfactory while those of its latest session had been even less so. The reasons were to be found in the absence of a concrete issue for discussion which might have led to a recommendation to the General Assembly, as well as in the vague and deliberately ambiguous mandate of the Special Committee and in the lack of political will of certain of its members.

63. His delegation considered that the way, in which the Special Committee approached its work must be changed. It should not serve as a device through which certain States could indirectly secure the revision of the Charter. In that connection, his delegation considered that the first step must be to define the mandate of the Special Committee more explicitly. In fact, the ambiguities of its mandate, to which the General Assembly had referred in its resolutions session after session, had in reality served as a curb on its work. Those ambiguities had been fully exploited in order to negate any substantive activity by the Special Committee and in order to waste its time in preliminary or procedural discussions. Thus a number of proposals made eight to ten years earlier on the maintenance of international peace and security had been discussed several times in the Special Committee without ever being considered in depth. Those discussions had not resulted in any conclusion or recommendation being addressed to the General Assembly. Such a situation could only be regarded as abnormal. Moreover, that approach did not correspond to the practice followed in the United Nations whereby proposals which, in their original form, seemed to be unacceptable to certain States or groups of States, underwent successive modifications during the discussion until a generally acceptable formula was reached. The goal should be to transform the Special Committee into an effective instrument for the continuing self-improvement of the United Nations. All proposals made by States and, in general, all problems bearing on the Charter and the structure and functioning of the Organization should be considered in the Special Committee.

64. The mere fact of defining its mandate was not enough. If the Special Committee was to embark upon a period of active and effective collaboration with a view to identifying methods for enhancing the effectiveness and authority of the United Nations, it was equally essential that all Member States should share in its work in good faith and in a constructive spirit. His delegation hoped that, in time, all States would show the necessary political will to reach solutions and to co-operate actively in the common interest, so that the United Nations would become a forum which could play an effective role in establishing global policy

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(Mr. Chebeleu, Romania)

priorities, in safeguarding international peace and security and in solving problems confronting the international community. As in the past, his delegation would continue to work with others in attempting to solve the problems arising in the course of the Special Committee's activities so that the Committee would respond to the purposes for which it had been created.

65. Mr. FONT (Spain) said that his delegation was aware of the difficulties which had confronted the Special Committee during its latest session, particularly on questions concerning the maintenance of international peace and security. While the results obtained had clearly been far from satisfactory, it was important to find causes, rather than trade accusations; the most obvious cause was undoubtedly the absence of political will to reach tangible results. The 1983 session had certainly served only to confirm the rigid positions of the principal interest groups; the permanent members of the Security Council had made it clear that they were in no way disposed to give up one iota of the privileged status conferred upon them by the Charter. Nevertheless, if the causes of the setback at the latest session were to be elucidated, it was not enough to attribute the entire responsibility to the intransigence of certain members of the Special Committee.

66. During the adoption of the Special Committee's report (A/38/33), certain permanent members of the Security Council had emphasized that there should be negotiations with a view to determining which proposals might be developed into agreements and such proposals should then be developed with a view to reaching practical results. The implication was that, for those members, the cause of the disappointing results of the Committee's work lay in the over-ambitious nature of its mandate. It had to be recognized that document A/AC.182/L.29/Rev.1, for example, bore essentially on one of the most delicate points of the Charter, namely, the right of veto, which had already been an accomplished fact at the San Francisco Conference and without which it was doubtful whether at least some of the permanent members would ever have joined the United Nations. If the issue was viewed in that light, the conclusion was inescapable that the General Assembly, in attempting to base the Special Committee's mandate on that point, had probably been unrealistic. If such was the case, the Special Committee, instead of getting involved in such thorny questions at the outset, should have left them to the last, once they had achieved a series of successes in less controversial fields. It had been impossible for the Special Committee to do fruitful work during the past two sessions with its existing mandate from the General Assembly.

67. That analysis had convinced the group of States - including Spain - which attached the greatest value to the success of the Special Committee's work that its mandate must be modified with a view to making it more modest and realistic. In that connection, it seemed preferable for the Special Committee to begin by identifying the fields in which its work had a chance of success; it could then select one field and could concentrate on a series of proposals on which to make recommendations to the General Assembly, which in turn could make recommendations to the other principal United Nations organs or, in matters in its own sphere of competence adopt appropriate measures. The Committee could then select another field in which to pursue its work and so on. His delegation shared the views of

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(Mr. Font, Spain)

the delegations of the Federal Republic of Germany, Japan and Italy that the Special Committee could begin with the prevention of international conflicts and follow the lines given in that connection by the Secretary-General in his report on the work of the Organization at the thirty-seventh session (A/37/1).

68. On such conditions, his delegation, which was convinced that the Special Committee could be a useful instrument for promoting the interests of the Organization as well as those of Member States, favoured renewal of the Special Committee's mandate.

69. Mr. KAHALEH (Syrian Arab Republic) said that the reason why the Special Committee had made no noticeable progress in its work during the latest session was that its discussions had been hindered by the consensus rule, which had been used to thwart all proposals relating to the maintenance of international peace and security and the peaceful settlement of disputes, and even those regarding the rationalization of the Organization's procedures.

