

**REPORT  
OF THE SPECIAL COMMITTEE  
ON ENHANCING  
THE EFFECTIVENESS OF THE PRINCIPLE  
OF NON-USE OF FORCE  
IN INTERNATIONAL RELATIONS**

**GENERAL ASSEMBLY**

OFFICIAL RECORDS: FORTY-SECOND SESSION

SUPPLEMENT No. 41 (A/42/41)



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**New York, 1987**

#### **NOTE**

**Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.**

[20 May 1987]

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION .....	1 - 12	1
II. REPORT OF THE WORKING GROUP .....	13 - 55	3
III. DRAFT DECLARATION ON THE ENHANCEMENT OF THE EFFECTIVENESS OF THE PRINCIPLE OF REFRAINING FROM THE THREAT OR USE OF FORCE IN INTERNATIONAL RELATIONS .....	56	20

## 1. INTRODUCTION

1. The Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations was convened in accordance with General Assembly resolution 41/76 of 3 December 1986 and met at United Nations Headquarters from 9 to 27 March 1987. 1/

2. The membership of the Special Committee, as appointed by the President of the General Assembly and taking into account the rotation system described in documents A/32/500, annex III, A/35/762, A/38/778, A/39/849, A/40/1020 and A/41/932, is as follows:

Argentina	Greece	Somalia
Belgium	Guinea	Spain
Benin	Hungary	Togo
Brazil	India	Turkey
Bulgaria	Iraq	Uganda
Chile	Italy	Union of Soviet
Cuba*	Japan	Socialist
Cyprus	Mexico*	Republics
Ecuador*	Monqolia	United Kingdom of
Egypt	Morocco	Great Britain and
Finland	Nepal	Northern Ireland
France	Poland	United States
Germany, Federal	Romania	of America
Republic of	Senegal	

3. The session was opened on behalf of the Secretary-General by Mr. Carl-August Fleischhauer, Under-Secretary-General, the Legal Counsel, who represented the Secretary-General at the session and made an introductory statement.

4. Mr. Georgiy Kalinkin, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Special Committee and its Working Group. Miss Jacqueline Dauchy, Deputy Director for Research and Studies (Codification Division, Office of Legal Affairs), acted as Deputy Secretary to the Special Committee and its Working Group. Mr. Andrzej Makarewicz and Mr. Manuel Rama-Montaldo, Legal Officers, acted as Assistant Secretaries to the Special Committee and its Working Group.

5. At its 132nd meeting, on 9 March 1987, the Special Committee unanimously elected the following officers:

Chairman: Mr. Tullio Treves (Italy)

Vice-Chairmen: Mr. Maqad Abdel Khalik (Egypt)  
Mr. Bruno de Risios Bath (Brazil)  
Mr. Ivan Stefanov Kulov (Bulgaria)

Rapporteur: Mr. James C. Droushiotis (Cyprus)

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\* Cuba, Ecuador and Mexico replaced Nicaragua, Panama and Peru, which were members of the Committee in 1986.

6. At the same meeting, the Special Committee adopted the following agenda:
  1. Opening of the session.
  2. Election of officers.
  3. Adoption of the agenda.
  4. Organization of work.
  5. Completion, pursuant to paragraph 2 of General Assembly resolution 41/76, of a draft declaration on the enhancement of the effectiveness of the principle of non-use of force in international relations, including, as appropriate, recommendations on the peaceful settlement of disputes.
  6. Adoption of the report.
7. In accordance with paragraph 5 of General Assembly resolution 41/76, whereby the Assembly decided that the Special Committee shall accept the participation of observers of Member States, the Committee decided to grant observer status to the following States: Algeria, Bangladesh, Cameroon, Canada, Cape Verde, Colombia, Czechoslovakia, Democratic Yemen, German Democratic Republic, Jordan, Lebanon, Libyan Arab Jamahiriya, Netherlands, Nicaragua, Oman, Panama, Peru, Sudan, Suriname, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zambia and Zimbabwe.
8. At its 132nd meeting, the Special Committee reconstituted the Working Group, with the officers of the Committee serving in their respective capacities as the officers of the Working Group.
9. The Special Committee had before it documents referred to in the report of the Working Group (see sect. II below).
10. At its 137th meeting, on 27 March 1987, the Special Committee, in accordance with paragraph 7 of General Assembly resolution 41/76, completed the draft Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations and decided to submit it, with the present final report on its work, to the General Assembly for consideration and adoption (see sect. III below).
11. All delegations paid tribute to the Chairman, Mr. Tullio Treves, for the inspiration given by his dedication to guide the Special Committee to the successful completion of its work. Tribute was also paid to the Vice-Chairman and to the Rapporteur for their important contribution as well as to the members of the Secretariat for providing assistance with their usual high professional skills.
12. At its 137th meeting, on 27 March, the Committee considered and approved the report of the Working Group. The report of the Committee was adopted at the same meeting.

