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held on  
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at 3 p.m.  
New York

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SUMMARY RECORD OF THE 15th MEETING

Chairman: Mr. GOERNER (German Democratic Republic)

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AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued) (A/39/41, A/39/440; A/39/134-S/16418; A/39/360; A/C.6/39/3)

1. Mr. DIACONU (Romania) said that one of the main concerns of the contemporary world was to defend peace, safeguard the rights of peoples to life, liberty and independence, and prevent war, particularly nuclear war. Mankind was experiencing a period of acute tension because imperialist circles could not yet accept the new world situation and were trying to block the changes which would strengthen the independence of peoples and produce a world in which every nation would be able to develop free from outside interference. In a recent assessment of the gravity of the international situation, President Nicolae Ceaușescu had said that the danger threatening the very existence of the civilization of all nations and of life on the planet should be made clear to all peoples.
2. The experience of the 40 years since the Second World War proved that the use of force was unlikely to result in a durable settlement of problems between States. The only justification for recourse to arms was when a people had to defend their national independence, their right to a free life. The United Nations, whose objective was to save succeeding generations from the scourge of war, had been established as a basic instrument in efforts to guarantee international peace and security, to ensure the peaceful settlement of all disputes and conflicts and to eliminate the use of force from international life, but the Organization's efforts in that regard had not been successful. On the contrary, the exacerbation of the international situation had resulted, particularly in recent years, in the multiplication of acts of force, pressure and coercion which ran counter to the very objectives and raison d'être of the Organization. Member States must endeavour to counteract that situation, continuation of which was likely to imperil the peace of the world, undermine the bases of friendly relations between nations, and reduce the world to a battlefield for zones of influence and domination where the will and interests of peoples were flouted. The efforts of the Organization, of Member States, of politicians and of all who believed in the objectives of the United Nations should be directed towards the elimination of force, and the peaceful solution of all international problems and disputes. Those questions were under discussion in the United Nations and other forums in the wider context of the search for increased international security.
3. In the political and juridical context, as defined by the mandate of the Special Committee, it was necessary to seek to enhance the effectiveness of the principle of non-use of force in international relations by drafting an international document - a treaty or other appropriate instrument - on the non-use of force and the peaceful settlement of disputes. Romania had always supported proposals concerning the conclusion of a universal treaty on that subject and had itself submitted proposals aimed at ensuring the elimination of the use or threat of force and the peaceful settlement of all conflicts between States. It had also proposed the conclusion of a general European treaty on the non-use of force or threat of the use of force.

(Mr. Diaconu, Romania)

4. With regard to the peaceful settlement of disputes between States which was the logical corollary of the non-use of force, Romania, together with Nigeria and the Philippines, had submitted a working paper (A/C.6/39/L.2) on the establishment of good offices, mediation and conciliation committee, which was currently before the Committee. His Government considered that efforts in the fields of non-use of force and peaceful settlement of disputes should be placed on an equal footing and should be intensified with a view to strengthening the application of those principles and the role and work of the United Nations to that end.
5. Turning to the question of the contents of a document on the principle of the non-use of force, he said that his Government had on several occasions in the Sixth Committee and the Special Committee expressed its interest in the drafting and conclusion of a substantive legal instrument aimed at eliminating and preventing the use or threat of force and ensuring universal application of the principle at all times. Such a document, which should be as binding as possible, should develop and clarify the obligations of States under the principle and should aim at the complete elimination of the use of force or military or other non-peaceful means for settling international problems. It seemed necessary, first of all, to give authoritative expression to the binding nature of the non-use or threat of force as a principle of jus cogens from which no derogation was possible in inter-State relations.
6. Secondly, the obligation of States not to resort in any circumstances either to armed force or to any other form of coercion must be clearly and completely spelt out. Express provision must be made for the prohibition of the most serious acts involving the use of weapons, particularly nuclear weapons but also traditional weapons, against another State in any form and on any pretext whatsoever. At the same time, the threat of force must be clearly prohibited, as must political, military, economic and other forms of coercion, which constitute an equally grave danger for most countries of the world and for international peace and security. It was also necessary to specify the cases in which the use of force was legitimate, namely the right of each State to individual or collective self-defence against an armed attack pursuant to Article 51 of the Charter, and the right of peoples under colonial or any other form of foreign domination to resort to armed struggle for their national liberation. The undertaking by all States not to intervene in the domestic affairs of other States must also be reaffirmed in the document, bearing in mind the strong link between intervention and the use of force. Finally, a document defining the obligations of States with regard to the non-use of force must necessarily contain provisions reaffirming the obligation of all States to settle their international disputes exclusively by peaceful means and to refrain from any act likely to exacerbate their disputes and lead to armed conflicts.
7. Although there was an indication in the Special Committee's report that it might be possible to start real work on the formulation of the elements of the principle of non-use of force in terms of the obligations of Member States and action by the United Nations, that Committee seemed far from making a determined start on work which would enable it to fulfil its mandate. Obviously, the role and