70. A small number of States had systematically opposed any proposal even remotely affecting the provisions of the Charter, which they treated as a document that was sacrosanct. Even the working paper submitted by the non-aligned countries (A/AC.182/L.29/Rev.1), despite its moderation and although it did not prejudice the rule of unanimity of permanent members of the Security Council, had been rejected by that handful of States which maintained that the root of the current imbalance lay not in the Charter or in the right of veto for permanent members of the Council, but in the lack of political will of certain States to implement the Charter and in the abuse of the right of veto, which had been diverted from its original purpose. But that was a two-edged argument: if no confidence could be placed in the political will of those States, other means would obviously have to be sought to restore the balance, and that could not be achieved unless abuse of the right of veto ceased and Chapter VII of the Charter was properly implemented. Only then would States be compelled to set the general, long-term interest above individual and immediate interests and to support the idea of collective security.

71. The Security Council's inability to find lasting solutions to the conflicts which were endangering international peace and security was due not solely to the frivolous use of the right of veto by one of the permanent members of the Council, but also to the contagious effect this had on its allies, which even had the impertinence to reject decisions unanimously adopted by the Council and which insulted that body. In such conditions, armed conflict were breaking out again and, with the Security Council paralysed, certain States sought assistance from forces outside the United Nations in order to prevent any developments which would make it necessary to seek conclusive solutions.

72. Although the Special Committee was going round in circles, it was impossible to give up efforts to breathe new life into the Organization and accept the impotence of the Council; the only way of making any headway was to get rid of the consensus rule for dealing with proposals submitted to the Special Committee and reconsider that body's terms of reference.

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(Mr. Kahaleh, Syrian Arab Republic)

73. With regard to the peaceful settlement of disputes between States, despite the clarity of its provisions, the Manila Declaration had not prevented the escalation of armed conflict or intervention in the internal affairs of small States, as witness the recent aggression against Lebanon and its national forces, the state of psychosis created in Nicaragua, the invasion of Grenada and all the forms of military intimidation used in the Middle East and the Caribbean. If the Manila Declaration had proved ineffective, so would a handbook on the peaceful settlement of disputes, since the methods for such a settlement were already known by the belligerents. Those methods, which were set forth in Article 33 of the Charter, the Manila Declaration and other international instruments, were not used until after the outbreak of hostilities, although logically they should be used the moment the warning signs of conflict appeared. As the Secretary-General had emphasized at the previous session in his report on the work of the Organization (A/37/1), the machinery for settling disputes should be set in motion spontaneously through international preventive mediation. The proposal submitted by Romania and the Philippines for the creation of a United Nations permanent commission of mediation, conciliation and good offices, was a move in that direction. It would need reformulating, however, in order for it to be more realistic. Furthermore, mediation should take place away from the spotlight of the news media, which, by exacerbating the issues, made it more difficult for the parties to a dispute to adopt compromise solutions.

74. The virulence of criticisms levelled at the work of the Special Committee was no reason for belittling the competence of its Chairman, who was endowed with exceptional powers of diplomacy. The Syrian delegation, for its part, had merely been trying to put its finger on the weaknesses in the Special Committee's original mandate and the obstacles that impeded its efforts to attack the trouble at its source. His delegation favoured renewal of the Special Committee's mandate and wished it every success in the future.

AGENDA ITEM 64: DEVELOPMENT AND STRENGTHENING OF GOOD-NEIGHBOURLINESS BETWEEN STATES (continued)

75. Mr. SUAZO TOME (Honduras), speaking in exercise of the right of reply, said that the representative of Nicaragua had once again tried to distort the facts about Central America and, in the present instance, Honduras. He had claimed that there were foreign military bases in Honduras, referring implicitly to the regional military training centre established by the Government of Honduras in a region far removed from the border between Honduras and Nicaragua, under the direction of Honduran officers, to train mainly Honduran troops and, secondarily, troops from friendly countries, with the assistance of experts not only from the United States but also from Central and South American countries with which Honduras maintained co-operation. Anyone who had the effrontery to describe that training centre as a "foreign military base" was totally ignorant of the legal definition of the term.

76. The representative of Nicaragua had also insinuated that the military manoeuvres conducted jointly by Honduras and the United States, and consequently the presence of United States troops in Honduras, were directed against the

(Mr. Suazo Tome, Honduras)

Government of Nicaragua. However, as many members of the Sixth Committee were aware, manoeuvres of that type had been taking place since 1965 on the basis of a bilateral military assistance treaty concluded on 20 May 1954, the objectives of which were clearly defined in the preamble.

77. That treaty was an international agreement which had been registered and published in conformity with Article 102 of the United Nations Charter and could be consulted in the Secretariat. The principal bilateral agreement had been registered under No. 3025 and the supplementary agreements under Nos. 3572, 3869, 6238, 6624 and 12202.

78. It was unfortunate that the Government of Nicaragua had not registered and published the agreements under which it received foreign weapons and advisers and which encouraged the arms race, the destabilization of democratically elected Governments and the acts of terrorism in Central America.

79. Baseless accusations such as those made by the representative of Nicaragua would certainly not help to promote the development and strengthening of good-neighbourliness between States.

80. Mr. ROMANOV (Secretary of the Committee) announced that Bolivia had joined the sponsors of draft resolution A/C.6/38/L.20.

AGENDA ITEM 125: DRAFT CODE OF OFFENCES AGAINST THE PEACE AND SECURITY OF MANKIND (continued)

81. Mr. ROMANOV (Secretary of the Committee) announced that Viet Nam had joined the sponsors of draft resolution A/C.6/38/L.19.

The meeting rose at 10.50 p.m.