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VERBATIM RECORD OF THE 48TH MEETING

Chairman: Mr. BURWIN (Libyan Arab Jamahiriya)
(Vice-Chairman)

later: Mr. HEPBURN((Bahamas)

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ENGLISH

The meeting was called to order at 3.05 p.m.

AGENDA ITEM 122 (continued)

SETTLEMENT BY PEACEFUL MEANS OF DISPUTES BETWEEN STATES (A/34/143; A/C.1/34/L.45 and L.49)

Mr. ELARABY (Egypt) (interpretation from Arabic): The Egyptian delegation does not doubt that international peace and security will always be threatened if international legal and political bodies responsible for the settlement by peaceful means of disputes between States are not strengthened. We are therefore convinced that the protection of future generations from the scourge of war and the future of mankind as a whole depend in part upon the settlement by peaceful means of disputes between States.

The Egyptian delegation is pleased to begin this statement by expressing its appreciation to the delegation of Romania for its valuable, constructive and important initiative. The delegation of Egypt is also pleased to place on record its total support for all efforts and initiatives aimed at strengthening, within the framework of the Charter and in keeping with its provisions, the role of the United Nations in the peaceful settlement of disputes.

The prohibition of war and of the use of force in international relations is the foundation upon which the United Nations has been built. It is therefore normal and logical for the authors of the Charter to have attached great importance and absolute priority to the effective role the main United Nations organs are to play in the settlement of disputes by peaceful means.

The Charter devotes an entire Chapter - Chapter VI - and many other Articles to the general dimensions of the international legal contemporary régime in the context of which disputes may be settled by peaceful means. The constitutional nature of the Charter accords for the fact that it contains general and not detailed principles. This allows for progressive development, depending on future circumstances, consistent with the purposes of the Charter. Its legal features are very clear.

(Mr. Elaraby, Egypt)

From Article 33 of the Charter we see that there is an essential legal obligation:

"The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace"

must resort to peaceful means to settle their disputes. But the authors of the Charter were right in not spelling out the peaceful means and not expressing preference for one method over another.

(Mr. Elaraby, Egypt)

According to the Charter, the over-all principle is the legal commitment to the settlement of disputes by peaceful means, be it in Article 33 or in Article 2, paragraph 3. The choice of means is left to the States between which a dispute has arisen.

In the context of the principles contained in the Charter on this matter, the General Assembly developed these provisions during the 1960s and it adopted the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in 1970, by consensus. Together with other States, Egypt took part in all the stages of preparation of that Declaration and we hope, after 10 years, that Declaration will play a more important role in strengthening the international legal system today. However, in the light of the events which have taken place in the last 10 years, we are entitled to study in that context current and future conditions in the international situation and we must not close the door on any possible means of strengthening law and justice. Egypt believes that among those means an international convention could be studied, based on the principle of friendly relations.

The Egyptian delegation, together with the delegation of Mexico, submitted a suggestion to the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations to that end. The Egyptian delegation is pleased to note that the Special Committee on the Charter is focusing its efforts on the question of the settlement of disputes and that it may adopt a resolution on that subject. However, we feel that there is a need to go beyond the stage of statements and that there must be specific legal commitments within the framework of an international convention. We do not think that such a decision should be adopted immediately because it is a matter which must be studied in the future. We should also review the strengthening of the many existing organs involved in the settlement of disputes, so that States may have recourse to those organs at a very early stage, before a dispute deteriorates and becomes impossible to settle. It is important here to consider also an amendment to the Statute of the International Court of Justice which would enable it to give advice or express its views to States parties to a dispute. These few remarks present the position of Egypt concerning the settlement by peaceful means of disputes between States.

(Mr. Elaraby, Egypt)

I should like now to refer to the draft resolution which has been submitted in document A/C.1/34/L.45 by Egypt and several other States. With regard to this draft resolution, we should like to state the following. In the first place it calls upon all States to submit their ideas and proposals regarding a global declaration on this subject. The Egyptian delegation believes that the working paper which has been prepared by Romania and circulated in document A/C.1/34/L.49 constitutes a good basis for the declaration for which we are calling. We should also like to thank the delegation of Romania once again for its efforts in preparing the working paper, which, in our view, should be considered thoroughly by all States.

Draft resolution A/C.1/34/L.45 calls upon the Secretary-General to submit to the General Assembly at its thirty-fifth session a report containing the opinions, suggestions and proposals regarding the declaration on the peaceful settlement of disputes between States. The Egyptian delegation understands that that study would be made in the Sixth Committee, which deals with legal matters, and with other questions closely related to the settlement of disputes. In particular, it considers the report of the Special Committee on the Charter and that of the Committee on the Non-Use of Force in International Relations.

