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# General Assembly

*Official Records*

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New York

*President*: Mr. Essy . . . . . (Côte d'Ivoire)

*The meeting was called to order at 10.25 a.m.*

**Agenda item 13**

**Report of the International Court of Justice (A/49/4)**

**The President** *(interpretation from French):* This morning the Assembly will first turn to the report (A/49/4) of the International Court of Justice covering the period 1 August 1993 to 31 July 1994.

May I take it that the General Assembly takes note of the report of the International Court of Justice?

*It was so decided.*

**The President** *(interpretation from French):* I call upon Mr. Mohammed Bedjaoui, President of the International Court of Justice.

**Mr. Bedjaoui** (Algeria) (President of the International Court of Justice) *(interpretation from French):* It is a pleasure and honour for me to address the Assembly under the presidency of His Excellency Mr. Amara Essy, and I should like to extend warm congratulations to my friend on his noteworthy election, which delights me for many reasons — first, for the United Nations itself and then for Africa, and lastly, for him personally. His small village in the north-eastern corner of Côte d'Ivoire must surely feel great pride, but so too does another village, the global village that our world has become and whose members are assembled here — in other words, the representatives of the United Nations.

In keeping with a welcome tradition that is now firmly established, the General Assembly has seen fit to devote some of its valuable time to hearing the President of the International Court of Justice on the occasion of its examination of the Court's annual report. I am particularly honoured to be addressing you for the first time in this capacity.

I find this privileged contact between the General Assembly and the Court extremely significant on at least two scores. In the first place, the Court, with its headquarters far from New York, needs to maintain links of consistent and close collaboration with the other principal organs, links that will guarantee the successful accomplishment of its and their tasks and, in addition, ensure the concerted attainment of the aims of the Organization. In the second place, the Assembly, as the only organ in which all the Member States of the Organization are represented, is for that reason a unique forum of expression of the international community that the Court is specifically required to serve.

As the report for 1993-1994 shows, the past year has seen a confirmation of the tendency towards a renewed interest in the Court's jurisdiction that has been evident for some time now. The Court currently has 10 contentious cases on its list. A new case was brought in May of this year and concerns the land and maritime boundary between Cameroon and Nigeria. This is an important matter for the parties, and its submission to the Court bears new witness to the faith of the African continent in international justice. There is one request for

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an advisory opinion on the Court's General List at the moment; it deals with a request made in September 1993 by the World Health Organization concerning the legality of the use by a State of nuclear weapons in armed conflict. That request, which, as may be imagined, raises some serious issues, has prompted much concern in the international community, judging by the unusual number of States — 40 or so — that have submitted written statements to us. In addition, the Court's jurisdiction has been further extended. Two new declarations, one from Greece and the other from Cameroon, have been deposited with the Secretary-General, and a new multilateral treaty providing for the Court's jurisdiction has been notified to the Court while, at the same time, various reservations to compromissory clauses in certain multilateral treaties have been withdrawn.

These signs, encouraging as they are, must not be allowed to give us a false impression. The real or potential volume of the Court's activities — expressed in quantitative terms: the number of cases pending, declarations subscribed or compromiser clauses in international agreements — does not provide a sufficient answer to the fundamental question, which is not whether or not the Court is extremely busy but whether it is fully occupying its rightful place in the system for the maintenance of peace, as instituted by the Charter.

A quick comparison with the Court's predecessor — the Permanent Court of International Justice — would, moreover, prove somewhat disappointing if confined to the quantitative aspects I have mentioned. In some respects it seems that the Permanent Court was more consistently borne in mind by the States of the time. It may, for instance, be noted that, of the 48 States parties to the Statute of the Court in January 1939, 36 had made a declaration of acceptance of the Court's compulsory jurisdiction. Despite the progress that has been made in recent years, the proportion is much lower in the case of the present Court as, to date, there are only 58 declarations in force — many of them subject to substantial reservations — although there are 186 States parties to the Statute of the Court.

Beyond specific possible explanations of these phenomena, it must be admitted that they look singularly paradoxical in view of the role that each of these Courts was required to play in its distinctive juridical and institutional context. The Permanent Court, which, as will be recalled, was not even an organ of the League of Nations, belonged to a system which, in the context of the time, aimed essentially to do no more than establish peace in order to preserve the status quo. The framers of the Charter, on the other hand, had radically different ambitions, their efforts being directed towards the establishment of an entirely new international society — a society consistently moving towards progress; a society more just, more egalitarian, more wont to show solidarity, more universal; a society all of whose members were to engage in an active and collective endeavour to usher in a full and lasting peace.

It was therefore to be expected that the International Court of Justice — which at San Francisco was expressly intended to be an institution completely distinct from its predecessor, to be fully integrated into the new Organization and to share its original concerns and purposes — would from the outset be associated far more closely and meaningfully with world issues than the Permanent Court had been.

Unfortunately, this has not been the case. The fiftieth anniversary of the United Nations, to be celebrated next year, and that of the Court the following year will no doubt provide suitable occasions for stocktaking and for comprehensive and detailed reflection on this paradox.

None the less, I should like on this occasion to offer the Assembly and, through it, to each of the States of which it is made up an outline of my thinking on this matter and, thereby, to associate myself with the efforts that have already been made in various other settings — the United Nations Decade of International Law; the deliberations of the Special Committee on the Charter; "An Agenda for Peace" — with a view to reinforcing the role of the Court.

Article 7 of the Charter gives the Court the status of a principal organ of the United Nations, and Article 92 makes it the principal judicial organ. As such, the Court is clearly an essential part, not just of the machinery set up by the Charter for the peaceful settlement of disputes, but also of the general system for the maintenance of international peace and security that it introduced.

No provision of the Charter or of the Statute of the Court sets any limits to the Court's action in this respect. In particular, no provision along the lines of Article 12 of the Charter would, on the face of it, preclude a finding by the Court on a dispute being dealt with by the Security Council or by any other organ or agency.

Relations between principal organs are, generally speaking, governed by the principles of speciality, equality, the power of each to determine its own

jurisdiction, and coordination. The whole architecture of the United Nations is based on the rule of autonomy for each principal organ, none of which is subordinate to any other, and on the requirement of the concerted pursuit of the common objectives set forth in the Charter. In the absence of any other specific restriction, the Court has always considered the referral of a dispute to more than one principal organ as not in itself constituting any impediment to its performance of its duty.

The Court is the judicial organ of an international community still based upon what has been called a juxtaposition of sovereignties. It suffices, in principle, for two requirements to be met if the Court is to decide a contentious case. On one hand, the parties must have granted the Court jurisdiction to deal with the case; on the other hand, the dispute referred to the Court must be of a legal nature. Moreover, Article 36 of the Charter recognizes that, as a general rule, legal disputes should be submitted to the Court.

It is precisely this concept of a legal dispute, as traditionally opposed to that of a political dispute, that seems to have been misinterpreted and to have been one of the reasons for the underutilization of the Court in contentious cases. It seems that — under the influence, no doubt, of considerations inherited from the period prior to the adoption of the Charter — there has long prevailed among States the feeling that the Court should be seized only of standard disputes deemed to be exclusively legal and, ultimately, perceived as relatively marginal or minor.

I solemnly appeal to States to review their criteria for the seizing of the Court and at no time to disregard the fact that a referral to the Court of no more than a subsidiary legal aspect of a much broader political dispute might well calm the situation at once and change the whole face of the dispute.

In reality, when the Court has been seized of legal issues arising in the wider setting of an eminently political dispute it has never, for that reason, refused to deal with the case — not even in the event of the use of armed force. On the contrary, its jurisprudence clearly points to the decisive contribution that it has made on various occasions to the maintenance or restoration of peace between the parties.

I need only call to mind the Order for the indication of provisional measures that was made on 10 January 1986 by the Chamber of the Court responsible for dealing with the Frontier Dispute between Burkina Faso and Mali. That Order, which was read out in a public sitting on the very day after the Chamber had heard the Parties, at a time when serious incidents had just broken out between their respective armed forces, can serve as an example in many respects. I shall merely note that the Order, which enjoined both Parties strictly to observe the cease-fire, was acted upon while negotiations were still under way in other, essentially regional settings.

To take a more recent example, I would also refer at this juncture to the Judgment delivered by the Court on 3 February 1994 in the case concerning the Territorial Dispute between Libya and Chad. That Judgment put an end to a conflict which, for over 20 years and despite many unavailing attempts to achieve a political settlement, had seriously threatened peace in the region. I wish to pay a special tribute to the Libyan Government and to the Government of Chad, which spared no effort to implement the Court's Judgment without delay and in a spirit of friendly understanding. As early as 4 April 1994, the Parties signed an Agreement concerning the practical modalities for the implementation of the Judgment; on 30 May 1994, they signed a Joint Declaration stating that, under the Agreement, the withdrawal of the Libyan administration and forces from the Aouzou Strip had been effected as of that date.

These two examples amply demonstrate that the Court is perfectly able, for all the modest material resources at its command, swiftly and effectively to fulfil the function entrusted to it by the Charter as an essential component of the system for the maintenance of peace for which the Charter provides. It suffices, for that purpose, that States refer their disputes to it, thus enabling it to play its rightful role to the full. There is no case with a legal dimension which lies *a priori* outside the Court's sphere of competence.

The Court's credibility as a principal organ and as a pre-eminent means of achieving the peaceful settlement of disputes is thus largely in the hands of States. I am deeply convinced that only when the members of the international community have discarded their longstanding prejudices and are, I would venture to say, psychologically ready to have recourse to the Court as naturally as to the political organs, without seeing such action as necessarily any more serious, conflictual or unfriendly, will the Court be able fully to perform its function. Some States may perhaps tend to have misgivings about such judicial settlement on the grounds that, unlike a political settlement, it would be completely outside their control and hence, given the reputed rigidity

of legal rules, always liable in the end to turn out less favourably to themselves.

I think I can safely say here that such fears are largely groundless. The Court, by the nature of the law it applies, by the role it fulfils and by its composition, is better able than any other judicial institution to withstand blind applications of the law. While being sufficiently precise to offer those who come before it all the legal security to which they legitimately aspire, international law remains at the same time and in essence a flexible and open law. The Court itself, incidentally, has on several occasions explained that the fact of its deciding in law by no means rules out — quite the contrary — due regard for equity *infra legem* or, in other words, "that form of equity which constitutes a method of interpretation of the law in force, and is one of its attributes". Moreover, as we know, there are specific areas of international law, such as the law of the sea, where reference is constantly made to equitable principles. As a body integrated into the system for the maintenance of peace that was established under the Charter, the Court never loses sight of that ultimate objective.

