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CONTENTS

Chairman: Mr. Gonzalo ALCÍVAR (Ecuador).

AGENDA ITEM 87

Draft Convention on Special Missions *(continued)* (A/6709/Rev.1 and Corr.1, A/7375; A/C.6/L.745 and Corr.1, A/C.6/L.747)

Article 51 (Settlement of disputes) (continued) *(A/C.6/L.766)*

1. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that the Swiss proposal (A/C.6/L.766), which would provide that the International Court of Justice should have compulsory jurisdiction in the settlement of disputes arising out of the interpretation or application of the Convention on Special Missions, though well-intentioned, was unsatisfactory for a number of reasons. First, very few States recognized the jurisdiction of the Court. Secondly, although Article 33 of the Charter of the United Nations recommended various peaceful means for the settlement of disputes, the words "of their own choice" had been added, and they were most important. Thirdly, the judgements of the Court had been seen to take little account of the interests of small countries.

2. At the United Nations Conference on the Law of Treaties, Switzerland had introduced a similar article, which had been rejected.[1] Nor was there any article providing for compulsory jurisdiction in the Vienna Conventions on Diplomatic and Consular Relations, the scope of which was very similar to the draft Convention on Special Missions. Hence none of them could be cited in support of the Swiss proposal, which had the further defect of hampering the freedom of States to settle disputes by the means of their choice, as specified in the Charter. Furthermore, the adoption of the proposal would prevent many States from signing the Convention. Consequently, the Soviet Union, which had always acted in accordance with Chapter VI of the Charter and favoured the peaceful settlement of disputes, would vote against the new article 51.

3. Mr. UOMOTO (Japan) said his delegation considered that it would be most unfortunate if international conventions concluded for the purpose of promoting peace and friendly relations among States were to become a cause for disturbing international peace, because of disputes arising out of their interpretation or application. His delegation therefore regarded it as essential that the draft Convention on Special Missions should include a provision for the judicial settlement of disputes when recourse to all other peaceful means had failed. Consequently, it supported the Swiss proposal that the International Court of Justice should have compulsory jurisdiction in the last resort.

4. Japan had unreservedly accepted the compulsory jurisdiction of the Court under Article 36 of its Statute and had maintained the same attitude with regard to many other codification conventions. His Government had been aware of the practical difficulties of judicial settlement by the Court, but believed that it was of paramount importance that it should be possible for disputes to be submitted to an impartial judicial organ.

5. The many arguments in favour of the Swiss proposal were no less valid because they had been heard before, and he hoped that other delegations would agree that the new article 51 would serve as a useful reminder that the availability of an impartial judicial organ of last resort was indispensable for the peaceful settlement of disputes and for the development of international law.

6. Mr. ROMPANI (Uruguay) wholeheartedly endorsed the Swiss proposal, which was in harmony with the provisions dealing with possible international disputes under article 6 of the Uruguayan Constitution.

7. Mr. LIANG (China) said that his country's traditional recognition of international jurisdiction went back to 1922, when it had accepted the authority of the Permanent Court of International Justice. His delegation supported the Swiss amendment and saw no merit in the argument that similar proposals had been rejected when other international conventions were being discussed. Although some recent Conventions, such as those on Diplomatic and Consular Relations, had no provision for compulsory jurisdiction, there were many others that provided precedents for an article on judicial settlement or arbitration. Legal history showed that procedural law had always preceded substantive law, and the provisions of Article 33 of the Charter should be seen as guidelines rather than legal rules.

8. The amendment proposed by Switzerland was in fact a less stringent formula than that contained in the Convention on the Prevention and Punishment of the Crime of Genocide,[2] since it provided for settlement by arbitration

1 The vote on this Swiss proposal took place at the 104th meeting of the Committee of the Whole, at the second session of the Conference; see A/CONF.39/15, paras. 131-134.

2 See General Assembly resolution 260 A (III) of 9 December 1948, annex.

in paragraph 2 and by conciliation in paragraph 3. His delegation did not see how it could be said that by providing for the compulsory jurisdiction of the International Court of Justice, the new article would impair freedom of choice, since the Court was to be the last resort, and would be called upon to settle a dispute only if the other two means had failed. An optional protocol would not be a satisfactory way of solving the problem, and his delegation believed that the principle of compulsory jurisdiction should be embodied in the text of the draft Convention, so that those States that wanted to make use of judicial settlement procedures could do so, while those that did not could enter reservations.