13. The Working Group held 18 meetings between 9 and 27 March 1987. It first held a general exchange of views on the structure and content of the draft declaration which the Special Committee was mandated to prepare under General Assembly resolution 41/76 of 3 December 1986. It then embarked on the drafting task, on the basis of an informal paper prepared by the Chairman and taking into account the various proposals submitted orally or in writing by delegations.

14. Most of the speakers welcomed the unanimous agreement reached at the forty-first session of the General Assembly, both on the Committee's mandate as defined in paragraph 2 of Assembly resolution 41/76 and on the need for speedy action as provided in paragraph 7 of that same resolution. Some delegations also viewed as a good omen for the Committee's work the attention which the question of the non-use of force had received both at the Eighth Conference of Heads of State or Government of Non-Aligned Countries, held at Harare in 1986, and at the Stockholm Conference on Confidence- and Security-building Measures and Disarmament in Europe.

15. All the speakers expressed readiness to work constructively towards the elaboration of a declaration which, it was observed, would be of much benefit to the United Nations as an organization responsible for the maintenance of international peace and security. It was recalled, in this context, that concern over the all-too-frequent acts of aggression and other violations of the principle of non-use of force had been voiced at the Eighth Non-Aligned Summit Conference and had also found expression in General Assembly resolution 40/9 of 8 November 1985, which contained an appeal to States to comply fully and consistently with the obligations they had assumed, to resolve conflicts and disputes by peaceful means and to refrain from the threat or use of force and from any intervention in the internal affairs of other States.

16. The Working Group had before it a list of proposals suggested by some delegations at the previous session for inclusion in a possible future document to be worked out by the Committee, 2/ as well as other proposals and ideas expressed during the discussion held at the four previous sessions on the seven headings proposed by the Chairman of the 1982 session of the Committee. It also had before it two drafts of a declaration on enhancing the effectiveness of the principle of non-use of force.

17. With respect to the list of proposals referred to above, the remark was made that the work carried out in the course of the previous sessions had resulted in the identification of a number of elements which seemed to be generally recognized as necessary components of the future declaration, i.e., the principle of non-use of force, the principle of peaceful settlement of disputes, the conduct of States, the role of the United Nations, human rights, disarmament and confidence-building measures, the right to individual and collective self-defence and the development of international co-operation in the economic, technical and cultural spheres.

18. The view was expressed that those proposals referred to in the previous paragraphs which oriented the Special Committee towards the elaboration of a normative document, i.e., those which dealt with the principle of non-use of force, its content and the consequences of its violation, had lost much of their relevance as a result of the change in the Special Committee's mandate. As regards the sixth

proposal under heading E, the remark was made that it should present resort to regional arrangements as a desirable course of action rather than as an obligation. The second, fifth and seventh proposals under heading A were viewed as acceptable in their spirit, but objectionable in their treatment of issues such as the arms race and the nuclear threat. As to the eighth and ninth proposals under the same heading, they were described as highly controversial and belonging in the specialized forums dealing with disarmament. Doubts were voiced on the usefulness of the first three proposals under heading D, but readiness was expressed to reiterate generally recognized principles provided that interpretations already accepted by consensus were not called into question. As to the fourth proposal, it was described as irrelevant in the context of the Special Committee's work and, furthermore, was couched in terms which were not generally accepted. The remark was made that the first two proposals under heading C, aside from reflecting an approach which was not in keeping with the Committee's new mandate, referred to particular aspects of broader issues which were currently being considered by the International Law Commission and which were too delicate to be dealt with on a piecemeal basis. As to the three other proposals under heading C, they were described as lacking in content and strength. The first proposal under heading G was considered as useful in its latter part and the second proposal as imprecise, particularly as far as the reference to a comprehensive system of international security was concerned. As to the proposals under heading B, the remark was made that they should be reviewed to take account of the change in the Committee's mandate. Fear was furthermore expressed that the enumeration in the second proposal might be incomplete and therefore counter-productive.

19. One of the two drafts referred to above was contained in a working paper submitted by Belgium, Finland, France, Germany, Federal Republic of, Italy, Japan, Spain and the United Kingdom of Great Britain and Northern Ireland (A/AC.193/L.34), which read as follows:

"Draft declaration on the enhancement of the effectiveness of the  
principles of non-use of force in international relations"

"The General Assembly,

"Recalling the obligation of States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

"Convinced that no consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of the United Nations Charter,

"Recalling the inherent right to individual or collective self-defence recognized in the Charter of the United Nations,

"Confirming the basic principle of the sovereign equality of all States,

"Considering that respect for and promotion of human rights and fundamental freedoms in their civil, political, economic, social and cultural aspects, on the one hand, and the strengthening of international peace and security on the other, mutually reinforce each other,



"Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

"Reaffirming the importance and interrelationship among these and other relevant principles set forth in the Charter and the need fully to respect and apply these principles and to promote by all means, both in law and practice, their increased effectiveness,

"Noting with concern the continued existence of situations of conflict and tension and the persistence of violations of the principle of non-use of force,

"Deploing the pernicious impact of acts of terrorism on international relations,

"Conscious of the importance of making effective use of the United Nations system of collective security in order to maintain international peace and security,

"Aware of the urgent need to enhance the effectiveness of the principle of non-use of force in international relations ,

"Solemnly declares that:

"I

"1. States are under an obligation to observe the principle of the Charter of the United Nations concerning the non-use of force in their relations with any State, regardless of that State's political, economic, social or cultural system or relations of alliance.