Thus, the important step recently taken by the Court towards the Parties in the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain provides indisputable evidence of the dynamic and responsible judicial policy applied by the Court and prompted by its constant concern to hear and determine cases in the interest of peace. Furthermore, the composition of the Court as a "World Court" which must, in accordance with Article 9 of its Statute, give an equitable representation to the main forms of civilization and the principal legal systems of the world, taken together with its working methods and, in particular, the collegiate nature of the Court, provide firm guarantees of its perfect understanding of the concerns of all States. The Court is made up of equal, independent and impartial judges; there is no right of veto and no political patronage at the Court. The Court takes its decisions on the basis of law, following a most minute and meticulous examination of each case, without failing to take account of the meta-juridical factors, the expectations of the Parties and the imperative requirements of justice and peace. Indeed, many a smaller or weaker State has obtained through the Court what it would no doubt never have been able to secure by other means.

There can be no doubt, of course, that each method of peaceful settlement has its distinctive virtues, not only from an intrinsic point of view but also in the light of each particular situation. Accordingly, while the Charter makes it obligatory for States to settle their differences by peaceful means, it refrains from laying down a specific mode of settlement. That being so, it could clearly be no part of my intention to advocate the substitution of judicial settlement for any other course of action, but only to remove certain ambiguities surrounding it.

The considerations I have just advanced with essential reference to the contentious procedure before the Court apply, *mutatis mutandis*, to the advisory procedure, the importance of which has long been underestimated. Only of late has there been a real awareness of the potential impact that the Advisory Opinions of the Court can, either directly or indirectly, have upon the maintenance of peace. A relevant legal question put in a timely manner to the Court may, by the answer it elicits or indeed of itself, to prove to be an effective tool of preventive diplomacy or contribute, even substantially, to the settlement of a dispute that has already arisen. Many an Advisory Opinion has in the past had diplomatic and political implications that were by no means inconsiderable. Thus, while we are all profoundly gratified to have among us in this Assembly the representatives of the young State of Namibia, I am particularly happy and proud to be able to affirm that, through its Advisory Opinions in the South West Africa cases, the Court made its contribution to the eagerly awaited accession of that State to independence.

There are also many advisory opinions that have had a decisive influence on the progress made in international law since the end of the Second World War. By way of example, one has only to recall the advisory opinion — revolutionary in the legal context of the time — that the Court handed down in 1949 on the objective international personality of the United Nations and its capacity to ask for reparations.

However, little advantage is taken of the system of advisory opinions today, perhaps even less than is taken of the Court's contentious jurisdiction, if one considers the benefits the system consistently makes available to international organizations, the flexibility of its implementation and its essentially non-binding character.

I am pleased to observe in passing that the General Assembly has been by far the body most inclined to refer its queries to the Court. Chances are good that a keener perception by the international community, both of the nature of the mission entrusted to the Court and of the potential of its advisory procedure, will soon give fresh impetus to recourse to the advisory function, which is so

fundamental for an international community aspiring to be governed by the primacy of law.

As I see it, the essential thing for the Court's immediate future is therefore an affirmation, in seats of government, of the political will to take a fresh and more realistic look at the Court. That, it seems to me, is the very modest price that has to be paid if the Court is to resume the place in world affairs that the framers of the Charter originally intended it to occupy.

I do not think I need to dwell on the few criticisms customarily levelled at the Court, which may have made some Governments more reluctant to approach it, as their groundlessness is nowadays widely acknowledged. One such criticism is the purported slowness of the Court's proceedings. It is true it takes an average of two years for the Court to settle a case. There are limits, however, to what the Court can do when sovereign States submitting important matters to it seek, quite understandably, to give the best chance to their arguments by asking permission to submit several written pleadings or to be given sufficient time to present their cases, first in writing and later orally. In fact, once the Court begins its deliberations, things generally move very fast: it is usually only a few months, or even weeks, between the end of oral proceedings and the rendering of the Court's Judgment.

The Assembly will certainly recall the speed with which the Court responded to the Assembly's request for an advisory opinion concerning the applicability of the obligation to arbitrate under section 21 of the United Nations Headquarters Agreement of 26 June 1947. The public hearings on that case ended on 12 April 1988, and the Court's advisory opinion, a rather long and complex one, was rendered just 14 days later, on 26 April. As a prerequisite of the sound administration of justice, expeditiousness is therefore dependent essentially on the will, not of the Court, but of those resorting to it.

The second criticism to which I was referring concerns the financial cost of the Court's proceedings. For the States Members of the United Nations that contribute to its budget, access to the Court is free of charge. The cornerstone of any judicial proceedings is the cardinal principle of equality of the parties, and this principle underlies all the procedural provisions of the Court's Statute and Rules.

None the less, we all understand that this formal equality, crucial though it is, does not suffice to allay the misgivings of the least-privileged States. True justice requires that all be equal before the judge, not just *de jure* but also de facto. For this reason I must pay tribute to the Secretary-General for his noteworthy initiative resulting in the establishment of a special trust fund in 1989 designed to help those States that cannot afford the expense of referring a dispute to the International Court of Justice for settlement.

May the generous contributors to the fund be warmly thanked in the name of international justice. Their exemplary gesture bears heartening witness to a growing solidarity within the international community. I invite all those able to do so to join them, in the same spirit, in order to increase the fund's resources. I also invite all those in need of assistance from the fund to take full advantage of its resources. Such a system of judicial cooperative action would, if confirmed and extended, be an unquestionable sign of great maturity on the part of the community of States.

In recent years international relations have been marked by upheavals as numerous and significant as they have been unexpected. If the United Nations wishes to continue the successful pursuit of its noble and difficult mission, it is essential that it show itself to be capable of adapting swiftly and effectively to new circumstances. Various ideas have already been advanced in this respect. Needless to say, they will have to include the functions of the Court.

States, traditionally qualified as "primary" or "necessary" subjects of the international legal order, which are today the only entities with access to the Court's contentious jurisdiction, are no longer the only actors in international relations or the only interlocutors on matters of peace-keeping, as they were in the 1920s. International affairs show us every day that greater allowance also has to be made at this level for other entities. By the same token, access to the Court's advisory jurisdiction may henceforth appear unduly restricted if one imagines the enormous potential of the advisory function and of the existing demand for it. One might envisage the possibility, not only that other entities of the Organization, in particular the Secretary-General, might be able to request advisory opinions of the Court, but also that that option might be extended when appropriate to third organizations that are not part of the United Nations system but that make an important contribution to the maintenance of peace at, for example, the regional level.

These are all questions of great importance for the future of the Court and for world peace. They need to be

examined very closely in the near future, and I hope to be able to speak to the General Assembly about them again some day.

**The President** *(interpretation from French):* I thank the President of the International Court of Justice.

**Mr. Lamamra** (Algeria) *(interpretation from French):* It is a great privilege for me to speak here on the occasion of our consideration of the annual report of the principal judicial organ of the United Nations, the International Court of Justice, whose lofty responsibility it is to settle, in accordance with international law, disputes brought to it in accordance with international law, and whose jurisprudence is a major source of the development of international law.

Before making specific comments on the report, I wish to discharge the pleasant duty of paying a well-deserved tribute to the President of the International Court of Justice, Mr. Mohammed Bedjaoui, and praise his great professional, moral and human qualities. For national and personal reasons, I welcome the presence in the Assembly of President Bedjaoui, and I wish to express warm congratulations to him, on behalf of the Algerian delegation and on my own behalf, on his brilliant election to the presidency of the International Court of Justice. Our warm congratulations also go to the Vice-President, Mr. Stephen Schwebel, who, thanks to his great integrity and outstanding legal competence, will together with President Bedjaoui doubtless constitute a driving force in strengthening the moral authority of the United Nations and the rule of law in international relations.

Finally, I cannot fail to welcome the participation in the Court of the three new judges elected during the previous session of the General Assembly by the Assembly and the Security Council: Mr. Abdul Koroma, Mr. Carl-August Fleischhauer and Mr. Shi Jiuyong respectively.

In his characteristically clear and eloquent statement, Mr. Bedjaoui just informed us of the increasing activities of the Court. My delegation is pleased at the confirmation of this tendency, which was already noticeable these past few years, since respect for international law, one of the prime components of which is growing recourse to the International Court of Justice, must be a priority for the international community and the States that comprise it. Thus it is only natural that States should be making increasingly frequent use of the Court in contentious matters. This is a tangible indication of States' growing confidence in the Court and of their desire to settle disputes by peaceful means, by having more systematic recourse to the procedures provided for in the United Nations Charter and in other international instruments. In that respect, it would be highly desirable to see the provisions of Article 36, paragraph 3, of the Charter systematically applied; these provisions, I would recall, provide that:

> "In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice ...".

The relevance of such an approach is illustrated most graphically in the Court's report of the Judgment in the case Territorial Dispute between the Libyan Arab Jamahiriya and Chad, two fraternal African countries. In that Judgment, the Court not only definitively settle a twenty-year-old dispute to the satisfaction of both parties, which formally committed themselves to carry out, and did so, the Court ruling but also provided a new and particularly edifying example of the principle of the integrity of borders inherited by African countries at the time of their accession to independence, a principle which, as everyone knows, the Organization of African Unity (OAU) solemnly adopted and proclaimed in its first Summit of OAU Heads of State in July 1964. I would like to say how pleased Algeria is at the positive outcome of this Chadian-Libyan territorial dispute over the Aouzou Strip and how happy we are at the outstanding role played by the Court in this case.

Regarding consultative matters, we cannot but note that, as President Bedjaoui stated, the possibilities offered by the Court remain undeniably underutilized. This is all the more regrettable, since the legal framework exists as much for certain primary organs of the United Nations as for certain other international organizations, which are entitled to request advisory opinions of the Court on legal questions. In the period covered by the Court's report, only the World Health Organization deemed it useful to request an advisory opinion on the question of whether the use of nuclear weapons by a State is in keeping with international law.

Despite the Court's growing activities, there is no question that it is not sufficiently utilized, notably in consultative matters, and particularly by the other competent principal bodies of the United Nations, namely the General Assembly and the Security Council.