9. Mr. RASSOIKO (Byelorussian Soviet Socialist Republic) said that by substituting compulsory jurisdiction for free choice of procedures in settling disputes arising out of the interpretation or application of the Convention, the Swiss proposal ran counter to the provisions of Article 33 of the Charter and Article 36 of the Statute of the International Court of Justice. His delegation did not consider it advisable to confer jurisdiction on the Court, because many States did not recognize its jurisdiction and because it was not the ideal body to settle such disputes. The Vienna Conventions on Diplomatic and Consular Relations contained no provision for compulsory jurisdiction, and that had enabled more States to ratify them and had eliminated the need for reservations. Nor could it be said that the absence of such a provision had impaired the effectiveness of those Conventions.

10. The adoption of the new article 51 would make it impossible for many States to ratify the Convention and would thus nullify much of the work of codification performed by the General Assembly, in two sessions of the Sixth Committee, and by the International Law Commission. His delegation would therefore vote against the Swiss proposal.

11. Mr. PERSSON (Sweden) said that, like Switzerland, his country had been a staunch champion of the settlement of disputes by arbitration or judicial procedures and had entered into many bilateral and multilateral agreements providing for such procedures.

12. At the United Nations Conference on the Law of Treaties, an article providing for the compulsory submission to the International Court of Justice of disputes in respect of two articles had received the vote of a large number of States, including many of the new States Members of the United Nations. His delegation was in favour of incorporating a compulsory jurisdiction clause in the draft Convention on Special Missions, because the need for interpretation of its provisions would inevitably arise, and it was in the interests of all States that procedures should exist for settling disputes through an impartial judicial organ.

13. Since any disputes that might arise would be of a legal rather than a political nature, it was quite appropriate and in keeping with Article 36, paragraph 3, of the Charter, that they should be submitted to the International Court of Justice. It should be recalled that Articles 26 to 29 of the Court's Statute provided for disputes to be heard in chambers. His delegation supported the Swiss proposal.

14. Mr. HOUBEN (Netherlands), Rapporteur, speaking as the representative of the Netherlands, said that his delegation had, at numerous codification conferences, consistently supported the arguments concurrently advanced by the Government of Switzerland for compulsory jurisdiction in international disputes, and believed that there were many reasons in favour of conferring on the International Court of Justice jurisdiction in disputes arising out of the interpretation or application of the Convention. It would, for instance, help to establish uniform case law, which would be particularly valuable for special missions, since the draft Convention was designed not primarily to codify existing customary law but rather to establish new international rules. In paragraph 23 of the International Law Commission's 1967 report (A/6709/Rev.1 and Corr.1), the Commission had said that the draft articles contained elements of progressive development as well as of codification of the law; that created a need for interpretation of its provisions by an impartial judicial authority. Compulsory jurisdiction or arbitration procedures had been incorporated in several recent international conventions, such as the International Convention on the Elimination of All Forms of Racial Discrimination,[3] the Convention on Transit Trade of Land-locked States[4] and the Vienna Convention on the Law of Treaties, so that the argument that such procedures were incompatible with national sovereignty was not valid. On the contrary, the establishment of the rule of law was a presupposition for the exercise of sovereignty, and no settlement procedure that had been freely agreed to by the parties with respect to existing or future disputes could be said to be incompatible with sovereign equality.

15. The suggestion that an optional protocol would be a satisfactory alternative to the inclusion of a compulsory jurisdiction provision in the body of the Convention was not supported by past experience with optional protocols. The Vienna Convention on Diplomatic Relations, for instance, had been ratified by eighty-two States, whereas its Optional Protocol had been ratified by only thirty-three. In view of the similarity between the Vienna Conventions and the draft Convention on Special Missions, his delegation firmly supported the retention of the substance of the Optional Protocols of the Vienna Conventions. However, he favoured amending their form by providing for analogous settlement procedures in the draft Convention now before the Committee.

16. A further argument in favour of the proposed article 51 was that its provisions were very flexible and enabled the parties to settle disputes by arbitral or conciliation procedures. To that extent, it conformed with the basic structure of the settlement procedures adopted in the Vienna Conventions. When considering their position with regard to the Swiss amendment, delegations should also bear in mind that the draft Convention had been carefully drafted after exhaustive preparation and with the full participation of representatives of all the legal systems in the world.

17. Although his delegation hoped that the new article 51 would be adopted, it would be prepared to collaborate with

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3 See General Assembly resolution 2106 A (XX), annex.