(Mr. Diaconu, Romania)

responsibility of the United Nations in the application and enhancement of the principle of non-use of force could not be reduced to the drafting and adoption of a document on the subject and to consideration of the problem in a committee. In the prevailing international situation it was more necessary than ever that the Organization should speak out clearly against the use of force and insist that States completely eliminate the use or threat of force and settle their disputes exclusively by peaceful means.

8. It was in that spirit that his country was prepared to participate in activities aimed at strengthening the structure of peace, excluding the use of force in international relations and ensuring the peaceful settlement of disputes.

9. Mr. KEBRETH (Ethiopia) said that the statement made by the Chairman of the Special Committee contained the elements of a practical solution to the difficulties facing that body and would lend impetus to its work. His delegation hoped that the compilation of different position papers would help the Committee to make some progress towards the preparation of a generally acceptable treaty text. The difficulties that had so far prevented such progress did not appear to lie in the intrinsic nature of the subject matter, nor did the problem appear to be of a juridical nature. The Arguments that a treaty on the non-use of force would erode the pacta sunt servanda rule, conflict with other Charter provisions or disturb the delicate balance in the Charter system could be taken care of by making the treaty fully compatible with the primacy of the Charter and maintaining the vital links with other relevant Charter provisions. Legislative texts already prepared by the United Nations, including the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, the Declaration on Principles of International Law on Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Definition of Aggression would ease the task of the Special Committee in preparing a treaty. It was clear from the provisions of those instruments, which in the opinion of jurists constituted rules of contemporary international law, that the use of force was limited to the exercise of the inherent right of individual or collective self-defence pursuant to Article 51 of the Charter.

10. The real obstacles to a treaty on the non-use of force lay in the pursuit of a policy that sought to expand the parameters of the use of force rather than reinforce strictures against such use. More often than not, legal arguments were merely attempts to justify unilaterally actions patently contrary to the letter and spirit of the Charter of the United Nations. It was that development that lent a sense of urgency to the call for a treaty on the non-use of force. A fundamental principle of international law such as the non-use of force would be greatly strengthened if it were reaffirmed in a solemn treaty. Such a treaty could not by itself be a panacea for all the ills of the world but it would help to remove doubts and ambiguities surrounding the non-use of force and thereby create conditions for moving away from a collision course that might lead to massive destruction.



(Mr. Kebreth, Ethiopia)

11. His delegation would vote in favour of renewal of the Special Committee's mandate and hoped that the Committee would make maximum efforts to reach agreement on the text of a treaty on the non-use of force.

12. Mr. HAMPE (German Democratic Republic) noted with satisfaction that, despite the obstacles placed in its way by some of its members, the Special Committee and its Working Group had succeeded in creating more propitious conditions for the drafting of a world treaty on the non-use of force in international relations, in particular through the preparation of the compilation of official proposals for developing the fundamental principles of international law on the prohibition of the threat or use of force in State-to-State relations, contained in the working paper submitted by the Chairman of the Special Committee. That paper provided an appropriate basis for passing on the concrete discussion of the proposals, comparing them and drafting formulations acceptable to all.

13. It was important to note that the progress in the Special Committee's work had been made at a time of aggravated international tension. The danger of world-wide military conflict in which nuclear and other sophisticated weapons of mass destruction would be used had heightened. In view of that situation and, in particular, of the dangerous development that had occurred in Europe as a result of the deployment of qualitatively new nuclear weapons systems in some NATO countries, his Government had repeatedly declared that the guiding principle of its policy was to make every effort to preserve and strengthen peace and to support any initiative or action that would serve that aim. It was in that spirit that the General Secretary of the Socialist Unity Party of Germany and Chairman of the Council of State of the German Democratic Republic had recently stated that from the first day of its existence socialist Germany had done its utmost to preserve peace and to secure it lastingly. His country regarded its efforts to safeguard peace and to make a constructive contribution to joint action with the Soviet Union and other socialist States as one of its most important tasks.