The profound changes that have occurred in recent years on the international scene have resulted in a broad

debate on the role and place of the United Nations. Fortunately, this discussion has not taken refuge behind theoretical or academic speculation; rather, it has given rise to a vast movement — although relatively limited for the time being — to revitalize and restructure the Organization's organs in the economic, social and related fields, as well as the work of the General Assembly, and to review the composition and functioning of the Security Council. It would only be natural and appropriate for the International Court of Justice to in turn be connected with and involved in this growing but irreversible trend, a trend that flows logically within the new international configuration resulting from the end of the cold war.

The necessary revitalization of the activities of the International Court of Justice should naturally flow from the historical logic of adapting to new international realities, and be translated into a new appreciation of the role and the place of the Court as an integral part of the United Nations.

Along these lines, I should emphasize that the movement — already longstanding but which has taken a more promising turn since last year — towards expanding the composition of the Security Council, something which we are all aware will require some time as well as a revision of the Charter, should in no way overlook the potential and resources of the International Court of Justice. Indeed, the potentially substantial input of the Court should be neither neglected nor underestimated. The same goes for requests for advisory opinions which the organs entitled to do so might more frequently seek. The same also goes for the monitoring of constitutionality, which the Court might engage in with respect to the actions of the other principal organs of the United Nations, within a framework of necessary respect for their respective functions.

This would apply most particularly, but not exclusively, to Security Council decisions, whose legal foundations and motivations would be clearer to all States Members of the Organization. This could only result in a stricter and sounder application of the provisions of Article 24. The Security Council itself would be strengthened, in that it would be acting completely on behalf of the States Members of the Organization and in absolute conformity with the purposes and principles of the United Nations, as expressly provided for in Article 24 of the Charter, to which I referred a moment ago.

In embarking resolutely and collectively on this process of revitalizing the activities of the International Court of Justice, we would be making a contribution to achieving one of the four main objectives of the United Nations Decade for International Law, namely,

> "To promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice" *(resolution 48/30, second preambular paragraph, (b)).*

The small number of statements in this debate on the annual report of the International Court of Justice can be interpreted as a sign of Member States' respect for the Court and as tacit consent for what it has done. But the Court no doubt also needs the encouragement of Member States, both from the political point of view and the point of view of making available to it the human and material resources it needs to carry out its noble task. The Algerian delegation assures the President of the Court and his distinguished colleagues in this Hall of its full support on both scores.

**Mr. Flores Olea** (Mexico) *(interpretation from Spanish):* We wish to express our heartfelt thanks to Mr. Mohammed Bedjaoui for his excellent presentation today to the General Assembly of the report on the work of the International Court of Justice. We should like to express particular appreciation for the format and the calibre of his report this morning. The fact that he shared with the General Assembly his evaluation and analysis of the all-important work of the Court and commented on the Court's recommendations and proposals cannot but greatly enrich the work of this session.

At the same time, we wish to affirm our deep gratitude for the work done by Judges Eduardo Jiménez de Aréchaga, José María Ruda and Nikolai Tarassov, all of whom have died within the past year. Their contributions to the Court and to the development of international law helped enhance the stature of the highest international judicial organ.

International coexistence based on respect for the fundamental norms of law and justice is the best guarantee of peace. Recognizing this, the States that met at the San Francisco Conference set as one of their primary objectives for the future United Nations the peaceful settlement of disputes in accordance with the principles of law and justice, and provided its Members with an impartial and independent mechanism that would be entrusted with resolving the disputes that might arise in the course of their mutual relations. That organ is the International Court of Justice.

Unfortunately, international law is not in and of itself a guarantee of peace; it must be accompanied by the political will of States to pledge themselves to use the mechanisms and to adhere to the norms that the law provides for avoiding or resolving conflicts.

Mexico is among the States that have made a specific declaration recognizing the compulsory jurisdiction of the International Court of Justice, in accordance with paragraphs 2 and 5 of Article 36 of its Statute. Such a declaration by other Members of the United Nations, and especially those that have major responsibility for the maintenance of international peace and security, is highly desirable; that would make clearer their confidence in and respect for the Court.

The opportunity that Article 15, paragraph 2 of the Charter of the United Nations gives to Members of the General Assembly to receive the report of the highest judicial organ of the Organization is not, and must not be seen as, a mere formality. On the contrary, the presentation of the report is the best opportunity for the Court to inform the Members of the United Nations of its progress in the interpretation and the development of the norms of international law. It is also an opportunity for States to feel more closely involved in the judicial work of, and the creation of law by, this organ.

We quite understand that by its very nature the International Court of Justice is an independent organ, and that its rulings are not and must not be called into question in any way. This means that the purpose of the present exercise should be to disseminate information to States on the substantive work done by the Court during the past year so that we can make an objective and direct assessment of the cases that are brought before the Court. This undoubtedly can have an impact on United Nations Members' perception of the Court, and it can contribute to broadening communication and cooperation between the principal organs of the United Nations.

We therefore invite the members of the General Assembly and the members of the Court themselves to reflect on the importance of these presentations of report, for they serve as a real means of revitalizing the role and authority of the International Court of Justice.

Abiding by the law and applying it are, as we are all aware, essential elements in present-day international relations.

**Mr. Azwai** (Libyan Arab Jamahiriya) *(interpretation from Arabic):* My country's delegation would like to associate itself with other delegations in welcoming Mr. Mohammed Bedjaoui, President of the International Court of Justice, and in congratulating him on his detailed introduction of the report of the Court to this session. This report once again reflects the increasing confidence by the international community in the International Court of Justice.

The Charter of the United Nations, in its first Article, calls for the settlement of disputes between States in conformity with the principles of justice and international law. It is a source of satisfaction to us that this approach has become one of the constants of the policies pursued by most United Nations Members. This is evident in the record and the registry of the International Court of Justice. Many States have chosen to have recourse to the Court to settle their differences and disputes and have accepted and implemented the Court's rulings. My country is one such State.

Over the last three decades, the Court has considered three cases to which the Jamahiriya was a party. The latest was the ruling by the Court on the dispute over the Aouzou Strip. This ruling is contained in sub-section 3 of the part three of the report of the Court, which is before the Assembly in document A/49/4. Libya accepted the ruling, although it was not in its favour, and implemented it in the presence of the United Nations and under its supervision, as shown in document S/1994/657. This position was appreciated by the Secretary-General, as stated in his report (S/1994/672), and also by the Security Council, as contained in its resolution 926 (1994).

We all have welcomed the easing of tensions in international relations. The coming period will witness attempts by the international community to build a new world order. If this order is to become permanent and fair, it should be based, in the view of my country, on the rule of law and respect for international law. In this context, the International Court of Justice has a central role to play. For such a role to be effective, it is essential to demonstrate more commitment to the role of the Court and to have recourse to it more often in the settlement of disputes. It is equally important also to accept the Court's rulings — past and future — on each and every dispute referred to it by the parties concerned. This applies specially to the States that bear the greater responsibility within the United Nations for the maintenance of international peace and security. Those States, whenever they are parties to disputes, must demonstrate their

commitment to international law and respect of its rules by accepting and implementing the Court's rulings. Indeed, some of those States still refuse to have recourse to the Court or to implement its rulings.

The Secretary-General, in his report entitled "An Agenda for Peace", states that greater reliance on the International Court of Justice would be an important contribution to United Nations peacemaking. My country agrees with this assessment and believes that this trend should be strengthened and enhanced. It also believes that States should be encouraged to have recourse to the Court and to make use of its potential to settle their disputes before taking them to other United Nations organs such as the Security Council, as has happened in some cases. One example is the dispute between my country and France, Britain and the United States of America which the Jamahiriya has referred to the International Court of Justice.

Although the dispute is still before the Court, the three States resorted to the Security Council and pushed it to adopt certain resolutions pertaining to the dispute without even waiting for the Court's decision. This is exactly what we do not want.

**The President** *(interpretation from French):* I should like to thank the President of the International Court of Justice, Judge Bedjaoui, and his colleagues who are present today. I should also like to thank all the Judges who are with Judge Bedjaoui in this Hall for the excellent work they are doing in the Court.

May I take it that it is the wish of the Assembly to conclude its consideration of agenda item 13?

*It was so decided.*

**Organization of work**

**The President** (*interpretation from French*): I should like to remind Member States that the deadline for submission, in writing, of their views on Programme 6 of the medium-term plan, Elimination of apartheid, contained in document A/49/6, Programme 6, is Wednesday, 26 October. This will allow sufficient time for transmission to the Fifth Committee.

**Agenda item 33**

**Question of equitable representation on and increase in the membership of the Security Council and related matters**

**The President** *(interpretation from French):* Members will recall that at its 104th meeting, held on 14 September 1994, the General Assembly adopted decision 48/498, by which the General Assembly decided

> "that the Open-ended Working Group [on the Question of equitable representation on and increase in the membership of the Security Council] should continue its work, taking into account, *inter alia*, the views expressed at the forty-ninth session, and submit a report to the General Assembly before the end of that session."

I should like to propose that the list of speakers in the debate on this item be closed today at noon.

*It was so decided.*

**The President** *(interpretation from French):* I therefore request those representatives wishing to participate in the debate to inscribe their names on the list as soon as possible.

**Mr. Hasmy** (Malaysia): I wish to convey my delegation's deep appreciation to the Chairman of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council, Ambassador Samuel Insanally, and to his two Vice-Chairmen for their fine efforts in steering the work of the Working Group during the last session of the General Assembly. My delegation welcomes the decision that the Working Group should continue its work during this session and submit a report to the General Assembly before the end of the session. We look forward, Mr. President, to continuing our participation in the deliberations of the Working Group under your able stewardship.

Malaysia's views on this item have already been articulated: at the last General Assembly session, at meetings of the Open-ended Working Group, and recently by our Deputy Prime Minister in his address on 5 October during the general debate. Our views were also reflected in the Secretary-General's report, document A/48/264 of 20 July 1993. Given the importance of this issue, we feel, however, that it is necessary today to reiterate some of the points raised earlier by our delegation.

The current exercise pertaining to the reform of the Security Council should not be squandered if we want the United Nations to live up to its full potential as envisaged in the Charter. We should not allow any unpersuasive

claims by some major Powers and others to stand in the way of timely and necessary change, change that would make the Security Council more representative, effective, transparent, democratic and accountable. These changes are vital in our collective efforts to enhance the legitimacy and credibility of the Security Council. A reformed Security Council should serve the interests of all nations in the maintenance of international peace and security.