4 United Nations, *Treaty Series*, vol. 567 (1966), No. 8641.

others in devising suitable arbitration clauses, if a majority in the Committee preferred compulsory arbitration to the system proposed in article 51. He considered it important that the Committee should take no hasty action but should give all its attention to establishing suitable settlement procedures that could command adequate support.

18. Mr. MIRAS (Turkey) said that his delegation welcomed the proposed article for various reasons. It provided for the compulsory jurisdiction of the International Court of Justice, which Turkey had always favoured. It was also in conformity with Article 36, paragraph 3, of the United Nations Charter, and with Article 36, paragraph 1, of the Court's Statute. In addition, it looked back to paragraph 2 of General Assembly resolution 171 C (II), which spoke of the desirability of the Court's jurisdiction in disputes arising from the interpretation or application of conventions and treaties. Such disputes were classic cases of legal disputes falling within the Court's jurisdiction, to which the provisions of the draft Convention, being primarily technical, were particularly suited. Moreover, those provisions were new rules, either borrowed from other fields of diplomacy or established on the basis of expediency. The Court's jurisdiction would therefore facilitate their application and ensure uniformity of judicial treatment. The summary procedure provided for in Articles 26 and 29 of the Statute could be adopted to ensure speedy settlement. The proposed article 51 also had the merits of following established practice and, by providing for conciliation or arbitration before resort to the Court, of ensuring flexibility. In view of the nature of the draft Convention, conciliation would probably be sufficient to settle most disputes. The article would facilitate the application of the future Convention and had Turkey's support.

19. Mr. BEN LAMIN (Libya) said that his delegation appreciated initiative of the Swiss delegation in proposing an article on the compulsory settlement of disputes. However, while Libya would have no objection to such an article if it was confined to conciliation and arbitration, it did not favour having a clause in the draft Convention itself which provided for the compulsory jurisdiction of the International Court of Justice. Many States were reluctant to accept the Court's jurisdiction, and some which had done so had qualified their acceptance with reservations. The adoption of the Swiss proposal could therefore delay the ratification of the future Convention. Libya thought that the matter should be dealt with in an optional protocol, and his delegation would therefore oppose the Swiss proposal.

20. Mr. DELEAU (France) said that a codification convention of the kind before the Committee would be incomplete without provisions to guarantee its application. Although the draft Convention was worded with the utmost clarity, disputes could arise concerning its interpretation or application, and negotiation might not be successful in certain cases. It was quite natural that, in the interests of the application of the future Convention and in the exercise of their sovereignty, States should voluntarily agree to submit future disputes to settlement. The Swiss proposal provided an excellent procedure for doing so with a sufficient choice of means to ensure the necessary flexibility. France would therefore support the proposal.

21. Mr. ALLOTT (United Kingdom) said his delegation agreed that there should be a disputes clause in the draft Convention itself. He thought it was somewhat misleading to refer to the proposed article 51 as a provision for the compulsory settlement of disputes, because no State was compelled to become a party to the future Convention, so that acceptance as such of the Swiss proposal could not be an infringement of sovereignty. The fact that Article 33 of the United Nations Charter spoke of a choice of means of settlement had been cited as an argument against the Swiss proposal, but the acceptance of a Convention containing the proposed article 51 would precisely be an exercise of free choice by the ratifying State. In any case, disputes arising out of the interpretation or application of the future Convention would probably be disposed of by negotiation, and if not, by conciliation or arbitration. Recourse to the International Court of Justice would only be a last resort, but there had to be a last resort, because the other means of settlement might not succeed. It was right that the Court should be the ultimate forum, because it was the principal judicial organ of the United Nations for the settlement of disputes. The submission of disputes to the Court need not entail lengthy delays in settlement since a simplified procedure was available under Articles 26 and 29 of its Statute. The Court would therefore be a perfectly appropriate place for settling the kind of dispute likely to arise under the future Convention.

22. Mr. Krishna RAO (India) said that the argument about the compulsory settlement of disputes had been dragging on for years and the opposing views on the subject were all too familiar. Some delegations had spoken of the solution adopted in the Vienna Convention on the Law of Treaties. It was true that it introduced the notions of arbitration and conciliation, as well as providing for judicial adjudication, but although that combination of means had been appropriate in the particular circumstances of the Vienna Convention, it was not appropriate for the instrument before the Committee. The idea of an optional protocol had saved the day in other cases when there had been a deadlock. It would be particularly appropriate in the case of the draft Convention on Special Missions, since the latter was an extension of the Vienna Convention on Diplomatic Relations, one of the cases in point. The main feature of the Swiss proposal was adjudication by the International Court of Justice, something which conferences had rejected in the case of previous conventions. His delegation would therefore submit an optional protocol based on the Optional Protocol to the Vienna Convention on Diplomatic Relations.