14. Over the past year, his country had engaged in many activities aimed at helping to free the peoples of the world from the nightmare of a devastating war. It had been one of the countries which had initiated a treaty on the mutual renunciation of the use of military force and on the maintenance of peaceful relations between the Member States of the Warsaw Treaty and the Member States of NATO; it had declared its readiness to make its entire territory available for inclusion in a zone free from battlefield nuclear weapons to be created in Europe at the suggestion of the Swedish Government; it had fully supported the initiative of the Heads of State or Government of Argentina, Greece, India, Mexico, Tanzania and Sweden of May 1984; and it had resolutely supported a removal of all chemical weapons from Europe and the prevention of militarization of outer space. Furthermore, the leading representatives of his country had played their part in maintaining the dialogue between East and West and in helping to reduce the state of tension prevailing in the world.

15. As part of its socialist peace policy, his country strongly advocated the drafting and conclusion of a world treaty on the non-use of force in international

(Mr. Hampe, German Democratic Republic)

relations, as proposed by the Soviet Union, and urged other States to consider that initiative seriously and to respond to it. The conclusion of such a treaty, which would comprise a prohibition of the use of weapons of any kind and the renunciation by all nuclear Powers of the first use of nuclear weapons, would be a decisive first step towards overcoming confrontation and strengthening world peace. It would also be an important legal guarantee for the right of peoples to peace, as reaffirmed in the declaration submitted by the Mongolian People's Republic to the General Assembly for adoption at its current session. His country viewed the statements made by various influential political parties, religious organizations, and government representatives of NATO States in favour of the proposal to conclude a treaty on the renunciation of the use of force between Member States of the Warsaw Treaty and those of NATO, as justifying efforts to strengthen and develop the prohibition of the use of force on a world-wide scale through a universal treaty along the lines submitted by the Soviet Union. Such a treaty would have the same favourable world-wide effect on stabilizing peace and improving the political climate as a treaty on the mutual renunciation of the use of force between the Member States of the Warsaw Treaty and the Member States of NATO would have in the view of a broad segment of European public opinion. Taken separately or together, both treaties would be an important extension of international legal instruments designed to safeguard peace. For that reason, his delegation appealed to the members of the Special Committee which hesitated to make a constructive contribution to the fulfilment of that Committee's mandate to reconsider their positions and to take account of the pressing demands of the majority of Member States, of world public opinion and of large groups in their own countries for a speedy completion of the Special Committee's work.

16. The earliest possible drafting of a world treaty on the non-use of force in international relations remained the most important and urgent task of the Special Committee. His delegation therefore strongly advocated an extension of the mandate of the Special Committee, which should begin a detailed discussion of the proposals on the headings of the composite working paper submitted by its Chairman and start formulating those generally acceptable headings where the proposals coincided or where the wordings were similar.

17. Mr. CULLEN (Argentina) said that his delegation had repeatedly expressed concern at the way in which the work of the Special Committee was conducted, and he would therefore address his remarks to the possibilities of improving its functioning. Argentina had always voted in favour of renewing the Special Committee's mandate but had stressed that its terms of reference must be defined clearly and that a compromise must be found so as to avoid a repetition of unproductive discussions and to overcome the differences which were at the core of its problems.

18. Referring to the most recent mandate of the Special Committee, contained in General Assembly resolution 38/133, and in particular to paragraphs 2, 3 and 5, he observed that delegations which did not support that mandate would not be able to join in the general agreement called for in paragraph 5, the reference to general agreement had been included in the resolution because it had been felt that adoption by consensus was the best guarantee of the subsequent effectiveness of legal texts, but unfortunately no such agreement had been reached.

(Mr. Cullen, Argentina)

19. As to the organization of the Special Committee's work, he pointed out that the views of his delegation, together with those of other non-aligned countries, were contained in paragraph 9 of the report (A/39/41). The general exchange of views had reflected the continued existence of three main approaches to the mandate and work of the Special Committee (para. 18). In his delegation's opinion, the efforts devoted to reiterating those arguments could have been put to better use.

20. As to the activities of the Working Group, his delegation had supported the compromise reached with regard to the discussion of the "headings" (para. 51) but regretted that that discussion had consisted largely of a repetition of previous arguments. In that connection, he agreed with the comments made by the representative of Brazil (A/C.6/39/SR.14) to the effect that the "headings" should be viewed as a means of helping the Working Group to make progress not as an end in themselves.

21. The most obvious problem in that regard had concerned the consultations to be held on how to proceed further. Those consultations had again reflected the lack of agreement. Nevertheless, his delegation felt that the activities of the Working Group continued to be useful and fulfilled the provisions of resolution 38/133, paragraph 7. Accordingly, his delegation supported the statement of the Special Committee's Chairman, contained in paragraph 122 of the report.