My delegation is convinced that a mere change in the composition of the Security Council would not be sufficient to ensure broad support for Council decisions without specific changes in the Council's working methods. We have repeatedly said that expansion without reform of the Council's working methods would be meaningless and undeserving of the interest of the entire membership of the United Nations. On the other hand, reform of the Council, even without expansion, would have some positive effect on the effectiveness, credibility and legitimacy of the Security Council.

Any reform which merely facilitates enlargement, specifically through the increase of permanent membership by one or two or even three seats, to the exclusion of other equally important issues is certainly not acceptable to us. My delegation is not convinced that merely adding two or more permanent members to cushion the financial obligations of some veto-wielding Powers would really reform the Security Council. Furthermore, we have always questioned the permanent status of some members of the Security Council, which is not consistent with the principles of the sovereign equality of States and democracy. We cannot accept a situation in which five members of the Security Council remain more powerful than the whole membership of the United Nations.

From the discussions in the Open-ended Working Group it is clear that there is a wide convergence of views over the need to improve the working methods and procedures of the Security Council in order to enhance its efficiency. While recognizing that there have been some positive steps towards that end, my delegation is of the view that more could, and indeed should, be done by the Security Council. In this regard, the constructive proposals agreed to by the Non-Aligned Movement at its ministerial meeting held in Cairo from 31 May to 3 June 1994 should be given serious consideration with a view to their early adoption.

There is an urgent need to improve the relationship of the Council with the General Assembly and with non-members of the Security Council. Decisions of the General Assembly must be made binding on the Council, particularly those commanding overwhelming support. At the same time, taking into account Article 29 of the Charter, the Council must ensure that it provides for effective interaction with the larger membership. For instance, in the case of peace-keeping operations, the Council, which takes decisions on peace-keeping matters, must create institutional mechanisms for consultation with the troop contributors. After all, Article 44 of the Charter provides for the participation of troop-contributing countries not members of the Council in the decisions of the Council concerning employment of contingents of those Members' armed forces.

On the question of enlargement of the Security Council's membership, we agree that the increase should be large enough to represent all 184 Members effectively. The current distortion in the distribution of seats in the Security Council to the benefit of mostly European and other Western countries should be rectified as a matter of priority. Since the Security Council derives its moral legitimacy from its balanced representative character, it is necessary that its future composition be reflective of the current realities. My delegation is prepared to consider the various models of ratio increase proposed by some delegations with a view to finding a workable and acceptable ratio. While recognizing the need to have an outer limit, we would like to stress that our debate on the need to ensure equitable representation should not be subsumed in our preoccupation with numbers. We should not be too obsessed with the numbers game. Any formula that would ensure the greatest degree of representation and equity should be acceptable to us.

It is the view of my delegation that the best possible option to address the problem of both over-representation and the absence of equitable representation in the Security Council is to increase the number of seats for non-permanent members. This is necessary and timely in the light of the current realities and in keeping with the significant increase in the membership of the United Nations to 184.

The expansion of the Security Council should be seen from the regional perspective so as to ensure proper regional representation, in terms of both quantitative and qualitative aspects. It is the view of my delegation that regional representation should not be on the basis of the biggest and the most powerful in a given region, but, more importantly, on the basis of the dynamics operating in the region and the arrangements developed there. If regional organizations provide the interlocking network

for globalism, clearly the permanent interests of regions must be given pre-eminence.

Another equally important aspect that we are seeking in the reform exercise is the elimination of the veto. My delegation has always questioned the continuing relevance of the veto in the light of some unhealthy trends in the Security Council, where only one Power or group of Powers increasingly appears to be taking control of decision-making. In this regard, my delegation would like to reiterate that the veto should be abolished for the following reasons:

First, the victorious Powers of 1945, which accorded themselves special privileges as permanent members, are no longer the exclusive pre-eminent Powers, as new centres of power have since emerged. Therefore, in our view, the veto is obsolete in the context of current realities.

Secondly, the right of veto undermines the principle of the sovereign equality of States as provided for in the Charter.

Thirdly, the veto undermines the concept of collective security of States as enshrined in the Charter. As we indicated in our submission to the Secretary-General,

> "no country, however powerful, should arbitrarily stand in the path of collective needs as determined by the general membership of the United Nations". *(A/48/264, p. 59)*

Fourthly, the veto power allows the permanent members to protect or shield any States they desire from the governance of the Security Council. An assessment of utilization of the veto would indicate that it is being used in support of partisan and national interests rather that in defence of issues and principles and in the interests of the international community in the maintenance of international peace and security.

Fifthly, the threat of the use of the veto is often used even to prevent or delay a request for debate intended to allow the general membership to make its pronouncements on critical issues relating to international peace and security.

Finally, the veto marginalizes the role of the non-permanent members.

*Mr. Yassin (Sudan), Vice-President, took the Chair.*

My delegation is fully aware that no permanent member will at present accept a Charter amendment that results in the abolition of the veto power. In this regard, my delegation shares the views of those delegations that have proposed restrictions on the application of that power. The details of our proposal will be raised when the Working Group convenes.

In their statements during the general debate most delegations, including my own, spoke of the need to reform the Security Council. A number of interesting proposals advanced during the general debate merit our serious consideration. My delegation will study all those proposals carefully.

In conclusion, my delegation would like to reiterate that any exercise relating to the reform of the Security Council should be carried out in a comprehensive manner and should include not only the question of membership, but also the veto power and voting, working methods of the Security Council and the relationship between the Council and other organs of the United Nations. It is our hope that the outcome of this exercise will enhance the legitimacy, representativeness and effectiveness of the Security Council.

**Mr. Chew** (Singapore): Allow me first to congratulate Mr. Amara Essy on his unanimous election. I am confident that under his leadership the Assembly will achieve its objectives. I would also like to take this opportunity to thank Mr. Essy's predecessor, Ambassador Insanally, for his guidance in making the forty-eighth session of the General Assembly a success. In his capacity as Chairman of the Open-ended Working Group established to consider this item by resolution 48/26, Ambassador Insanally brought greater focus and clarity to the issues which have to be addressed before we can arrive at a satisfactory conclusion.

The item we are considering today, "Question of equitable representation on and increase in the membership of the Security Council and related matters", was introduced 15 years ago at the thirty-fourth session of the General Assembly. In the intervening years it languished. With the end of the cold war, the Security Council began to achieve much of its envisaged role in the maintenance of international peace and security. This, together with the marked increase in United Nations membership, led to renewed calls for the Security Council to be more representative of the Organization as a whole, for improvements in its relationship with other organs of

the United Nations, and for improvements in its working methods.

At the forty-eighth session, last year, the Minister for Foreign Affairs of Singapore devoted his entire statement in the general debate to the question of the expansion of the Security Council. The purpose of the Singapore statement was to stimulate discussions on this important issue with a view to making progress. As stated by my Foreign Minister:

> "... there is no alternative but gradually to shape a consensus through a patient process of debate and discussion". *(Official Records of the General Assembly, Forty-eighth Session, Plenary Meetings, 18th meeting, p. 18)*

We are pleased that the process of debate and discussion has since taken off. Progress has been made in the Open-ended Working Group as delegations have begun to conduct substantive discussions of the issues. However, for a consensus to emerge more needs to be done. This is especially so if, as some representatives have advocated, we are to achieve consensus before the end of the fiftieth session.

It is our view that the following will need to be done to shape a consensus.

First, the issues of an increase in the membership of the Security Council and other matters related to the Security Council must become priority issues for Governments. Unless capitals become seized of these issues and have clear visions of the role of the United Nations in the next 50 years, we will not achieve much here in New York. At the moment, many of the views expressed in the Open-ended Working Group tend to be general in nature and to be reiterations of known positions.

Secondly, the implications of those specific proposals thrown out during the discussions in the Open-ended Working Group and in the recently concluded general debate must be critically examined. These proposals have raised a number of questions which will need to be fully addressed if progress is to be made.

Thirdly, in any discussion of the question of expansion of the Council, there will have to be serious and concerted examination of objective criteria for new permanent members. In his statement my Minister called for the formulation of:

> "... agreed objective criteria for the expansion of the Security Council, especially its permanent members". *(ibid.)*

Some countries view the establishment of objective criteria to be unnecessary. They claim that eventually political considerations will determine who the new permanent members will be. Others have asked: what should constitute such objective criteria? We have no doubt that in the final analysis political considerations will play a part in our decisions. However, we will still need to have objective criteria to guide our political decisions. As to what should constitute objective criteria, we need only look at the role of the Security Council as defined in the United Nations Charter to answer this question. The Security Council has primary responsibility for the maintenance of international peace and security. The objective criteria must therefore be intimately linked to the ability of countries to contribute to the maintenance of international peace and security.

Progress on this item will be hesitant at best unless there is political will to push ahead. We cannot achieve consensus in the Working Group unless there is a genuine desire on the part of Member States to negotiate seriously and to make the necessary compromises. But we should also deliberate carefully, because the decisions taken on this important issue will have a profound impact on the ability of the Security Council and the United Nations as a whole to maintain international peace and security in the decades ahead. My delegation will do its utmost to make constructive contributions to the process of consensus-building on this important item.

**Mr. Hurst** (Antigua and Barbuda): This is the first time I have had the opportunity to address the Assembly since Mr. Amara Essy was elected President; let me therefore congratulate him warmly on behalf of the Antigua and Barbuda delegation. His election is a tribute to his experience and a testimony to his outstanding abilities. My delegation is confident that under his able stewardship the Assembly will succeed in advancing the noble aims and objectives of the Charter.

When my Prime Minister addressed this deliberative body a week ago, he said the following:

> "No State or group of States can proclaim the overarching importance of democracy, nor can any nation or group of States claim to intervene in another State in the interest of upholding democracy, if that nation or group of States is unwilling to

> democratize the Security Council itself. ... The time has come for equity for all nations — large and small — in the membership of the Council." *(Official Records of the General Assembly, Forty-ninth Session, Plenary Meetings, 20th Meeting, p. 19)*

In the short time allotted each delegation in this debate, Antigua and Barbuda would wish to expand on these remarks and to make pellucid its position on Security Council reform, without necessarily repeating, although abiding by, the statements my delegation made during debates at the forty-eighth session of the General Assembly.