In conclusion and in the light of the above considerations the delegation of Egypt hopes that this draft resolution will be adopted unanimously by this Committee. There is no doubt that a question such as that of the peaceful settlement of disputes deserves the unanimous support of all delegations.

Mr. KIRSCH (Canada): The Canadian delegation has expressed on at least two occasions its concern with respect to the diffusion of effort which we are witnessing at the current session of the General Assembly on the subject of the peaceful settlement of disputes. This issue is considered by the Sixth Committee under the items related to the non-use of force and Charter review. Now we are examining it as a separate item in the First Committee.

While we acknowledge that this question is important enough to form the subject of a separate item, my delegation cannot but wonder what purpose is served by approaching this issue from so many different directions. That

(Mr. Kirsch, Canada)

represents, in our view, a very bad precedent and would be difficult to reconcile with our current efforts to rationalize procedures and to make the United Nations more efficient. There are many broad questions of principle that are relevant to different aspects of the work of the United Nations and to different items on the agenda of the General Assembly. But we should not raise these questions on unrelated occasions as if we were seeing them for the first time.

(Mr. Kirsch, Canada)

For its part, my delegation has frequently reiterated the position that the principle of the peaceful settlement of disputes is inextricably linked to the prohibition against the use of force. Compliance with the obligation not to use force only takes us half-way towards the resolution of any situation of confrontation or potential conflict. The problem that is the source of the dispute remains. If the international community does not develop and utilize dispute-settling procedures and mechanisms which can defuse the situation and contribute to a peaceful resolution of the problem, one or both of the parties to the dispute are more likely to resort to force. We have only to look at the newspapers to find substantiation for that proposition. For these reasons, it seemed to my delegation as a matter of both logic and efficiency that the discussion of the question of the peaceful settlement of disputes properly belongs to the Special Committee on the non-use of force.

While peaceful settlement of disputes is indeed being discussed in that Committee, as was just mentioned by the representative of Egypt, it has also given rise to a most extensive debate within the Special Committee on the Charter, another subsidiary body of the Sixth Committee, and to the elaboration by that body of a list of the proposals which had been made on this subject, with an indication of the degree of agreement which seemed to exist on each of them. One of these proposals, on which general agreement might be possible, was the preparation of a declaration to be adopted by the General Assembly. Such a declaration is precisely the aim of the proposal contained in draft resolution A/C.1/34/L.45 in the First Committee but, to our understanding, is not excluded from the mandates of the other bodies I have just referred to. The danger of multiplication of efforts under these circumstances is obvious. While we are conscious that it is not possible to undertake an immediate reorganization of the treatment of this matter at this stage, we wish to express the hope that every effort will be made next year to treat this question of the peaceful settlement of disputes in a more rational, satisfactory manner, so as to achieve ultimately a comprehensive but single result.

(Mr. Kirsch, Canada)

At this stage, my delegation does not intend to comment in detail on the contents of a General Assembly declaration which could be elaborated. Indeed, if draft resolution A/C.1/34/L.45 is adopted, States will be invited to transmit their views on the elaboration of such a declaration. In this respect, in spite of a certain ambiguity in the operative paragraphs of that draft resolution, we do interpret it as giving full discretion to States to make any comments they may deem appropriate on the general question of peaceful settlement of disputes, and not exclusively on what might be included in a declaration.

My delegation had the opportunity, in the context of the Sixth Committee's debate on the report of the Charter review Committee, to mention some of the areas which would deserve consideration. An examination of relevant provisions of the Charter would be in order, particularly with regard to the role of the Security Council, with a view to developing principles aimed at a more effective utilization of the Charter mechanisms for dispute settlement. Similarly, the status and functions of existing mechanisms - in particular, the International Court of Justice - should be fully considered before any discussion of possible new machinery.

What we believe should be avoided is the risk of getting locked into one specific approach in an area where, clearly, other approaches are possible. In our view, the question of peaceful settlement of disputes should be examined from a broad perspective, taking into account past experience and notably the various dispute-settling provisions that have been adopted in numerous bilateral and multilateral agreements. It has been suggested, in this context, that certain subject areas are more conducive to third-party settlement than others and that treaties in these areas could incorporate particular dispute-settling procedures: experiences with the law of the sea or environmental law may be instructive in this regard. Our interest in this aspect of the question stems from a concern that the abstract principle of peaceful settlement of disputes should not be promoted without following it up by practical methods for implementation.

(Mr. Kirsch, Canada)

The comments my delegation has just made concerning the methods of work are not meant in any way to detract from the importance of the proposal for a declaration or from the commendable motivation that is behind the initiative. We share that motivation and are prepared to co-operate closely with the delegations which took this initiative and those who are committed to the development and elaboration of this important principle.