22. With regard to the informal paper reproduced in paragraph 123, his delegation believed that the Chairmen of the Special Committee had the right to submit any document which would further its work, bring viewpoints closer together and help to break the deadlock. However, to be truly effective, such a document must be based on agreement, and more extensive consultations on the contents of the paper would have helped to avoid the criticism contained in paragraph 124. In any case, all the documents before the Special Committee should be given equal importance and considered as a whole.

23. With a view to achieving tangible results, his delegation felt that an evaluation of the work done, if carried out realistically, could be very useful for correcting mistakes and putting constructive initiatives into practice. His delegation's opinion of the Special Committee's evaluation was reflected in paragraphs 128 to 132 of the report.

24. The best way for the Special Committee to advance in its work was to reduce the distance between the two main currents which polarized it. The results reflected in the current report should make delegations recognize the need to find such a solution and to make a greater effort to adopt an appropriate mandate for the Special Committee.

25. In conclusion, he expressed his delegation's interest in the participation of observers in the Special Committee's work. Argentina was part of the rotating system adopted by the Group of Latin American States, in which they alternated as either regular members or observers at successive sessions. In keeping with the Special Committee's tradition, the full participation of observers should continue to be ensured both at meetings of the Special Committee and in the Working Group.

26. Mr. KATEKA (United Republic of Tanzania) observed that the main reason for the regrettable deadlock in the adoption of a treaty on the non-use of force was clearly the fact that the item had become politicized and bogged down in the East-West ideological conflict. The Special Committee's lack of progress could also be attributed to its cumbersome working mechanisms, and in particular to the need to reach general agreement whenever that had significance for the outcome of its work.
27. Unless changes were forthcoming, the current United Nations working mechanisms could raise credibility problems, even among the Organizations's sympathizers. In his report on the work of the Organization, the Secretary-General had discussed the problem of the protracted discussion of items and their continued inclusion in the agenda.
28. His delegation was concerned about the deliberate refusal to make progress - even when there was no apparent disagreement - usually due to a desire to score points at the expense of the subject under discussion. The report contained in document A/39/41 gave little indication as to what had transpired at the Special Committee's session and was interchangeable with those produced in previous years.
29. His country was opposed to the threat or use of force. Disputes should be settled peacefully by all nations, except in instances of individual or collective self-defence as provided for in the Charter. His delegation had always voted in favour of the resolution on the item in the as-yet vain hope that it would help to curb the use of force. He therefore appealed to other States to avoid another sterile debate and to adopt a positive approach to the item under consideration.
30. Mr. LE KIM CHUNG (Viet Nam) said that the growing international tension, brought about by the forces of colonialism, imperialism, racism and hegemonism, included violations of sovereignty such as the invasion and occupation of Grenada, aggressive attacks on Nicaragua, and provocation and subversion against the Indo-Chinese countries and Afghanistan. In the circumstances, Viet Nam attached great importance to the work of the Special Committee and to efforts aimed at reducing the danger of war. Indeed, every opportunity must be seized at the United Nations to bring about constructive dialogue to that effect, and in that context the drafting of a world treaty on the non-use of force was of special significance.
31. The work of the Special Committee would not lead to a weakening of the Charter. Anti-peace and reactionary forces were obviously opposed to the elaboration of the world treaty, because it would tie their hands. While, an overwhelming majority of States had acknowledged the advantages of such a treaty, the attitude of the Western countries had prevented the Special Committee from embarking on its elaboration, a situation which clearly encouraged those who wished to use force.
32. Moreover, some delegations tended to transfer ideological disputes to the sphere of inter-State relations, thereby generating political confrontation, although that could not divert attention from complaints about the use of force against the peoples of the third world.



(Mr. Le Kim Chung, Viet Nam)

33. Pending the conclusion of a world treaty, his delegation strongly supported unilateral commitments, such as that made by the Soviet Union not to be the first to use nuclear weapons. The non-aligned countries, in particular, had expected the other nuclear-weapon States to make the same commitment, as had been indicated at the meeting of Foreign Ministers of the Non-Aligned Countries, held in New York from 1 to 5 October. In that connection, his delegation supported the appeal issued at that time for a freeze on the production, stockpiling and deployment of nuclear weapons.