My delegation regards as established wisdom the view that Security Council decision-making will be the most significant factor in fashioning a new world order in the post-cold-war world. My delegation also regards as established wisdom the view that small States require the protection offered by the Security Council much more than do large States. As a small State, Antigua and Barbuda regards adherence to international law as a cardinal rule from which no State should ever deviate; given their relative inability to defend themselves militarily, small States must depend on the strictures of international law to deter external aggression.

How then does a small and militarily weak State, that does not produce oil and that dwells on the periphery of the economic system, compel the attention of the Security Council at a time of crisis? It is my delegation's view that to succeed in receiving so much as an attentive glance there must be equity for all nations — large and small — in the membership of the Security Council.

In this context, "equity" means that decision-making within the Security Council must take into account the views of small States. Given the present configuration of the Security Council, small States must be seated at the Council table if it is to be said that their views count and that equity prevails. The present debate seems to be reduced to the question whether two additional large and wealthy States are to realize their ambition of being included in the roster of the permanent membership of the Council. Such a debate excludes the principle of equity for all nations, large and small.

The discussion will thus appear unnecessary and wasteful if the only criterion for membership remains the economic wealth of aspirant States. That approach harks back to the days of colonial rule in Antigua and Barbuda when the privilege of offering oneself as a candidate for parliament was limited to those who possessed valuable property; that inequity was outlawed in 1951 in my small country when adult suffrage became the law.

In 1945, six years before that historic event, the United Nations was created. Eight months from today, the United Nations will mark 50 years since the signing of the Charter. The United Nations Charter proclaims that its Members are determined

> "to reaffirm faith in fundamental human rights ... in the equal rights of men and women and of nations large and small".

But can its large and powerful Members truly proclaim that they are abiding by its Charter if small nations are excluded by deliberate design from the halls of decision-making? Can its large Members truly proclaim that they are abiding by its Charter when the possession of wealth appears to be the only criterion for inclusion in Security Council membership and decision-making?

There is an urgent need for large and wealthy States to engage in meaningful dialogue with small and poor States in the Councils of this parliament of parliaments. Small and poor States will not depend upon goodwill; the United Nations Charter obliges Member States to sit in counsel with those reliant upon the Council's decision-making powers.

As we enter the twenty-first century, the United Nations will become more important, not less; the obligation of history and the legacy of those who struggled to make membership within the United Nations a reality for small and poor nations, like mine, imposes on my generation a commitment to stand guard against the privilege which prevailed in the age of its founding. That is a charge we shall never surrender.

We continue to abide by our earlier proposals for equitable geographical representation on an enlarged Security Council along the following lines: within the African States, one permanent member and six non-permanent members; for the Asian States, two permanent members and three non-permanent members; for the Eastern European States, one permanent member and two non-permanent members; for the Latin American and Caribbean States, one permanent member and three non-permanent members; for the Western European and Other States, three permanent members and three non-permanent members.

This arrangement, in our view, encompasses equity for all nations, large and small. Our ambition, as our Prime Minister has declared, is after all to democratize the Security Council.

**Mr. Wisnumurti** (Indonesia): Indonesia's position on the question of equitable representation on and increase in the membership of the Security Council was clearly stated by our Minister for Foreign Affairs, Ali Alatas, during the general debate earlier this month. It is therefore not the intention of the Indonesian delegation to express itself on the matter now.

It is a distinct honour and privilege for me to speak on behalf of the non-aligned countries on the agenda item before us.

I wish to take this opportunity to express our appreciation to Ambassador Insanally of Guyana, President of the forty-eighth session of the General Assembly, who served ably as Chairman of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council. Our commendations also go to the two Vice-Chairmen, Ambassador Wilhelm Breitenstein of Finland and Ambassador Chew Tai Soo of Singapore.

Recent developments in the global landscape have placed the Security Council in a position of increasing importance with ramifications for the work of the Organization and beyond. Numerous circumstances have also contributed to an unprecedented number of activities being undertaken by this body. From dealing with conflict situations in various parts of the world that threaten peace and security, to the expansion of peace-keeping activities, the Council has had an active agenda and its capacity to respond has, at times, been adversely affected. The new cooperative spirit prevailing among its members has allowed them to take a number of unanimous positions on some of the most critical and complex issues, while we are also cognizant of the fact that it has failed to address effectively certain other issues. The Council has thus reached a critical turning-point in its history and members look forward to a more effective role now that the obstacles which paralysed it for so long have been removed.

It is in this light that the Movement of Non-Aligned Countries views the question of increasing the membership of the Security Council. It is pertinent to recall that endeavours to achieve this objective initiated a decade and a half ago have lagged behind and somehow remained beyond the purview of a broad and far-reaching process of reform and revitalization of the United Nations itself. In 1946, the United Nations had 51 Members, six of which were non-permanent members of the Security Council. In 1965, when the membership had grown to 113, there was a corresponding increase in the non-permanent members to 10. But despite the fact that more than a quarter century has elapsed while the membership has increased to 184, there has been no further increase in the Council's membership.

The tenth Summit of the Non-Aligned Movement, held in Jakarta in September 1992, expressed the position of the Movement on the question of equitable representation on and increase in the membership of the Security Council as contained in the Final Documents, issued as document A/47/675 of 18 November 1992. Likewise, at the eleventh Ministerial Conference of the Non-Aligned Movement, held in Cairo in June of this year, the Movement stated its position on the subject as reflected in the Final Document of the Conference, issued as document A/49/287 of 29 July 1994, the relevant paragraphs of which have been submitted to the Open-ended Working Group.

More recently, on 5 October 1994, the Ministers of Foreign Affairs and Heads of Delegation of the non-aligned countries further considered the question of equitable representation on and increase in the membership of the Security Council and adopted a Communiqué. In this respect I wish to quote the relevant paragraphs of that Communiqué, as follows:

> "The Ministers and Heads of Delegation, having noted the report on the progress and work of the Open-ended Working Group on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council, reaffirmed their view that both the reform and expansion aspects of the Security Council, including its decision-making process and procedures, should be examined as integral parts of a common package, taking into account the principle of sovereign equality of States, criteria such as equitable geographical distribution, and the need for transparency, accountability and democratization. They expressed their concern that non-aligned countries were extremely under-represented in the Council and underlined that the proposed enlargement should, therefore, be comprehensive in nature so as to enhance the credibility of the Council and to reflect the universal character of the world

body. In this context, the Ministers recalled the relevant decisions of the Jakarta Summit and urged that the non-aligned countries should work towards increasing their representation in the Security Council.

"The Ministers and Heads of Delegation urged the Working Group to determine the extent and nature of expansion and its modalities. Any predetermined selection excluding the non-aligned and other developing countries would be unacceptable to the Movement. They stressed the importance, as proposed in the Cairo Ministerial Conference, of enhancing the effective and efficient functioning of the Security Council by adopting measures geared at reforming its working methods and procedures and improving the relationship of the Council with the General Assembly and non-permanent members of the Security Council. In this context, they decided that the Non-Aligned Movement address specific measures called for by the Cairo Ministerial Conference before the commencement of the next round of consultations of the Open-ended Working Group and reiterated their conviction that the Open-ended Working Group of the General Assembly on the question of equitable representation on and increase in the membership of the Security Council should take priority action on these measures."

I have just presented the position of the non-aligned countries on the question of equitable representation on and increase in the membership of the Security Council and related matters. To conclude, I wish to state that the non-aligned countries deem it essential for the Open-ended Working Group to continue its work in order to fulfil its mandate as contained in General Assembly resolution 48/26. We therefore support its recommendation, as indicated in paragraph 9 of its report, that it continue its work at the forty-ninth session of the General Assembly. The non-aligned countries wish to reiterate their commitment to participate constructively in the deliberations of the Working Group on an increase of the membership of the Security Council in the firm conviction that an intensified dialogue on this issue will be in the broader interests of all Member States.

**Mr. Kalpagé** (Sri Lanka): Sri Lanka was one of the countries that in 1979 called for the inclusion of this item in the agenda of the thirty-fourth session of the United Nations General Assembly.

During the forty-eighth session, the Open-ended Working Group set up to discuss the question of equitable representation on and increase in the membership of the Security Council brought into focus a number of concerns relating to the Council. The discussions in the Working Group clearly indicated certain important considerations that need to be borne in mind during the forty-ninth session:

The increase in the membership of the United Nations and the extension of the Council into radically new areas of activity necessitate a review of the membership and other aspects of the Council's functioning: the wide participation in the Working Group's meetings is a clear indication of the keen interest of all Member States in this item; the rich exchange of views revealed varying perceptions on the complex issues before the Working Group; although reaching consensus on major issues was difficult, the discussions in the Working Group helped to identify positions of individual delegations and to assess the nature of the questions we face.

The report (A/48/47) submitted under this item was adopted by consensus in the Working Group. However, the report does not indicate the full range of the views expressed, and this in our view is a great pity.

In a sense, given the far-reaching import of the issues involved, it may not be surprising that consensus remained elusive on the major issues. We therefore welcome the fact that the Open-ended Working Group will continue to develop its work, taking into account the views that have already been expressed at the forty-eighth session.

As my delegation has already stated in the meetings of the Working Group, two major categories of proposals and suggestions emanated from the dialogues during the last session.

First, there are those reforms in the working methods of the Council that have been welcomed by all. These have led to a greater degree of openness and transparency in the work of the Council. We feel that many of the enlightened measures taken by the Council should be considered part of its regular working methods rather than as a reflection of the initiative or working "style" of individual Member States that presided over it. Sri Lanka is well aware that the Security Council still works on the basis of "provisional" rules of procedure and that formally setting down the recent reforms and institutionalizing them may not be easy. We would, however, have welcomed at least a statement from the Security Council

noting — and blessing, if you will — the changes that have been welcomed by all members. We hope that the process will continue and that these changes will become a matter of course.

Secondly, there are those proposals relating to the increase in the membership of the Council that require amendment of the Charter. That the Council should increase its membership has been universally accepted. There are divergent views on the extent of the increase. Sri Lanka feels that a modest increase of up to a maximum of 25 would keep the Council within acceptable proportions for decisive action and yet provide a means of ensuring more equitable representation for the regions of Africa, Asia and Latin America, which are currently underrepresented in the Council.