23. Mr. MANNER (Finland) said that the purpose of international conventions was not merely to demonstrate the intention of States to establish a framework for international co-operation; it was equally important that they should be implemented. Since the interpretation or application of a convention could lead to disputes, provisions for settling them were an essential part of the machinery of implementation, in view of the absence of a universally accepted judicial system of settlement. The Swiss delegation had advanced cogent arguments in favour of its proposal and had stressed the importance of the promising new features embodied in the Vienna Convention on the Law of Treaties. Finland had consistently emphasized the importance of the compulsory jurisdiction of the

International Court of Justice and therefore had no hesitation in supporting the Swiss proposal. The disputes likely to arise from the Convention on Special Missions would be mainly legal in nature and consequently well suited to the proposed judicial procedure. The fact that they might frequently concern points of lesser importance lent special relevance to paragraphs 2 and 3 of the proposed article.

24. Mr. CAPOTORTI (Italy) said that the fact that the question of the judicial settlement of international disputes had been repeatedly debated did not mean that the discussion should not continue. It should go on until the problem was fully solved. The article proposed by Switzerland would fill a gap in the future Convention, since rules for the settlement of disputes would be essential for its implementation. He was not convinced by the argument that such rules were unnecessary because special missions were only temporary; that was true of the missions themselves but would not be true of the future Convention. Disputes would arise concerning its interpretation or application which raised issues of a wider significance than the Convention itself. Article 33 of the Charter had been invoked as an argument against the Swiss proposal on the ground that it offered several means for the settlement of disputes, of which judicial settlement was only one. But that Article of the Charter had to be seen in the context of Article 36, paragraph 3, which provided the real pointer to why the International Court of Justice should be the ultimate forum for settlement. The Court's record had been called in question, but it should not be judged solely on the outcome of one recent case. It was in the general interest to promote the Court's authority and to recognize the service it had rendered to the international community as a whole.

25. The main point in dispute was the compulsory nature of the proposed article. The words "or in treaties and conventions in force" in Article 36, paragraph 1, of the Court's Statute indicated that the Court could be named unilaterally as a forum, although its jurisdiction would always be subject to the will of both parties. It was an advantage to have a provision for compulsory jurisdiction, because it guaranteed a procedure for the settlement of disputes in advance. That was preferable to waiting until a dispute arose, when the parties were less inclined to take an unruffled view of what procedure was desirable. Compulsory jurisdiction had been accepted on such fundamental issues as genocide and racial discrimination, and it should therefore be easy to accept it for a less important topic.

26. It was no argument against the Swiss proposal to say that it did not specify all possible means of settlement, because those means were available to States without the fact being specified in the draft Convention. The purpose of the proposed article was to cater for those cases in which goodwill was insufficient to ensure a settlement. Nor did he think the article could be objected to on the ground that it infringed State sovereignty. There was not merely the formal argument that States were free to reject a reference to the International Court of Justice, but also the wider fact that by engaging in any attempt to organize international life, as States were continually doing, they were already involved in a process implying a surrender of sovereignty. It was the refusal to submit to that process, rather than the contrary, which conflicted with the spirit and letter of the United Nations Charter.

27. The solution adopted in the Vienna Convention on the Law of Treaties was a special case and would be unsuitable for the draft Convention on Special Missions. In that case, it had been found appropriate to confine the jurisdiction of the International Court of Justice to disputes involving issues of *jus cogens*. The reason why conciliation had been introduced was to cater for all the other issues which the Convention might raise. Those could cover such a wide range of topics that States had naturally preferred a less binding form of jurisdiction for them. There was not the same justification for that procedure in the case of the draft Convention on Special Missions. The Swiss proposal should therefore be adopted; its embodiment in the draft Convention would stand as a timely mark of confidence in the International Court of Justice and as a reinforcement of its authority in the interests of the international community as a whole.

28. Mr. ROSENSTOCK (United States of America) said that, although his delegation did not believe that a decision to include a mandatory dispute settlement procedure in the draft Convention would change the course of world events, it nevertheless believed that such a contribution to the progressive development and codification of international law would help to increase world order and the promotion of the purposes of the United Nations Charter. The more States became accustomed to settling their differences in a reasonable, orderly and structured manner, the more likely it was that they would succeed in maintaining international peace and security and promoting friendly inter-State relations.