We merely hope that the examination of the principle of peaceful settlement of disputes will not be pursued in an unco-ordinated and fragmented manner. There seems to be general agreement that the matter should be referred, next year, to the Sixth Committee. This, in our view, will be an essential condition for increased effectiveness in the treatment of this matter, as the Sixth Committee alone is in a position to benefit fully from the work already accomplished by its subsidiary bodies and to co-ordinate effectively their activities if need be. We trust that the additional views which might be provided by States in the meantime will provide further useful guidance for this complex and important task.

Mr. KPOTSRA (Togo) (interpretation from French): The most cursory examination of international life today leads us to conclude that, although since the end of the Second World War humanity has been spared major disasters, distressing conflicts have broken out here and there and the hopes aroused in San Francisco for a better and safer world have hardly been fulfilled. In fact, as the need to promote the development and progress of peoples has made itself more and more felt, we have seen in the third world a multiplication of tension and warfare, attempts at extending the rivalries of the great Powers to regions that had long been spared and, above all, a whole series of ventures aimed at thwarting the struggle of young States for their political and economic emancipation and their free development unfettered by any form of dependence and interference.

(Mr. Kpotsra, Togo)

In such circumstances how can Members of an Organization whose primary function is to safeguard international peace and security remain insensitive to proposals whose obvious purpose is to encourage States to respect the commitments they have entered into under the Charter, to settle their international disputes by peaceful means, in such a way that international peace and security and justice are not imperiled, and to refrain from the threat or use of force either against the territorial integrity or the political independence of any State or in any other manner incompatible with the purposes of the United Nations?

The delegation of Togo warmly welcomes the initiative of Romania in including on the agenda of the General Assembly the item on the settlement by peaceful means of disputes between States, an initiative which, furthermore, falls within the category of the efforts which have been going on for some years within the Organization to strengthen the effectiveness of the imperative rule stipulated in Article 2, paragraph 3, of the Charter.

In this regard, the report presented to the current session of the General Assembly by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization reflects the progress achieved on this subject and includes a broad range of proposals relating to the peaceful settlement of disputes, with the aim of improving the operation of the mechanism provided for in Chapter VI and in Article 52 of the Charter and also of creating others.

(Mr. Kpotsra, Togo)

While staunchly supporting the Romanian initiative, as well as the work in general which is being done by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, my delegation has not lost sight of the fact that the fundamental problem remains that of the political will of Member States to refrain, in their international relations, from recourse to the threat or use of force.

The fact that, in spite of the existence of a multiplicity of organs and machinery for the peaceful settlement of disputes, the world has been the scene of many instances of recourse to the threat or the use of force, leads us to believe that additional action should be taken with a view to promoting means for the peaceful settlement of disputes.

For its part, the Togolese Government has always proclaimed its devotion to the cause of peace, and its profound attachment to the settlement of disputes by peaceful means. In keeping with our constant readiness to help, we have never hesitated to offer our good offices or our mediation whenever conflicts have broken out among fraternal countries.

The Togo of the "New March", which has so many reasons to be predisposed to receptivity and co-operation, has made a philosophy of dialogue and good-neighbourliness, in the conviction that the development and progress of peoples can flourish only in conditions of peace and security. Our recent acceptance of the binding jurisdiction of the International Court of Justice best illustrates our constant concern to achieve the peaceful and just settlement of all international disputes, particularly those in which we might be involved.

In our view, the preparation of a declaration on the peaceful settlement of disputes is likely to enhance respect for the obligations of States to settle their disputes peacefully, and hence to contribute to the consolidation of international peace and security. My delegation will not fail, when the time comes, to co-operate actively in this work which, we would venture to hope, will be entrusted to the Sixth Committee.

In conclusion, may I announce that Togo wishes to become a sponsor of draft resolution A/C.1/34/L.45.

Mr. LIDGARD (Sweden): The Swedish Government has always been in favour of strengthening the international mechanisms for the peaceful settlement of disputes. This positive attitude has guided us in the examination of proposals on this subject in other Committees. At the same time, we find it realistic to point out that the main problem today is not the lack of appropriate mechanisms for the settlement of disputes, but the lack of political will to make use of such mechanisms.

The International Court of Justice is available to all States, but very few States make use of its services. An alternative to judicial settlement is arbitration, and although there are many international disputes in the world, very few of them are submitted to arbitration. There are many bilateral, regional or world-wide conventions providing for the peaceful settlement of disputes, but their provisions are seldom applied. The General Act for the Pacific Settlement of International Disputes, which in its revised form was adopted by the General Assembly of the United Nations on 28 April 1949, has been ratified by only a small number of States. If, however, it is felt that something should be done to make the settlement procedures more attractive, the Swedish Government will be fully prepared to participate in further discussions on the subject.