The question of the number of permanent members in the Council has been much more controversial. Sri Lanka's own position has been that new realities — political, military, economic — as well as other factors which characterize the international scene today call for an adjustment in respect of the permanent members of the Council. It is necessary to consider seriously the eligibility of additional States, including non-aligned States, for permanent membership in the Council. A number of countries have been mentioned, discussed and advocated as qualifying for permanent membership in the Council in terms of the new international realities. Some of the arguments advanced in favour of those other countries are at least as cogent today as were the arguments considered valid when the present five permanent members were determined. The ultimate criterion should be the acceptability of a Member before the general membership.

Sri Lanka does not wish to anticipate discussions in the Working Group at this current session. However, we do feel that action should be taken in respect of those proposals that do not require amendment of the Charter. We believe that such changes, which have come to be called "soft options", have the following undeniable advantages: first, they will not be any impediment to the Council's present level of effectiveness, its speed or its efficiency of operations; secondly, they will indeed only serve to enhance the Council's credibility and representative character and give its decisions and actions greater, if not universal, acceptability; lastly, they will be major confidence-building measures that would help develop a healthy nexus between the Security Council and the general membership of the United Nations on whose behalf the Council must act in accordance with the Charter.

The standardization of these so-called soft options should not in any way imply that the more radical changes necessitating Charter amendment should be set aside or delayed. It is important to pursue action on both. However, where agreement is possible on the soft options, they should not be held hostage until such time as agreement has been reached on the more difficult, and indeed more vital, areas of Security Council reform which require amendment of the Charter.

In conclusion, I wish to thank Ambassador Samuel Insanally, President of the Assembly at its forty-eighth session, and the two Vice-Chairmen of the Working Group, the Permanent Representative of Finland, Ambassador Wilhelm Breitenstein, and the Permanent Representative of Singapore, Ambassador Chew Tai Soo, for the exemplary manner in which they guided the deliberations in the Working Group.

Sri Lanka looks forward to participating, under the President's guidance, in the Working Group this year during the forty-ninth session. We sincerely hope that it would then be possible to reach more definite agreement, which would make the Security Council more effective and more responsive to the general membership of the United Nations. This is essential at a time when the Organization is faced with new challenges.

**Mr. Mabilangan** (Philippines): At the outset, my delegation wishes to congratulate Ambassador Insanally, Chairman of the Open-ended Working Group, and the two Vice-Chairmen, the Permanent Representatives of Singapore and Finland, for having effectively guided the Working Group in its initial rounds of deliberations.

The Philippine delegation believes the time has come for Member States to undertake a more detailed examination of the various issues relating to the expansion and reform of the Security Council. In this regard, delegations should be prepared to offer and consider specific proposals by the time the Open-ended Working Group reconvenes — we hope by early next year. Above all, we should attempt to translate, where possible, our general positions into detailed negotiating proposals.

Our fundamental view is that any enlargement of the Security Council should be firmly based on the principle of the sovereign equality of States, equitable geographical distribution and the need to create greater transparency, accountability and democratization. Furthermore, we believe the effectiveness and efficiency of an enlarged

Council would not necessarily be inversely related to its size.

In fact, wider membership would lead to a more democratic decision-making process and, ultimately, to more active support for decisions, as well as participation in operations arising from such decisions. That is why, in our view, an expansion by four or five seats might not be fully consistent with these concerns.

Increasing the membership of the Council is also important in view of the growth in the membership of the Organization and of the extreme under-representation of developing countries in the Council. Failure to address this situation meaningfully would tend to undermine the credibility of the Council and the universal character of United Nations decision-making.

We therefore believe that the Working Group should begin to focus on specific proposals relating to the following matters: the total size of any increase; the size of any increase in existing categories; new categories, such as semi-permanent or quasi-permanent membership, or membership based on rotation, and the total membership in such categories; and criteria for possible new permanent members and/or membership in new categories. In connection with the last point, it should be stressed that the criteria for non-permanent members are already specified in Article 23(1) of the Charter. We should also examine in detail the responsibilities and privileges of members of the Council — particularly the use of the veto.

Moreover, it is fairly clear that these issues are interrelated. The Working Group should therefore decide on an appropriate arrangement for considering them simultaneously or as a package when necessary, bearing in mind the need for full transparency.

The "related matters" to which this agenda item on the Security Council refers are an equally important aspect of the item. In this regard, the Philippine delegation is anxious not to lose the momentum achieved in the Working Group, as reflected in the statements of a significant number of delegations, which generally cited an urgent need for the Security Council to adopt effective measures aimed at enhancing its relationship with the General Assembly, with other United Nations bodies and with the general membership. The Movement of Non-Aligned Countries has also proposed a set of measures on the other matters contained in its Cairo Declaration, which was adopted last June.

Member States should advance the work on the other matters by building upon and refining the various measures already proposed or the proposals circulated in the Working Group, which the Security Council could undertake in addition to those it has recently instituted. To facilitate this task, we reiterate our support for the establishment by the Open-ended Working Group of an informal drafting body to consider all proposals made in connection with improving the Council's decision-making processes and procedures.

My delegation further proposes that the Working Group examine, as a priority, proposals on the other matters in the context of two mutually reinforcing and interrelated categories of measures.

The first category would consist of measures aimed at improving the Security Council's working relationship and interaction with the General Assembly, with other bodies and with the non-members of the Council. These could include improved reports from the Council to the General Assembly, in line with General Assembly resolution 48/26; structured and more frequent consultations on United Nations peace-keeping operations between the Council and troop-contributing countries; and the creation by the Council of subsidiary organs — a matter referred to in Article 29 of the Charter.

The second category would include measures dealing with the Council's working methods and decision-making procedures: the holding of more frequent open meetings before the adoption of a particular resolution or decision of the Council; a written summary of proceedings in the informal consultations of the whole, to be made available to the general membership; and structured briefings on particularly urgent issues considered in the informal consultations of the whole, similar to those provided for the press corps.

The Philippine delegation hopes to contribute towards significant progress on this agenda item during the current session. We believe, however, that, in terms of the pace of work, both the expansion issues and the other matters — although these are obviously interrelated and mutually reinforcing — need not be strictly linked. The adoption of a more flexible approach in the consideration of these issues would facilitate the Working Group's ability to advance its work on the ones in respect of which there is a high degree of convergence or consensus. This would be done, of course, without prejudice to the work in the other areas. Ultimately, we

believe, progress in one area would contribute to progress in others.

**Mr. Graf zu Rantzau** (Germany): We have come a long way since we discussed the agenda item "Question of equitable representation on and increase in the membership of the Security Council" a year ago at the General Assembly's forty-eighth session. Through the creation of an informal Working Group it was possible to focus the discussion on the core of the problem and to provide all Member States with an opportunity to present their views. I want to express particular thanks to Ambassador Insanally, the Working Group's Chairman, and to his Vice-Chairmen, Ambassador Breitenstein and Ambassador Chew, for the excellent work they have done.

We have now arrived at a point where the general exchange of views has run its course and an in-depth discussion of concrete reform proposals must begin. Statements made during the general debate of the forty-ninth session confirm this view. With regard to substance, the past year's discussion has brought about growing consensus among Member States on the central point with regard to this exercise — that the Security Council shall be enlarged.

Four key elements appear to be essential, plausible and necessary to any Security Council reform. First, all world regions should be equitably represented on the Security Council. In particular, the regions of Africa, Asia and Latin America and the Caribbean need stronger representation. Secondly, countries that are able and willing to contribute on a global scale to the maintenance of peace and security and are already shouldering a large responsibility in respect of international development and United Nations activities should be permanently represented on the Council. Thirdly, the general membership of the United Nations should have the potential to be represented on the Council more often. Fourthly, the Security Council's work must be carried out in an open and transparent manner to enable non-members to receive all the information they require. Also, all Member States should have a better opportunity to provide input for the Council's work.

We therefore support an increase in the permanent and non-permanent membership of the Security Council to allow both a better representation of the regions that are currently underrepresented and a more adequate representation of countries which shoulder a large share of the United Nations overall burden.

Germany would support proposals to create additional permanent seats for countries from the regions of Africa, Asia and Latin America and the Caribbean. As far as we are concerned, we have repeatedly made it clear in the past and we state again today that we are willing and prepared to shoulder the special responsibilities deriving from permanent membership. In this context, it appears essential to us that all permanent members have not only equal responsibilities but also equal rights.

Should agreement not be possible now with regard to permanent seats for countries from the regions of Africa, Asia and Latin America and the Caribbean, the following alternative could be considered.

To improve the possibilities of representation from the regions, paragraph 2 of Article 23 of the United Nations Charter should be amended to allow the re-election of Member States to the Security Council. At the same time, the number of non-permanent seats ought to be increased in favour of these regions. As a consequence, countries with the ability and willingness to contribute more than the average to United Nations activities and the maintenance of international peace and security could serve on the Council on a more frequent or even continuous basis. In order to enable the largest contributors to the United Nations system, which share global responsibilities and which, together with the United States, carry more than 50 per cent of all expenditures, to participate in the Council's work, two permanent seats should be added to the Security Council.

Proposals to introduce a third category of semi-permanent seats, would, in our view, not improve the chances for the large majority of Member States to serve more often on the Council. In addition, such a proposal would widen the gap between permanent and non--permanent members. It would marginalize the role and potential of a majority of the other countries to influence the Council's decisions. In the League of Nations, a system of several classes did not work. We cannot support such proposals. What is needed is not greater division but more homogeneity among the members of the Council.

We are pleased that a broad consensus on the need for a more open and transparent Security Council appears to have emerged. As a matter of fact, many steps have been taken already by the Security Council itself to provide Member States not currently represented on the Council with better access to information about the Council's proceedings. More improvements, such as

consultation mechanisms with troop-contributing countries, are currently under discussion. My delegation understands and shares the frustration of non-members of the Security Council, which often feel uninformed about and locked out of Council decisions. We hope that the improvements made so far will be followed by additional steps to provide the general membership with sufficient information and insight in the Security Council's decision-making, thus allowing Member States to contribute their views and represent their interests *vis-à-vis* the Security Council.

We have been pleased with the progress made to date in the discussion of this agenda item. Now concrete proposals must be discussed so that agreement on a reform package which will serve the interests and the needs of the overwhelming majority of Member States can be reached. The Security Council's credibility and therefore its effectiveness depend on whether its composition is adapted to the new post-cold-war realities.