29. In the short term, the United States Government did not need to rely on impartial third-party methods of dispute settlement. Rather, it could rely on rational decision and its considerable military, economic and political power. However, it chose the route of third-party settlement, not because of idealism but because, in the long run, the world must settle its disputes in a peaceable and just manner or destroy itself. Ultra-conservative concepts of State sovereignty which opposed binding third-party procedures in principle were not merely outdated in the modern interdependent world, but also dangerous. He endorsed the comments of the Netherlands representative in that connexion.

30. The Swiss proposal was reasoned, appropriate and effective. It would not bind the parties to a dispute to have recourse to the International Court of Justice in all cases. On the contrary, it explicitly provided for other courses of action. It did, however, recognize that, without a clear right of ultimate recourse to a binding third party settlement procedure, the small and weak countries would continue to be at the mercy of the strong and powerful.

31. The Swiss proposal recognized the fact that the International Court of Justice was as flexible and effective a body as the States Parties to the Statute wished it to be. The Statute and the procedures of the Court clearly envisaged the type of expeditious decisions likely to be required in connexion with the draft Convention. A study of the practice of the Court would indicate that, even in some of the most contentious of the proceedings brought before it, it had handed down decisions within twenty-four hours. He endorsed the remarks of the Swiss representative

(1143rd meeting) regarding the advantages, in terms of uniformity of interpretation and application, of recourse to the International Court of Justice.

32. In the light of the extensive codification and progressive development of international law, in which so large a proportion of the world community had participated, his delegation hoped that some of the earlier hesitations about being bound by the rule of law had diminished. Moreover, recent developments should have changed the view of the Court taken by some of those who in the past had questioned its representative character. A step in the right direction had been taken at the United Nations Conference on the Law of Treaties, and the next step should be taken now. Accordingly, his delegation strongly supported the Swiss proposal.

33. Mr. MOSCARDO DE SOUZA (Brazil) said his delegation did not believe that disputes arising out of the interpretation or application of the Convention should lie within the compulsory jurisdiction of the International Court of Justice. It would prefer recourse to more informal and flexible methods. The provisions of the proposed article 51 were too rigid, and there were more creative techniques of inter-State co-ordination that could be employed. Nevertheless, his delegation could accept the Swiss text in the form of an optional protocol to the draft Convention. It was clear from United Nations experience in the matter of optional protocols that the majority of States were not prepared to accept the compulsory jurisdiction of the Court. The adoption of the Swiss proposal would not facilitate acceptance of the Convention as a whole but would constitute an obstacle to its ratification by many States, and his delegation could not support it.

34. As far as the interests of the developed countries and the big Powers were concerned, the doctrine of the sovereignty of States might be regarded by them as obsolete, but the developing countries needed to uphold that doctrine in self-protection.

35. Mr. DADZIE (Ghana) commended the persistent efforts of Switzerland to have disputes arising out of the interpretation or application of international conventions lie within the compulsory jurisdiction of the International Court of Justice. He hoped that the day would come when all States would feel able to refer such disputes to the Court. He greatly regretted that his delegation was unable to support the Swiss proposal, which it felt was still premature. Ghana had faith not only in the settlement of disputes by the methods provided under Article 33 of the Charter but also in the procedure whereby States applied to the Court of their own free will and not because they were obliged to do so by others. However, his delegation could support a provision on the lines of the Swiss text if it was drafted in the form of an optional protocol, as proposed by the Indian representative.

36. Mr. JACOVIDES (Cyprus) said that the arguments in favour of adopting the Swiss proposal on the precedent of the Vienna Convention on the Law of Treaties were not valid, because article 66 of the Vienna Convention had been adopted in special circumstances. In his delegation's view, Article 33 of the Charter provided a sufficient choice of means for the settlement of disputes, and there was nothing to prevent the parties from concluding agreements among themselves or adopting an optional protocol to accept the compulsory jurisdiction of the International Court of Justice. Although the Swiss proposal had considerable merit and many arguments might be cited in its support, it was clear from the present discussion that it did not have general acceptance and, accordingly, would not promote wide adherence to the Convention on Special Missions.

37. Although his delegation would not oppose the new article 51, it could not support it. It reserved the right to revert to the matter after the representative of India had submitted the proposed optional protocol.