It is important that any such discussions should result in rules which are sufficiently firm and mandatory to constitute real progress. We consider that in order to make our efforts worth while, the result of our work should satisfy certain requirements. First, any new system for the settlement of disputes should include an undertaking by States, made in advance of the dispute and in general form, to submit disputes - or at least certain specified kinds of disputes - to settlement. Secondly, this settlement should be a third-party settlement. Thirdly, it is highly desirable that this third-party settlement should result in a binding decision. In so far as this is not considered acceptable, the settlement procedure could, however, be limited to conciliation or mediation and result in proposals in the form of recommendations or suggestions.

(Mr. Lidgard, Sweden)

It is against this background that we should like to view draft resolution A/C.1/34/L.45. In this draft resolution, States are urged to co-operate in the elaboration of a United Nations General Assembly declaration on the peaceful settlement of disputes between States. In this context, I should like to underline that the Swedish Government has on several previous occasions expressed its doubts about the advisability of adopting various declarations of a general nature - declarations which are not thoroughly prepared and which often concern subjects already covered by carefully balanced international agreements.

In the Swedish view, such exercises seldom facilitate a clear and unambiguous interpretation of either the United Nations Charter or other important international instruments already adopted.

The Swedish Government is, however, prepared to consider the idea of a General Assembly declaration on the peaceful settlement of disputes. But such a declaration could be a useful instrument only if it contained rather concrete and specific recommendations to States regarding third-party settlement of disputes, and, in order to be of real importance, it should as soon as possible be transformed into binding treaty provisions.

It is also important that a declaration of this kind should be adopted only after very careful preparation, and my delegation therefore welcomes the proposal that Member States be invited to submit their observations on the contents of the declaration before further work is carried out on the matter.

Mr. YANGO (the Philippines): The Charter of the United Nations is rooted in the basic purpose of maintaining international peace and security in order to save succeeding generations from the scourge of war. This is a fundamental concept which is the very essence of our world Organization, and one which all Member States are obliged to observe and follow. Bearing this in mind, all actions and activities in the United Nations should always be geared to the principle that all disputes should be resolved peacefully, without resort to force of arms, except in those instances permitted by the Charter.

My delegation, therefore, highly welcomes the inscription in the agenda of the General Assembly this year of the item "Settlement by peaceful means of disputes between States" - an initiative of the delegation of Romania. The thrust of this item as explained in the memorandum requesting inscription is one that is clearly understandable. All Member States are fully aware that in various parts of the Charter of the United Nations the peaceful settlement of disputes is enjoined. In carrying out our daily work in the General Assembly, and especially for the members of the Security Council, this injunction is our first and foremost guideline. What then is the purpose of the Romanian initiative? If we are ever-mindful of the concept of settling disputes by peaceful means, why then engage in the consideration or discussion of this item?

Romania's purpose is very clear. The concept is there, but in so many instances since the birth of the United Nations in 1945 the injunction has not been observed and Member States time and again have resorted to force of arms in an attempt to resolve disputes.

(Mr. Yango, Philippines)

We have seen or heard of such instances, although they have never been brought to the cognizance of our Organization, thus resulting in the avoidance of using peaceful means of settling disputes. We may be aware that hostilities are taking place in various parts of the world, but we have not been called upon to discuss or deliberate upon them as we should in accordance with the principles of our Charter. Sometimes it is only when such disputes have deteriorated to a great degree that the parties concerned would avail themselves of the auspices of the United Nations.

In other words, the purpose of the Romanian initiative, which we fully support, is to make Member States avail themselves of the mechanisms provided by the Charter in the peaceful settlement of disputes, thus giving life and substance to the very quintessence of our Charter in maintaining international peace and security.

We recognize the efforts taken by Romania in this direction and we commend it for having taken the initiative at this session of the General Assembly.

The draft resolution before us, A/C.1/23/L.45, calls for the elaboration in due course of a United Nations General Assembly declaration on peaceful settlement of disputes between States. The idea is to have a discussion of the item until the General Assembly adopts a declaration on the subject.

My delegation would like to draw particular attention to preambular paragraph 6 of the draft resolution which reads as follows:

"Bearing in mind the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (Doc. A/34/33) and especially the consensus contained in it namely that the idea of preparing a declaration on peaceful settlement of disputes to be adopted by the General Assembly awakened special interest and is one on which general agreement may be possible".

This preambular paragraph focuses our attention on the work being done on the subject by the Special Committee on the Charter, a standing committee of the General Assembly.