**Mr. Elaraby** (Egypt) *(interpretation from Arabic):* At the outset, I should like once again to congratulate Mr. Essy on his election to the presidency of the General Assembly.

I would also be remiss in not taking this opportunity to commend the able and wise leadership of his predecessor, Ambassador Insanally, the Permanent Representative of Guyana, who led the Working Group in a very efficient manner.

I should also like to praise the sincere and constructive efforts of the members of the Bureau, the representatives of Finland and Singapore.

The question of equitable representation on and increase in the membership of the Security Council is gaining further importance in the eyes of the international community. This is only natural and was to be expected in view of the rapid pace of changes and developments in the world today. Interaction and cohesion are required of the current international order in the face of such changes.

The contemporary world order has come a long way in laying the foundations of the fundamental concepts and principles of today's international relations. Those concepts and principles are irreversible no matter how times and circumstances may change. They constitute a valuable contribution that enriches humanity and promotes its development. Those new concepts and principles have become acquired rights which all countries and peoples cherish. International developments require us to review, periodically and sometimes comprehensively, certain aspects of the international order so that it may not become dated and outstripped by events. We should make sure that the international order truly reflects current international realities.

One of the most important sources of commitment to the Security Council's resolutions is the collective international will we know by the name of international legality. This the elementary simple idea that lies behind the new international order is exactly what we should enhance and reflect in the work of the Council and it should be the ultimate objective in any process of reforming and developing the work of the Council.

Strengthening the legality, which derives from the Charter, and which imparts to the Security Council's resolutions their legitimacy, requires in the view of my delegation: First, increasing membership of the Council. Such increase should accurately reflect the realities of today's world. Second, reviewing the Council's decision-making procedures so that the Council, as stipulated in the Charter, may genuinely act on behalf of all Member States. Third, defining the framework of the exercise of veto power so that it may not be abused, either explicitly or implicitly.

With regard to the expansion of Council membership, our Minister for Foreign Affairs, in his statement to the General Assembly on 30 September, referred to the parameters of Egypt's position, which may be summed up as follows: First, the increase in Council membership should be limited and should be on a regional and not on a country-specific basis. Second, the criteria stipulated by the Charter should be adhered to with regard to the addition of new members to the Council. Third, the increase should reflect very accurately and honestly the political weight of regional Powers from all regions of the world, and the seats allocated to each geographic region should be rotated among countries which meet the eligibility requirements.

In this regard, it is important to refer to a number of concrete proposals that were put forward during the general debate and others that have been put forward today, such as those by Egypt, Italy and Australia, among others. Those proposals could be discussed further, developed and elaborated.

With regard to the decision-making process in the Council, it is important to take into account the need to enlarge the scope of consultation so that it may include

the countries concerned in the region affected by the Council's decision or resolution. In addition, troop-contributing countries to peace-keeping operations should be consulted, in accordance with Article 44 of the Charter. We must also strengthen cooperation between the United Nations and the relevant regional organizations, in accordance with and in application of Article 52 of the Charter. Consultations should not be confined to the stage of decision-making, but should, rather, take place at an earlier stage, and continue thereafter, in order to take advantage of the expertise of regional Powers and organizations.

While on the subject of the shortcomings of the Council's work, we have to address the question of veto power in the Security Council and to mention that its frequent use in the past prevented the Security Council and, indeed, the United Nations as a whole, from properly shouldering their responsibilities. Some may claim that the veto power is rarely exercised nowadays. This may be true, but only in relation to the veto used in voting on draft resolutions. As for the threat to use the veto or what is known as the covert veto, this is frequently resorted to during the drafting and formulation of draft resolutions. So, the practice is with us and has not stopped.

No one can be sure that in the future the Organization will not find itself in tense circumstances similar to those that pertained in the past, circumstances that would once again render it unable to perform its functions and shoulder its responsibility. In dealing with the question of increasing the membership of the Security Council, it has thus become important to determine the scope of the use of veto power by agreeing on clear criteria for the framework of its use. In dealing with this subject it might be useful to go back to the San Francisco Conference and to review the numerous attempts made at the beginning of that Conference, later in the Security Council and then, for many years, in the General Assembly, to differentiate between substantive issues and procedural matters. All such attempts failed. The permanent members did not succeed in imposing their viewpoint. To this day, the framework within which the veto power may be used has eluded definition.

The Egyptian delegation considers that to arrive at such definition, and thereby to enable the Council to perform in a better fashion, we can do one of two things: we can either amend the Charter in such a way as to achieve the definition of the scope and limits of the veto, as the permanent members tried to do in San Francisco; or we can amend and update the Council's rules of procedure in a definitive manner, without need for amending the Charter, provided the rules included certain procedures relating to the continuity and better performance of the Council.

In this connection, I should say, by way of example, that we can consider four kinds of measures and procedures that could constitute exemptions from the framework of veto power: first, special procedures related to fact-finding activities that are needed for the Council to function properly; secondly, dispatching United Nations observers, at the request or with the consent of the host country, to monitor developments and inform the Council by submitting precise reports on the situation under discussion; thirdly, authorizing the Secretary-General to take charge of certain tasks, in accordance with Article 98 of the Charter, relating to the settlement of disputes, and rule 23 of the Security Council's provisional rules of procedure; and, fourthly, measures of a humanitarian nature, such as cease-fire resolutions, appeals to parties to cease hostilities and calls for respect for the Geneva Conventions. Such matters should not be subject to veto power.

The work of the Working Group, over the past year, has been limited to general statements and general expressions of opinion. There have been no working papers containing clear, specific ideas that could become a basis for negotiations. We should now move from the stage of general statements to a new stage of serious negotiations and open-mindedness in order for the Working Group to achieve tangible progress.

The objective we should strive to achieve in the future should be to reach consensus and thereby to reflect the will of the overwhelming majority of the members of the international community. It is not expected or acceptable that the viewpoint of the minority should be imposed upon the majority. The provisions of the Charter are crystal clear as far as the amendment is concerned; the approval of one-third of the membership of the United Nations is necessary. The two-thirds majority will not accept anything that runs counter to its vital interests. We have started work, in the Working Group, on the basis of consensus. The Egyptian delegation hope that this consensus will continue.

**Mr. Chaturvedi** (India): As a Member State which had the privilege of initiating the agenda item on the question of equitable representation on and increase in the membership of the Security Council, India is happy to participate in today's debate. We are considering the item against the background of a full year of discussions in the

Open-ended Working Group of the General Assembly under the able guidance of the President of the forty-eighth session and of the permanent representatives of Finland and Singapore. The Working Group had an extensive and intensive exchange of views on the issues related to the question, and the discussions gave us clear insight into the thinking of the States Members. I note that it is your intention, Mr. President, to lead the discussions of the Working Group in the coming year. We hope that in the next phase of the discussions we shall move on from exchange of ideas to consensus-building. Decisions on an issue as important as the structure, composition and functioning of the Security Council cannot be taken except by consensus.

The imperatives of expansion and reform of the working methods of the Security Council have been well recognized. Therefore, it is not necessary to go once again into the arguments, such as the changed realities of the world and the dramatic increase in the membership of the United Nations. In fact, the report of the Working Group states that

> "While there was a convergence of views that the membership of the Security Council should be enlarged, there was also agreement that the scope and nature of such enlargement require further discussion." *(A/48/47, para.8)*

As for the working methods and procedures, it was recognized that further measures were necessary to enhance transparency and to reflect the democratic aspirations of the vast majority of Member States. In January 1992, addressing the Security Council summit, the Prime Minister of India observed that

> "As the composition of the General Assembly has trebled since its inception, the size of the Security Council cannot remain constant any longer. Wider representation in the Security Council is a must, if it is to ensure its moral sanction and particular effectiveness."
> *(S/PV.3046, p. 97)*

The leader of the delegation of India to the forty-ninth session of the United Nations General Assembly spelled out our views on these subjects succinctly in his address to the General Assembly on 3 October 1994. In our view, it is imperative to expand the membership in permanent and non-permanent categories. Non-aligned and other developing countries must be included in the permanent member category to give them an opportunity to make their contribution to the working of the Council on a continuing basis. The number of non-permanent seats must also be increased to give Member States greater opportunity for participation in the work of the Council. As the eventual size of the Council will depend on agreement on the number of members to be added to each category, we remain flexible on this issue. We note, however, that in the Working Group there was near consensus on a figure in the middle twenties.

We often come across proposals that one country or another should be added to the permanent member category without going through a systematic process of selection on the basis of relevant criteria. We would advise against a selective, piecemeal expansion of the permanent member category. The laws of the corporate world, where equity shares determine voting power, should not apply to the Security Council, nor should we emulate the Bretton Woods institutions in which wealth determines the strength of the votes. Here at the United Nations, we believe in the principle of sovereign equality of nations. To maintain international peace and security, the Security Council should be representative of the international community as a whole, and its agenda should not vary from that of the general membership. Democracy and good governance are as good for the United Nations as for its Member States. The only prudent method we can follow, therefore, is to elaborate the set of criteria against which the claims of Member States for permanent membership should be judged.

In our view, these criteria should include population, size of economy, contribution to the maintenance of international peace and security and to peace-keeping and future potential. There may be others, but selection of a country should follow rather than precede the establishment of the criteria. The non-aligned Foreign Ministers representing the largest grouping of Member States at the United Nations agreed on this point when they recently declared any predetermined selection excluding the non-aligned and other developing countries unacceptable to the Movement. As stated by the leader of the Indian delegation, we are confident that India deserves to be a permanent member of the Security Council judged against any set of criteria. We stand ready to serve in that capacity whenever we are called upon to do so.

The general debate in the plenary this year has turned up a number of imaginative and innovative proposals for the expansion and reform of the Security Council. We shall study them and give them our full consideration as they come up for discussion in the Open-

ended Working Group. But our basic approach is that the expansion should take place in the existing categories and on the basis of present geographical groupings. A radical reorganization of the Council, with new categories of members, or new geographical arrangements, will lead to more complications and retard the progress we have achieved so far. Such proposals may even require a comprehensive review of the Charter itself. The time has come for us to work out an expansion package within the framework that the Charter provides. Durability, resilience and expedience, rather than expediency, should determine the time frame for such an expansion.