38. Mr. SHAW (Australia) said he could not endorse the argument that the new article 51 would constitute an abrogation of State sovereignty. On the contrary, sovereign power included the power to enter into an agreement to accept a compulsory procedure for the settlement of disputes. The new article should not be considered in isolation, because it affected the draft Convention as a whole. If the Swiss text or a similar provision was adopted, the draft Convention would create rights and duties, privileges and immunities in the normal sense of the terms, while without such a provision the Convention might seem little more than a series of moral obligations without any binding force.

39. He was surprised that so many delegations which had sought to keep the Commission's text intact and to protect the privileges and immunities of special missions should find themselves unable to accept the Swiss proposal, since it would ensure the attainment of their aims. It seemed only logical to adopt an article which would make it possible to ascertain, in the event of disputes, whether or not the rights, privileges and immunities laid down in the draft Convention had or had not been infringed. His delegation felt that the arguments in favour of the adoption of the new article 51 were overwhelmingly strong, and accordingly it would vote in favour of its inclusion.

40. Mr. CHAILA (Zambia) said that, although his delegation had voted in favour of article 66 of the Vienna Convention on the Law of Treaties, his delegation was not in favour of including a provision for the mandatory settlement of disputes by the International Court of Justice in the present draft Convention. As had been pointed out, the circumstances in the two cases were very different. However, his delegation could support the Indian proposal and would co-sponsor an optional protocol.

41. Mr. GASTLI (Tunisia) said that the question raised by the Swiss proposal was of paramount importance, because, if the legal technique advocated therein was endorsed by the Committee, it would not only apply to the Convention on Special Missions but would set a precedent for subsequent conventions concluded under United Nations auspices. It might even be said that the point at issue went beyond the scope of the present item.

42. His Government had maintained a consistent position regarding the International Court of Justice. It felt that it was inappropriate to include a reference to the compulsory jurisdiction of the Court in specific conventions like the one currently under consideration. For Tunisia, the basic

obstacle to recognition of the compulsory jurisdiction of the Court was its structure and composition, which did not represent all the legal systems of the world and the major civilizations. The Court had failed to meet the needs of the contemporary juridical order and to take into account the true interests of the international community, as witness its recent ruling on the question of South West Africa.[5] International law was at present still in the stage of progressive development; it had not yet reached the stage of codification where all major questions would be covered, so that the Court would have the necessary legal instruments and infrastructure to hand down rulings with full confidence.

43. Although it had been argued that a specific reference to the compulsory jurisdiction of the International Court of Justice had been included in a number of international conventions, there were also many cases where such a provision had not been included, in particular the Vienna Conventions on Diplomatic and Consular Relations.

44. Although his Government had always advocated that States should resort to all possible means for the peaceful settlement of disputes, it had not yet officially recognized the compulsory jurisdiction of the International Court of Justice, for the reasons he had mentioned. If the new article 51 or a similar provision was included in the present draft Convention, it would be necessary to include a corresponding provision in all subsequent international conventions. His delegation could not support the Swiss proposal and would prefer the more flexible solution proposed by the Indian representative. A provision for the settlement of disputes drafted in the form of an optional protocol to the Convention would make it easier for most States to adhere to the Convention and would also be more likely to gain general acceptance in the Committee.

45. Mr. SANTISO GALVEZ (Guatemala) said that for Central America the solution of disputes by resort to compulsory jurisdiction was not new. A number of international conventions concluded between the States of that region provided for compulsory conciliation and arbitration procedures for the solution of disputes.

46. He could not agree with the argument that the Swiss proposal was unacceptable on the grounds that it would entail a partial abrogation of State sovereignty. Any international commitment involved some limitation of sovereign power.

47. However, although Guatemala had the greatest respect for the International Court of Justice, certain of the Court's recent rulings had been disappointing. Moreover, under the proposed new article 51, States would be obliged to submit their differences to the Court, and that might be inappropriate in some cases. Since, under Article 36, paragraph 2, of the Statute of the Court, an express declaration of recognition was required from those States which accepted the jurisdiction of the Court as compulsory, and since not all States had made such a declaration, it would be preferable to allow States a free choice among the settlement procedures provided for in Article 33 of the Charter. Accordingly, his delegation could not support the Swiss proposal and would prefer that the question of the settlement of disputes should be dealt with in an optional protocol.

The meeting rose at 6.5 p.m.

5 *South West Africa, Second Phase, Judgment, I.C.J. Reports 1966*, p. 6.