34. Along the same lines, his delegation welcomed the proposal made by the States parties to the Warsaw Treaty for the conclusion of a treaty with the NATO countries on the mutual renunciation of the use of force, as well as the appeal issued by the Conference of Heads of State or Government of Non-Aligned Countries at New Delhi for the prohibition of the threat or use of nuclear weapons and for a halt in their production and deployment and the Soviet initiatives directed towards preventing the militarization of outer space, particularly that relating to the conclusion of a treaty prohibiting the use of force in outer space and from space against the Earth. The nuclear Powers must recognize the need to follow certain binding norms of conduct in their relations with a view to avoiding the threat of war.

35. In the same context, Viet Nam supported the Mongolian proposal for the conclusion of a mutual non-aggression pact between the States of Asia and the Pacific and wished to draw attention its own proposals for the conclusion of non-aggression and peaceful coexistence treaties with the People's Republic of China and with the members of the Association of South-East Asian Nations.

36. With regard to the work of the Special Committee, his delegation agreed that, while some progress had been made, the negative attitude of certain delegations had prevented both the Special Committee and its Working Group from implementing their mandate. The non-aligned nations, including Viet Nam, had emphasized the importance of the "headings" as a temporary way of facilitating the discussion. The "headings" should be linked to substantive proposals and should be examined with a view to solving specific problems. In that connection, the statement contained in paragraph 122 of the report (A/39/41), together with the compilation of official proposals, would be useful for future work. The delegations which had objected to that statement and to the material circulated had simply not wanted to see the Special Committee make any progress in the framework of its current mandate.

37. His delegation regretted the fact that the Working Group had been unable to put more substantive content into the discussion of the "headings". "Headings" A, B, C, D and G were of capital importance. "Headings" A and B should be interpreted in a broad and comprehensive manner, and the use of force should be prohibited regardless of the form it took. In connection with "heading" D, mention should be made of the right of colonial peoples and national liberation movements to use every means, including force, in their struggle for self-determination and independence.

38. Lastly, an extension of the Special Committee's mandate was absolutely necessary so that, at its next session, it could prepare a working paper containing the fundamental elements of the principle of non-use of force.

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39. Mr. LAMAMRA (Algeria) said that the expertise and dedication of the Special Committee could be seen in the fact that its documentation faithfully reflected the three main approaches to its work, that efforts at harmonization had been made by the chairmen of some of its sessions, and that the third world countries had succeeded, after long perseverance, in reducing the importance of the question of the form of the future instrument. The Special Committee would no doubt have been more successful if it had not had to contend with a constant play of forces working at cross-purposes that had obviously paralysed it. The stand on principle adopted by one group of delegations had introduced the kind of conflict that marked international relations into the Special Committee, whose work should, instead, evidence the universal support for a cardinal principle of the Charter. That was the basis of the non-aligned countries' support for a treaty on the non-use of force, an initiative which would promote peace and offer an alternative to the arms race.

40. The world had a right to expect that jurists would stand firmly opposed to capitulation to special interests in the codification and progressive development of international law, but unfortunately the debates in the Special Committee and the Sixth Committee had not fulfilled that expectation. Despite a virtual consensus on the usefulness of a treaty in enhancing the effectiveness of the Charter, its elaboration was being resolutely resisted in what amounted to an erosion of multilateralism. Despite arguments to the contrary, there could be no question, that the United Nations, and not an interregional framework, was the best forum for reaffirming the principle of the non-use of force.

41. Because such a vital principle could not be subject to individual interpretation, an international instrument was needed to define its scope and implications. The notion of force could no longer be restricted to the use of weapons but required a redefinition that would include such phenomena as the use of food aid and of economic pressures and reprisals for political ends; moreover, the legitimacy of the use of force in the service of national liberation struggles required legal recognition. The Special Committee would have to persevere in its efforts to achieve its aims.

42. Mr. KAHALEH (Syrian Arab Republic) said that enhancing the effectiveness of the principle of non-use of force in international relations had become particularly urgent in the present circumstances, for international tension was such that it might lead to nuclear war, and the situation in areas of armed confrontation, particularly the Middle East, had become explosive. The principle that might was right had become the slogan of certain States in handling their differences with other States, thereby naturally prompting an unprecedented arms race.

43. The States which used force in order to implement their strategic and tactical policies were the very ones that opposed the implementation of the provisions of Chapter VII of the Charter. They themselves had prompted the search for an alternative means of ensuring that the principle of non-use of force in international relations prevailed. They were trying to neutralize the mandate of the Special Committee by restricting its work to the discussion of procedural



(Mr. Kahaleh, Syrian Arab Republic)

matters in order to avoid discussion of the subject it had been established to deal with. Those States claimed to adhere to the Charter as an immutable law, after having stripped it of all practical effect. Contempt for the Charter had reached such an extreme that a resolution calling upon a State occupying by force the territory of another State to comply with the provisions of the fourth Geneva Convention of 1949 had remained unimplemented.