(Mr. Yango, Philippines)

With this relevant reference to the Special Committee, we should like to recognize and commend its work in this connexion and thereby devote some attention to its report to the General Assembly at the current session. The Sixth Committee yesterday adopted draft resolution A/C.6/34/L.10/Rev.1 by an overwhelming majority. That resolution has a direct bearing on the deliberations we are now having on the settlement by peaceful means of disputes between States. This draft resolution of the Sixth Committee is a renewal of the mandate of the Special Committee to guide it in conducting its work for the coming year.

Operative paragraph 4 of L.10/Rev.1 provides as follows:

"Further requests the Special Committee, in the light of the progress it has achieved concerning the question of the peaceful settlement of disputes, to continue its work on this question with a view to developing and recommending a means of bringing the work to an appropriate conclusion on the basis of the list prepared by the Special Committee in accordance with resolution 33/94 of the General Assembly."

As we may be aware, the Special Committee on the Charter has been considering the subject of the peaceful settlement of disputes for the last three years and its efforts have finally begun to bear fruit. In its latest report to the General Assembly in document A/34/33, it is abundantly clear that the ground has been laid in the preparation of a draft declaration on the peaceful settlement of disputes. The Special Committee has come to the conclusion that the idea of preparing a declaration to be adopted by the General Assembly on the peaceful settlement of disputes has awakened special interest and might therefore result in some general agreement. It has produced a list of suggested elements for a declaration covering such matters as: first, the general obligation of States to settle all their international disputes by peaceful means; secondly, the preparation of a definition of an international dispute; thirdly, the listing of situations which should be considered as disputes in the terms of the declaration; fourthly, the establishment of principles and

(Mr. Yango, Philippines)

norms governing the procedures enumerated in Article 33, paragraph 1 of the Charter; fifthly, general provisions on peaceful settlement of disputes; sixthly, the recommended role of the United Nations in the peaceful settlement of disputes; seventhly, provisions on relations to other treaties; eighthly, the inclusion of exception clauses.

It is definitely productive to engage in these deliberations. We are aware of the political implications of the subject we are discussing, but after hearing the different views expressed in this debate, it appears to my delegation that a declaration by the General Assembly on the peaceful settlement of disputes should and must be referred to the Sixth (Legal) Committee where it logically should commence and take form. A number of delegations during our general debate on this item have supported this idea. There is a precedent for this procedure. It must be remembered that the item on the non-use of force was first considered in this Committee and later on referred to the Sixth Committee, which is now considering it and working on it.

We can agree to the thrust of draft resolution A/C.1/34/L.45. We will support it and my delegation will vote in favour of it, but at the same time let us not lose sight of the fact that work has been done on the matter by the Special Committee on the Charter and is under consideration by the Sixth Committee as clearly envisaged by draft resolution A/C.6/34/L.10/Rev.1 recognizing the progress achieved by the Special Committee concerning the drafting of a declaration on the peaceful settlement of disputes. With the two draft resolutions I have mentioned, one in this Committee and the other in the Sixth Committee, we shall be provided with two avenues at this stage through which we can move forward to the drafting of a declaration by the General Assembly on the peaceful settlement of disputes. At some later stage, however, these two avenues will have to merge with the continuation and conclusion of the drafting in the Sixth Committee.

Meanwhile, the Special Committee on the Charter perforce will go on with its work and as agreement is possible in the Committee in drafting

(Mr. Yango, Philippines)

a declaration on the peaceful settlement of disputes, it may well succeed in drafting such a declaration, which could then be considered at the appropriate time.

The subject before us is of extreme importance to the United Nations. We must take all measures necessary to bring it to early fruition. In this task, we cannot afford to fail.

The CHAIRMAN: The Committee will now take a decision on draft resolution A/C.1/34/L.45 entitled "Settlement by peaceful means of disputes between States".

I now call on the representative of Ireland who wishes to explain his vote before the vote.

Mr. MULLOY (Ireland): I wish, on behalf of the nine members States of the European Community, to offer some observations on the draft resolution before us, contained in document A/C.1/34/L.45 and entitled "Settlement by peaceful means of disputes between States". The Nine fully recognize the interest which has been shown in this question, both within the United Nations and at the regional level within the framework of the Conference on Security and Co-operation in Europe. They are, moreover, appreciative of the efforts which Romania has made this year to put the issue of peaceful settlement before the General Assembly. The principle of peaceful settlement of disputes is clearly a fundamental one within the over-all balance of Charter provisions and the objectives established for this Organization. It is a principle to which the Nine are fully committed.