My delegation would equally stress that the reform package we are considering should devote equal attention to expansion as to the improvement of the Council's working methods to enhance transparency. In addition to an integral and substantial reporting by the Council to the General Assembly, a regular system of exchange between the General Assembly and the Security Council through an appropriate mechanism is essential for reassuring the general membership of the accountability of the Council to the Assembly. The Council should also act in strict conformity with the provisions of the Charter and limit itself to the maintenance of international peace and security and not clutter its agenda with extraneous issues.

We greatly look forward to the commencement of discussions on the scope and nature of expansion of the Council, as well as on the measures necessary to improve its functioning, early in the year.

**Mr. Sardenberg** (Brazil): The deliberations by the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council during the forty-eighth session of the General Assembly have constituted an important initial step in the complex process of reforming the Security Council.

We are grateful to Mr. Samuel Insanally, who chaired that body, as well as to the Vice-Chairmen, Mr. Wilhelm Breitenstein and Mr. Chew Tai Soo, whose skilful steering allowed the Working Group to conduct its challenging task in a constructive way.

The report in document A/48/47 appears spartan in its content, but may prove eloquent in its understatement. In fact, in just nine paragraphs it encapsulates the proceedings of 22 intensely debated meetings and in one single paragraph, the eighth, it reflects the essence of the results of the exercise thus far. The core of that paragraph states that

> "While there was a convergence of views that the membership of the Security Council should be enlarged, there was also agreement that the scope and nature of such enlargement require further discussion." *(A/48/47, para. 8)*

The concision of that statement is compensated for by the depth of its significance. Here, for the first time, it is pointed out unequivocally that the membership of the Organization as a whole recognizes that the Security Council should be enlarged. It is no longer a matter of "whether or not", but rather of "how large and how soon".

Moreover, by agreeing to discuss further the scope and nature of such an enlargement, the Working Group has recognized that the objectives of the exercise concern not just the quantitative increase, but also the qualitative composition of that important organ.

Therefore, in its first year of deliberations, the Working Group succeeded in identifying and defining the main parameters of the question: first that the Security Council should be enlarged; and, secondly, that the enlargement should contemplate not only quantitative but also qualitative elements.

As recommended in the report of the Working Group, Brazil believes that the discussion of agenda item 33 should continue during this forty-ninth session, building on the work done at the forty-eighth session and on the views expressed at the current session. In response to this call, my delegation would like to present today some further views on this important issue as a contribution to further deliberations in the Working Group.

I will not dwell on the question of the need for the enlargement of the Council, since this is already a consensual view. What we must address in depth now are the subsequent twin questions of the scope and nature of the enlargement. From the deliberations of the Working Group there seems to emerge a general perception that the final determination of the size and composition of a restructured Security Council has to be predicated on three basic qualifications: equitable representation, effectiveness and efficiency.

Equitable representation stems from the idea that the membership of the Security Council should be adequately increased in order to make it more representative of the membership at large in view of present-day realities in

international life. It is our belief that better representation will lead to a more democratic, as well as a more effective Security Council.

A balanced quantitative as well as qualitative expansion of the Council's composition should contemplate the following aspects. First, appropriate proportionality between the size of the Council and that of the entire membership of the Organization; secondly, concomitant increase of permanent as well as non-permanent seats in the Council; thirdly, adequate participation of both industrialized and developing countries in a future expansion of permanent members; fourthly, adequate presence of the international community in all its expressions, regional and otherwise; fifthly, due regard should be specially paid to the capability of members to contribute to the maintenance of international peace and security and to the other purposes of the Organization; sixthly, appropriate arrangements should be made in order to allow better participation of medium-sized and small Member States in the Council.

Effectiveness and efficiency are two other critical qualifications required in the restructuring of the Council in order to improve its role in the discharge of its functions and powers.

Efficiency derives from the process of the Council taking action promptly, and its effectiveness relates to the Council's taking action that yields the intended results.

Therefore, due attention should be paid in order not to confuse or equate efficiency and effectiveness. A Security Council that expeditiously adopts dozens or more statements and resolutions in succession, the implementation of which remains largely ignored or unfulfilled, may be seen to be efficient, but would not be effective. Conversely, a single decision taken by the Council after lengthy and thorough deliberations with the participation of all the relevant parties could be very effective, while not necessarily qualifying as "prompt" action.

Another confusion that should be avoided is to automatically correlate the size of the Council with its efficiency. Even the most ideally efficient Council composed of one single member could be ineffective if that member lacked political will and adequate resources. In the same way, a Council composed of 10, 15, 20 or 30 members could, regardless of its size, be paralysed indefinitely by a single veto or threat of veto.

A larger Council could be made more effective if more members with appropriate political, diplomatic, financial, military, cultural or other relevant resources are called in to cooperate in the task of maintaining international peace and security. Equally, a larger Council could become more effective when it is perceived by the international community as being more equitably composed, and therefore more authoritative in its deliberations and decisions.

As I mentioned before, the efficiency of the Council is related to its process of decision-making, while its effectiveness is related to the achievement of the desired results in the maintenance of international peace and security. It is the considered view of my delegation that the increase in the efficiency of the Security is fundamentally linked to the perfecting of its working methods, whereas the effectiveness of the Council would substantially improve through a balanced, quantitative and qualitative expansion of its composition, which would endow it with more authority and more resources.

The relationship of the Security Council to the General Assembly, to other bodies and organizations and to non-members of the Security Council, on the one hand, and the reform by the Security Council of its working methods and procedures on the other constitute two topics that are fundamentally interlinked with the question of equitable representation on and increase in the membership of the Security Council. All of these are crucial aspects of our endeavours aimed at enhancing the legitimacy and the effectiveness of that main organ.

I should like to underscore the organic relationship between the Security Council as a whole and the membership at large of the United Nations, pursuant to Article 24 of the Charter, in order to address the question of the accountability and transparency of the actions of the Security Council *vis-à-vis* the Members of the Organization.

Its accountability stems from the fact that, in acting on behalf of the Members of the United Nations, the Security Council must effectively respond to the expectations of the international community. Each member of the Council, permanent and non-permanent alike, is therefore accountable to the membership at large of the Organization for its contribution to the maintenance of international peace and security.

Likewise, transparency derives from the need for non-members of the Council to be able to follow and

participate in, as appropriate, the discussion of any question of concern to them, as provided for in Articles 31 and 32 of the Charter. Accountability and transparency would thus contribute to enhancing the legitimacy and the effectiveness of a more equitably represented Security Council. In this regard, the delegation of Brazil has advocated some practical measures for improving the accountability and transparency of the Security Council.

As a small contribution in this regard, the delegation of Brazil took the initiative, during its presidency of the Security Council in October 1993, of introducing the report of that organ to the General Assembly. It is our expectation that this practice will be maintained and further improved in the future, with a view to establishing a more wide-ranging dialogue between these two main organs of the Organization.

The reporting system of the Security Council should be improved, both in form and in content, with a view to making the paperwork and the procedures of the Council less opaque and more user-friendly.

While concurring with the pertinent criticism that the reports of the Security Council make for arid reading and could be more analytical, we note that the document in its current format reports only on the official proceedings. The crux of the problem is that the contents of the informal consultations, by their very nature, are not recorded and thus cannot be formally reported. In this regard, mechanisms could be devised to preserve in some authoritative way the main contents of the informal consultations and to keep the interested public informed.

We deem it useful for the President of the Council to brief regularly the Chairmen of regional groups on the programme of work of the month. We also deem it helpful for the President to attend, whenever appropriate, meetings of the regional groups to brief them on matters of specific interest to them. Moreover, we believe that such practice could be further improved by another modality of briefing by the President at the end of his or her term, giving an assessment of the work accomplished by the Council during that President's tenure. Such briefings could be given to the membership at large in the form of a public informal meeting at the end of the month.

Similarly, we deem it appropriate that at the end of each informal consultation, the President of the Council, or a member of his or her delegation, give a succinct briefing of the deliberations to interested delegations. Alternatively, such a task could be performed by a spokesperson from the Secretariat, specifically designated for that purpose.

Likewise, as regards the participation of non-members in the discussions of the Council, we believe that there is room for improvement somewhere in between the exclusionary nature of informal consultations and the rigid formality of the public meetings. To this end, I should like to make the following suggestions.

First, there could be more frequent recourse to Article 29 of the Charter, establishing ad hoc subsidiary organs that could assist the Council by performing a monitoring or a mediation role for the peaceful settlement of specific disputes with the participation, as appropriate, of interested non-members. Such a mechanism would greatly contribute to re-establishing the pre-eminence of the diplomatic functions of the Council, which we regard as a priority task at this moment.

Secondly, a special committee of the Security Council could be established, as was suggested once by the delegation of New Zealand, with the function of providing political oversight of the peace-keeping operations and serving as a forum for consultation with troop-contributing Members not represented in the Council, as well as for liaison with, and briefings from, representatives of the Secretariat.

Thirdly, there could be more frequent recourse to the highly informal meetings in the so-called "“Diego Arria" format, in order to allow Council members to receive briefings and input on matters before the Council from the different parties to conflicts or from representatives of relevant regional organizations, as appropriate.

Fourthly, along the same lines, the sanctions committees could consider ways to better enable involuntarily affected Member States to bring to the attention of Council members the problems they face in implementing the sanctions adopted by the Security Council.

And, fifthly, the Security Council could also intensify its efforts to develop new channels and practices for an improved assessment of problems that arise from the implementation of sanctions regimes, with a view to giving a more concrete expression to the consultations under Article 50 of the Charter of the United Nations.

Many of these suggestions could be enshrined in a definitive version of the provisional rules of procedure of the Security Council. Elements that could be the object of such a review and update might include, *inter alia*, clear provisions concerning the holding of formal meetings as well as informal consultations; provisions concerning the participation of non-members of the Council in informal consultations; more detailed provisions concerning subsidiary bodies such as commissions, committees or rapporteurs for specific questions; improved provisions concerning the publicity of meetings, circulation of documents and keeping of records, as appropriate; and provisions related to the use of the veto.

It is our belief that the final consensual result of the important process of ensuring equitable representation on and increase in the membership of the Security Council must reflect an adequate combination of all the elements I mentioned earlier that would be perceived as fair and equitable by the membership at large. Such a result would be fundamental for ensuring that the future Security Council we envisage will be efficient and effective as well as legitimate and authoritative, and, last but not least, representative.

*The meeting rose at 1.20 p.m.*