44. It had become necessary to reaffirm the principle of non-use of force in international relations. The large amount of legal theory and practice on that subject that had accumulated since the adoption of the Charter justified the conclusion of a new instrument to achieve the goal of outlawing the use of force. Other instruments had been concluded which implemented the provisions of the Charter and promoted specific obligations derived from its principles. The Charter did not merely mention the possibility of negotiating and adopting such instruments, but stated that they were necessary and empowered the General Assembly to consider the general principles of co-operation in the maintenance of international peace and security and granted it the right to make recommendations for the purpose of encouraging the progressive development of international law.

45. Faced with the attempt to terminate the mandate of the Special Committee, its Chairmen had been forced to take procedural steps in order to avoid such an outcome. Its current Chairman had submitted a bold and practical paper containing the texts of the three officially submitted proposals on the seven "headings". Such courageous attempts deserved, to say the least, appreciation and gratitude. They were, indeed, a natural result of the basis on which the Special Committee operated, a basis which had prevented it from taking any step without consensus.

46. Although his delegation firmly believed that the consensus principle would continue to make the work of the Special Committee difficult, if not impossible, it nevertheless wished the Special Committee to persevere in its task with a view to reaching a comprehensive legal formulation affirming the rule of law rather than force in international relations and contributing to the maintenance of international peace and security. His delegation also endorsed the most recent paper submitted by the Chairman of the Special Committee as a starting-point for serious discussion. Consideration of the form an instrument might take could be postponed to a later stage. His delegation reaffirmed the right of peoples and of national liberation movements to use force in their struggle for freedom and self-determination. The concept of the use of force should be considered as including all aspects of economic and political coercion, hostile propaganda, subversion, pressure, intimidation, support of terrorism, the use of mercenaries and covert attempts to destabilize Governments.

47. Ms. RAWSON (Australia) said that the need for the commitment of all States to the related principles of non-use of force in international relations and the peaceful settlement of disputes was an issue of high priority in a world characterized by an increasing number of regional conflicts, threatening international peace and stability. Her delegation believed, however, that the drafting of a world treaty on the non-use of force was neither necessary nor

(Ms. Rawson, Australia)

desirable. The principle of non-use of force against the territorial integrity or independence of a State was already well-established in general international law and was reinforced by Article 2, paragraph 4, of the Charter. A new treaty which restated that obligation would add no force to the principle, nor would it enhance its effectiveness. If the treaty departed from the wording of the Charter, it could be used by States to circumscribe the Charter's prohibition of the use of force and would, moreover, establish a parallel régime in an instrument having neither the authority nor the universality of the Charter. Problems might result from different and conflicting obligations for Members of the United Nations which became parties to the new treaty, and the Charter could be undermined.

48. What was really needed was a genuine commitment by Member States to abide by the existing provisions of international law and to co-operate with each other within the United Nations in seeking solutions to threats to international peace and security. Full use by Member States of the mechanisms provided by the Charter would do much to enhance the principle of non-use of force. Ways should be examined to enhance the fact-finding roles of the Secretary-General and the Security Council, and the Secretary-General might be encouraged to make greater use of his powers under Article 99 of the Charter. Parties to a dispute should be encouraged to bring the issues to the Security Council at an early stage. It would also be useful to consider improving the functioning of peace-keeping operations. The Special Committee's mandate could be widened to explore those and other possible means of making the existing mechanisms on the non-use of force more effectively.

49. It was evident that the Special Committee's discussion on the various "headings" had become deadlocked. While not arguing for the abandonment of those "headings", she hoped that the Special Committee could turn its attention to the matters she had mentioned. It might also focus on the relationship between the non-use of force, the peaceful settlement of disputes and the collective security system provided for under the Charter.

50. Mr. SZELEI (Hungary) said that the issue of the non-use of force or threat of force in international relations was a very relevant one. In 1976, his delegation had supported the inclusion of the item in the agenda and was more convinced than ever that work on the subject had to be completed in the common interest of mankind.