Ways and means of further strengthening implementation of the principle have of course been given consideration within the United Nations over the past 35 years. Most recently it has received attention within the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations and, importantly also, within the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. As the report of the Special Committee on the Charter makes clear, the idea of preparing a declaration to be adopted by the General Assembly on peaceful settlement of disputes awakened special interest within the Committee and is one on which agreement may be possible. Obviously the elaboration of such a declaration should remain the task of those General Assembly bodies already seized of the issue, and which are most competent to deal with it, namely the Sixth Committee and its Special Committee on the Charter of the United Nations.

As we understand it, the present draft resolution and related working papers are intended essentially as procedural documents designed to encourage further consideration of peaceful settlement within the framework of the Sixth Committee, without however seeking to predetermine the form or content of any envisaged declaration. This for us is a fundamental point, not the least because of the special functions which have devolved to the Sixth Committee in examining issues relevant to the interpretation or implementation of Charter provisions. We need hardly point out that Chapter VI of the United Nations Charter deals specifically with arrangements for the peaceful settlement of disputes. In this context the Nine take the view that any future work on that subject should of course not impair existing international instruments in the field of peaceful settlement of disputes.

(Mr. Mulloy, Ireland)

We note that operative paragraph 3 of draft resolution A/C.1/34/L.45, introduced by Romania, invites Member States to transmit to the Secretary-General their opinions, suggestions and proposals regarding the elaboration of a declaration on the peaceful settlement of disputes, and this is clearly an important paragraph of the text. We feel it important that all views so expressed should be fully taken into account by the Sixth Committee and thus in future consideration of this question be regarded as having an equal status. On this basis we shall join in the consensus on draft resolution A/C.1/34/L.45.

The CHAIRMAN: Draft resolution A/C.1/34/L.45 has 25 sponsors and was introduced by the representative of Romania at the forty-fifth meeting of the First Committee on 28 November 1979. The sponsors are Bangladesh, Bolivia, Chile, Costa Rica, Colombia, Cyprus, Egypt, Ghana, Greece, Guinea, Guyana, Italy, the Ivory Coast, Madagascar, Malawi, Mali, Mauritius, Niger, Romania, Sierra Leone, Somalia, Spain, Uruguay, Yugoslavia and Togo, who have asked that the draft resolution be adopted without a vote. As I hear no objection it is so decided.

Draft resolution A/C.1/34/L.45 was adopted.

The CHAIRMAN: I shall now call on those representatives who wish to explain their positions on the draft resolution just adopted.

Mr. RUDOFISKY (Austria): The Austrian delegation has, during the general debate, reaffirmed the special importance Austria attaches to the principle of the peaceful settlement of disputes and the further strengthening of that principle. With regard to draft resolution A/C.1/34/L.45 which has just been adopted without a vote, my delegation would like to point out that in our view the question of the elaboration of a declaration on this subject has not yet been sufficiently explored. We therefore welcome the proposal contained in the draft to seek further opinions of Governments.

Mr. Dubey (India): My delegation did not wish to obstruct a consensus on draft resolution A/C.1/34/L.45 on the peaceful settlement of disputes introduced by the delegation of Romania although we did have certain reservations on it, especially with regard to operative paragraph 2, which urges all States to co-operate in the elaboration of a General Assembly declaration on the peaceful settlement of disputes.

(Mr. Dubey, India)

We feel that it would be premature to attempt a codification and development of the law of the settlement of disputes, either by a declaration or by a draft convention. Sufficient provisions already exist in the United Nations Charter, the Statute of the International Court of Justice and the United Nations Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations regarding the settlement of disputes. We also note that the draft resolution takes into account the opinions and suggestions submitted at this session of the General Assembly regarding the content of such a declaration. In that context we have before us a working paper submitted by the delegation of Romania in document A/C.1/34/L.49. That document contains several provisions taken directly from the Charter which are perfectly acceptable to us. There is however a reference to the possibility of submitting disputes to mandatory arbitration. Delegations are aware that a mandatory provision concerning the settlement of disputes has always been a controversial issue, as was evident at the United Nations Conference on the Law of Treaties held in 1968-1969 and at the current United Nations Conference on the Law of the Sea, as well as at other conferences. We are convinced that compulsory arbitration or adjudication must be based on the express consent of the States concerned. Any forced measure in that direction, even through the means of a declaration, would not be productive.

The working paper I have just referred to also contains a provision for a third party settlement procedure for resolving differences or disputes. We are not against that concept in principle, but our experience and conviction is that resort to third party procedures should be with the consent of the parties to the dispute and not at the initiative of the former. We feel that the provisions on the peaceful settlement of disputes in Chapter VI of the Charter constitute an important element in the peace-making role of this Organization. Article 33 provides the Members with options of procedures for the peaceful settlement of disputes ranging from non-compulsory procedures to the compulsory ones and calls upon the Members first of all to seek settlement of their disputes through those procedures. That wide range of choice open to the Members seems consistent with political reality, namely, that in the prevailing international system different States would like to adopt different procedures for settling their disputes.