51. In view of the current international situation, there was a need for greater efforts in that area. Because of certain circles in the West, tension still prevailed, the arms race continued, new and more dangerous nuclear arms programmes were being implemented, and invasions and armed conflicts had become a constant threat to international peace and security. The well-established norms of international law were being misinterpreted simply to justify their breach. The socialist countries, on the other hand, consistently advocated universal peace and the strengthening of international security. Their proposals were aimed at reducing tension, maintaining and strengthening the fruits of détente and achieving mutual respect for the principles of equality and equal security. They were directed towards genuine disarmament and increased trust among States for the benefit of all mankind. Unfortunately, such proposals as those concerning the

(Mr. Szelei, Hungary)

renunciation by every nuclear Power of the first use of nuclear weapons, a general and complete ban on nuclear-weapons tests, and the elaboration of a treaty on the renunciation of the use of armed force and on the maintenance of peaceful relations had received no substantive response from the NATO countries.

52. His delegation supported the initiative of the USSR on the use of outer space exclusively for peaceful purposes, which obviously had a direct bearing on the item under discussion. The Mongolian initiative on the right of peoples to peace also deserved close attention.

53. Turning to the report of the Special Committee (A/39/41), he said he was glad to see that some progress had been made, but regretted that it had not been greater. He supported the statement of the Chairman of the Special Committee contained in paragraph 122 of the report, which adequately reflected the actual results achieved.

54. As to the future work of the Special Committee, his delegation believed that the initiative for the conclusion of a world treaty on the non-use of force was more appropriate and timely than ever and was consistent with the best interests of all States, regardless of their social systems. A world treaty would strengthen the obligations of States by setting forth not only a general prohibition of the use or threat of force but also the inadmissibility of the use of all forms of weapons. If successful, the work of the Special Committee would undoubtedly help to strengthen further the international legal order, and particularly the provisions of the Charter. The United Nations was obliged by the Charter to promote the progressive development and codification of international law, and the work of the Special Committee represented a major opportunity to do so. His delegation fully supported the renewal of the Special Committee's mandate and would spare no effort to help make its next session a constructive and fruitful one.

55. Mr. BERNAL (Mexico) said that the sessions of the Special Committee over the previous seven years had produced only minimal progress with regard to the contents and structure of the "headings" originally proposed, and much of the time had been spent in sterile procedural debates. Mexico therefore reiterated its well-known position that to conclude a vague and repetitive agreement lacking universal support would only call in question the validity of the Charter but that, on the other hand, if the mandate of the Special Committee were to be terminated before it achieved any concrete results, that would convey the mistaken impression that there was no international consensus on a jus cogens norm prohibiting the use of force in international relations.

56. The Special Committee must therefore continue its work, but with a more realistic mandate and with a sense of urgency regarding the need to arrive at concrete legal provisions derived from established and universally accepted general norms. His delegation wished to take part in that creative process aimed at developing pragmatic legal regulations that would enhance the effectiveness of the Charter rather than limiting or reading interpretations into it.

(Mr. Bernal, Mexico)

57. The principle of non-use of force was unquestionably recognized as a basic legal norm in Article 2, paragraph 4, of the Charter, which also recognized that its effectiveness depended on the adoption of preventive and corrective measures. With regard to preventive measures, there were many questions which the Special Committee could consider while bearing in mind that questions such as disarmament and peace-keeping have been discussed in other forums. It would be particularly useful for the Special Committee to study such questions as economic aggression, reprisals, and the principle of the non-intervention in the internal affairs of States, with a view to formulating concrete legal norms that could be incorporated in one or more international instruments. With regard to corrective measures, multilateral solutions would have to be sought with a view to enhancing the effectiveness of Chapter VII of the Charter and of the International Court of Justice. The Special Committee could act as a co-ordinating centre for the work of other bodies and conferences dealing with questions relating to the principle of non-use of force, without, however, making the results achieved in those forums subject to the specific negotiations in the Committee.

58. Mr. PETROVSKY (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, said that the statement made by the United States representative at the 14th meeting of the Committee shows that the United States delegation wished to obstruct the Committee's work on enhancing the effectiveness of the principle of non-use of force in international relations, since Washington considered force and, in particular, armed force as a major tool for solving international problems. From the end of the Second World War up to 1975, the United States had used force no less than 215 times to achieve its foreign policy aims, in flagrant violation of the obligations it had assumed under the United Nations Charter. The naval shelling and aerial bombing of Lebanon, its collusion with Israel to exert pressure on the countries of the region, the invasion of Grenada, the undeclared war against Nicaragua, the dangerous military provocation and constant threats against Cuba and blackmail of other countries of that region, and its open war against the Democratic Republic of Afghanistan, where the United States was arming bandits with a view to forcibly preventing the people of that sovereign State from building a peaceful life of their own choosing, were all more recent examples of United States violations of the principle of non-use of force. The United States representative, however, dared to say that there was no need for the further legal strengthening of the principle of non-use of force. United States policy was clearly designed to ensure that it would be free to exercise gunboat diplomacy.

59. He was not surprised by the negative reaction of the United States representative to any mention of measures aimed at reducing the material basis for the use of force by halting and reversing the arms race. As the representative of a country whose avowed policy was to deploy weapons in space to prepare for a nuclear war on Earth, he wished to prohibit any mention in the Committee of the need to exclude the use of force in outer space and from outer space against the Earth. Nor did he like the Mongolian proposal concerning the right of peoples to peace, a proposal which would help to exclude the use of force from inter-State relations. The attempts by the United States representative to turn the question



(Mr. Petrovsky, USSR)

of the non-use of force on its head reflected the United States Government's desire to define arbitrarily what constituted the use of force and what did not, which social and political system had the right to exist and which must be toppled by force in other sovereign States. That was why the United States opposed the further legal strengthening of the principle of non-use of force. Indeed, world treaty on the subject would be a serious obstacle to those who claimed to have an absolutely free hand in international affairs. The United States representative was attempting to use the Committee to hide his country's policy of force behind a screen of words.

60. Constructive work on the preparation of a world treaty would create an atmosphere of intolerance towards those who relied on the use of force. For that work to be successful, there was a need not for exercises in polemics, such as those indulged in by the United States representative, but for serious consideration of the task of drafting a world treaty. He agreed with the representative of the United Republic of Tanzania that a positive approach should be taken to the questions before the Committee, free of confrontation and aimed at practical results.

61. Mr. ROSENSTOCK (United States of America), speaking in exercise of the right of reply, said that year after year his delegation waited in the hope that the Soviet delegation would have something new to say on the third item under consideration that would serve to fulfil the goals of the Charter that their Governments had hammered out together in 1949. Yet the Soviet Union proffered nothing but the same familiar arguments, the same accusations of bad faith and the same polemical attacks on those who disagreed with it. The only surprising thing was that the Soviet delegate should feign astonishment over his own delegation's same familiar answers rejecting their idea of a world treaty. The Soviet delegation had referred to Lebanon but had not troubled to note that the United States marines were in Lebanon in no small measure because the Soviet Union, as part of its lack of respect for the collective security system of the United Nations, had not supported a United Nations role there. The Soviet delegation had spoken of Grenada but had said nothing of the forthcoming elections, perhaps because of its dislike of free elections. Its remarks on Afghanistan did not merit comment except to say that it was indeed 1984.

62. His delegation believed that it was, indeed, a positive thing to seek to avoid error. Hence the United States rejection of a treaty proposal that could only weaken the Charter: to oppose a treaty that risked sowing confusion and might potentially obscure the illegal tendency of the doctrine of the limited sovereignty of States was in its view positive. The United States would gladly respond if the Soviet delegation were itself to take a genuinely positive approach.

63. Mr. PETROVSKY (Union of Soviet Socialist Republics) said that the statement by the United States representative spoke for itself and showed who created conflicts, whipped up tension and obstructed practical work. Given the serious situation in the world, it was vital to prepare legal instruments to prevent violations of the rules of moral conduct, to stop such incidents as the invasion of Grenada. Force must not be allowed to replace the rule of law in international affairs.

64. Mr. ROSENSTOCK (United States of America) said that every year his delegation had suggested that the Working Group could begin with an examination of specific situations with a view to elaborating a common basis from which to identify why the prohibition of the threat or use of force had not been a more effective norm, and every year the Soviet Union had maintained that such an examination would not be useful and that the focus should be on the world treaty. Perhaps that was because the Working Group did not operate before a public audience; in the Committee, on the other hand, the Soviet Union had no problem with discussing specific situations.

65. The United States had no objection to such discussion, and, indeed, felt that it might be useful to examine the Grenada situation and the numerous other such situations in which force had been used since 1945, in order to determine the real cause of the failure of the norm. His delegation was prepared to discuss Grenada either in the Committee or in the Special Committee. In its view, it would be preferable for such a discussion to take place in the Special Committee, where the prospects for reasoned discussion seemed greater than in a body of the size of the Sixth Committee. There was perhaps, however, one area of common ground between his delegation and that of the Soviet Union, namely a belief in the Roman law maxim that res ipsa loquitur, i.e. that the facts spoke for themselves.

The meeting rose at 5.40 p.m.