(Mr. Dubey, India)

We think that the most effective and important procedure to settle disputes is through direct negotiations between the parties concerned. No State could be forced by a third party, without its consent to a peaceful settlement of a dispute. We have consistently held the view that failure or limited progress in resolving disputes through the United Nations has not been due to lack of mechanism but on account of the absence of political will of the parties concerned to settle their disputes. Strengthening, multiplication or streamlining of mechanism cannot be a substitute for political will. In fact, many delegations which have participated in the debate on this item have stressed that fact.

Representatives might correctly have surmised that the statement I have just read was prepared by my colleague in the Sixth Committee. That only goes to show that the proper forum for the discussion of this topic is the Sixth Committee, and specifically its subsidiary organ, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

Mr. ERSUN (Turkey) (interpretation from French): In explaining the Turkish delegation's participation in the consensus on draft resolution A/C.1/34/L.45, I should like in the first place to emphasize my country's firm support for Romania's initiative. The delegation of Turkey considers it essential that this political organ, the First Committee, embody the political will of States as the basis for the implementation of such a declaration. We are pleased to note that this can be inferred from the discussion held during the past two days.

Affirmation of the need to promote concerted action on the part of the community of States in favour of the peaceful settlement of disputes is in itself a positive element likely to strengthen the concept of the prevalence of negotiation over confrontation. We therefore believe that the Romanian initiative is a useful one from the outset, and we trust that the work which will be done next year by the jurists and qualified experts of all countries, based on the experience that has been obtained over many years, towards defining the specific content for such a declaration will produce positive results within a reasonable period of time.

It is because of those considerations that the Turkish delegation would like to reiterate its support for the Romanian initiative and express its wish to take an active part in the work to be undertaken on the subject.

Mr. HARMON (Liberia): As I indicated in my brief statement yesterday, while we all appreciate and highly commend the initiative by the representative of Romania, the Liberian delegation is still of the opinion that this matter requires a little more time and consideration and, therefore, suggests that eventually this matter should be submitted to the Sixth Committee. We did not want to obstruct the consensus but want our position to be placed on record.

Mr. MARINESCU (Romania)(interpretation from French): I have asked to be allowed to speak, first to thank the Chairman for the way in which he has presided over the debate on this item which we believe to be extremely important in the promotion of one of the fundamental objectives of the United Nations.

I should also like to take this opportunity to express my delegation's appreciation to the many delegations which have given us their valuable support and joined in sponsoring the draft resolution, to the contact group of the non-aligned countries and to the speakers in the debate who have made some extremely valuable and very constructive suggestions.

I hope that this initial action will set in train a process of promoting the practice of the settlement by peaceful means of disputes between States and increase even further the role of the United Nations in this field.

AGENDA ITEM 126 (continued)

INADMISSIBILITY OF THE POLICY OF HEGEMONISM IN INTERNATIONAL RELATIONS
(A/34/243; A/C.1/34/L.1, L.8 and L.52)

Mrs. GORDAH (Tunisia)(interpretation from French): While one of the fundamental principles of the United Nations Charter is the sovereign equality of States, it must be recognized that, in practice, international relations are characterized today more than ever before by the undisguised will of some to dominate, in other words, by the frequent recourse to a thoroughly hegemonistic policy which endangers international peace and security.

That is a problem which has acquired exceptional importance and seriousness, and it was high time that the United Nations dealt with this important aspect of international reality so as to determine its scope and to attempt to limit its consequences. My delegation is pleased to see the item entitled "Inadmissibility of the policy of hegemonism in international relations" inscribed in the agenda of the current session on the initiative of the Soviet Union.

(Mrs. Gordah, Tunisia)

Denunciation over the years by third world countries, and more particularly by the Non-Aligned Movement, of all forms of hegemony in international relations marks an increasingly clear awareness of the weight that the will to dominate and the privileged interests of some have brought to bear on others.

Hegemony is a practice based on the principle of the inequality of States. At times it constitutes a subtle form of aggression in the quest for domination aimed at reducing or limiting the exercise of sovereignty by a State. It is expressed through the consolidation or creation of a situation of constant imbalance which hinders the security and viability of States.

The practice of hegemony is based mainly on military power; thus the threat or use of force is a direct manifestation of that practice. The acquisition, stockpiling and massive production of weapons constitute, in a situation of inequality, manifestations of a hegemonistic will to the extent that they represent at all times the possibility of the threat or use of force against partners not equally endowed.

Hegemony is indirectly based on the vulnerability of States towards which the will to dominate is directed. By provoking or consolidating a situation of economic, military or strategic vulnerability, the aggressor produces a situation of constant imbalance which, in the final analysis, jeopardizes the integrity of the victimized State.

The struggle against colonialism, which is one of the first forms of hegemony, has been for our peoples an opportunity to express loudly and clearly their resolve fully to exercise their sovereignty in complete independence. The heavy price paid to achieve political independence bears witness to the nature and scope of that resolve.

The adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples has accelerated that process. Accordingly, we must strengthen and bring to a speedy end the decisive struggle which peoples - particularly those of southern Africa, on the one hand, and of Palestine, on the other - continue to wage in order to assert their national identity, especially since the colonial order is today no more than an anachronism.

(Mrs. Gordah, Tunisia)

At the same time, we must take up the challenge presented by the obstructionist stand of a broad coalition of countries which refuse to consider the establishment of economic relations based on justice and mutual interest. The hegemonism which underlies that attitude is viewed in the third world as insidious persistence of the will to dominate. That is why the establishment of a New International Economic Order continues to engage our attention.

(Mrs. Gordah, Tunisia)

The equitable participation of the third world in decision-making on monetary, financial and trade problems entails the introduction of structural changes in the existing institutional framework. The democratization of international relations alone can bring about a fundamental improvement in the critical economic situation in the world and can provide for the passage from political independence to the stage of interdependence and co-operation.

In this context, it is necessary also not to underestimate the aggression to which the peoples of the third world continue to be subjected by television, radio and a press essentially in the service of foreign interests. The traumas which result from this have the effect of destructuring our societies, with a consequent alienation of their cultural identity.

To deal with hegemony means also to approach the question in a certain spirit. The spirit of our time rejects acts of force, barriers raised between men, and the obsolete values of hierarchy. Also, abusive recourse to the right of veto, in the way since it is used, runs counter to the spirit of our times and to the need for equity, harmony and respect in human relations, to which we all aspire. Certainly, the veto responded to the needs of the post-War period, but the world has evolved since then. New realities have come into being along with resultant new forces, new problems and new needs, with the defence of the peace and security of nations becoming, like the most widely professed.

We will understand that every country has its own specific weight and the authority and impact inherent in it. But the right of veto also implies a special responsibility and therefore a special duty, which in the United Nations framework obliges those who have that right to monitor the implementation of the decisions of the Organization. The process of democratizing international life calls for consideration of the way in which the exercise of this right may be moderated, so that it may more valuably and effectively serve the common objectives of our Organization.

Hegemony is defined as the supremacy of a State or group of States over others. It is therefore a function of power. Since it is based on a political authority of a dominating nature, since it is supported by persuasive military and economic means, and since it carries an all-encompassing ideological or civilizing message, hegemony is mostly associated with the actions of the great Powers, but they do not have a monopoly of it.

(Mrs. Gordah, Tunisia)

Hegemony is also found within the third world, where economic levels continue to be uniformly low. Gaps are related both to the geography of natural resources and to the after effects of the colonial divisions which brutally upset the natural and ethnic balance which made for the stability and greatness of the great civilizations of the past. It was thus that the brutal inequality in which the colonial structures resulted formed a new hierarchy given to hegemonistic designs. That is why intimidation and subversion, which are the weapons of hegemony, continue there the tragic game of instability and confusion in which a broad and subtle range of the thousand aspects of aggression prospers.

Unfortunately, one sees more and more frequently at the regional level that megalomania and ambition incite a country or a régime to desire to rule over the affairs of the region and to engage in interventionist and aggressive conduct with regard to its neighbours. To counter the danger of that form of hegemony, it often happens that weak and threatened States find themselves compelled to appeal to the larger States, which is tantamount to saying that regional hegemony promotes and intensifies global hegemony when it does not serve as its tool. The turbulence troubling the world today is the result of that interaction and it accordingly consolidates the division of the world into zones and spheres of influence, thus intensifying the struggle for a new partition of the world.

At the same time we see an affirmation of the will of peoples to put an end to all forms of domination and oppression, a will for human emancipation strengthened by the wave of new values in the quest for a balance in a new order. This manifests itself as a fundamental reality expressing rejection and repudiation: the rejection of domination, the rejection of occupation, the rejection of aggression, and the repudiation of control and manipulation. From all sides there comes the same demand: to be free politically and economically, free to determine one's system of economic and social development, free in one's culture and ethics.

Hence we believe that post-War hegemonistic trends cannot continue or further impose a monopoly of knowledge, will and power, while hopes for diversity, mutual benefit, interdependence, harmony and a new balance are more strongly reaffirmed each day.

The meeting rose at 4.15 p.m.