"2. States parties to disputes are under an obligation to abide by their commitment to the principle of peaceful settlement of disputes as a necessary corollary to the duty of States to refrain from the threat or use of force as provided in the Charter.

"3. States should resort to such international dispute resolution mechanisms as negotiations, enquiry, mediation, conciliation, arbitration, judicial settlement, recourse to regional agencies or arrangements and, in general, all kinds of peaceful means chosen by States party to a dispute. States should respect and implement in good faith the decision rendered on an international dispute by the body to which they have resorted.

"4. Respect for and the effective exercise of human rights and fundamental freedoms are essential factors in the promotion of international peace and security. The international community has a legitimate, fundamental interest in promoting and encouraging compliance with the obligations of States concerning human rights and fundamental freedoms and in the free and unrestricted flow of information across international boundaries in the exercise of individual human rights and fundamental freedoms.

"5. All States should recognize that, to further international peace and trust among nations, they should promote and respect human rights and

fundamental freedoms for all individuals, including freedom of thought, conscience and religion, liberty and security of person, the right to leave any country, including one's own, and to return thereto, to enjoy equal protection of laws, to establish and join free trade unions, to participate equally in the political, economic, social and cultural life of their countries, including the right freely to choose their own Governments by free elections.

"6. States should establish appropriate confidence-building measures which, by their scope and nature, serve to give effect and expression to the duty of States to refrain from the threat or use of force in international relations.

"7. States should co-operate in order to prevent and combat all acts of terrorism, which can never be justified. Such acts inevitably increase tensions and thus jeopardize friendly relations among States.

## "II

"8. In conjunction with their obligation to settle their disputes by peaceful means, States should co-operate fully with the relevant organs of the United Nations and support their activities relating to the peaceful settlement of disputes and the maintenance of international peace and security.

"9. States should, in order to strengthen the capacity of the United Nations to fulfil its responsibilities, fully discharge their obligation to support United Nations peace-keeping operations decided upon in accordance with the Charter. They should pay due regard to all aspects of the collective security system, including the need to bring matters to the Security Council, to assist the United Nations in the establishment of peace-keeping forces, including informing, as appropriate, the Secretary-General as to their ability to provide the necessary logistics and manpower, and to carry out their responsibilities to share equitably the financial burden of United Nations peace-keeping operations.

"10. States should make greater use of the Security Council, in particular with a view to strengthening the part it can play in preventive diplomacy. States should facilitate the task of the Council in reviewing situations of potential crisis at as early a stage as possible.

"11. The fact-finding capacity of the Security Council should be enhanced on an ad hoc basis in accordance with the Charter. The Secretary-General should exercise his powers fully with regard to the maintenance of international peace and security, including making use of Article 99 of the Charter.

"12. States should consider making greater use of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate, pursuant to Article 52 of the Charter.

"13 Nothing in the foregoing paragraphs shall be construed as:

"(a) Enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful;

"(b) Prejudicing in any manner the relevant provisions of the Charter or the rights and duties of Member States or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the non-use of force."

20. Some delegations considered this working paper to be a useful and realistic contribution to the Committee's work. They observed that, while the declaration could not reasonably be expected to put an end to the international tensions which were at the root of the violations of the norm, it could usefully draw the attention of States to areas where an improvement of the existing situation would reduce the risk of such violations.

21. Other delegations held the view that the document suffered from a tilt, in that it gave some issues an overly detailed treatment and dealt with others in a superficial and distorting manner. Reference was made in this connection to the absence of any mention of disarmament, both conventional and nuclear, of the principle of non-intervention, of economic rights and duties of States, of co-operation for development, of economic and political coercion and of the right of all peoples under colonial or racist régimes or other forms of foreign domination and alien occupation to use all means at their disposal, including armed struggle, to obtain self-determination and independence. More specific comments included the remark that the third preambular paragraph should more accurately reflect the content of Article 51 and the observation, with reference to the fifth preambular paragraph, that human rights were indivisible and that mass and flagrant violations of human rights deserved a special mention as being the most closely connected with the principle of non-use of force. It was also remarked that the sixth preambular paragraph should refer to the Definition of Aggression (1974) and to the Manila Declaration on the Peaceful Settlement of International Disputes (1982), that the seventh preambular paragraph was unclear and that the ninth preambular paragraph should draw on paragraph 1 of General Assembly resolution 40/61 of 9 December 1985. With respect to section I, it was pointed out that operative paragraph 1 did not make any mention of the threat of force; that the role of the international community in promoting and encouraging compliance with obligations concerning human rights, as envisaged in the second sentence of operative paragraph 4, was unclear; and that the concept of unrestricted flow of information might be difficult to reconcile with the prohibition of war propaganda or with certain provisions of various Assembly resolutions, such as Assembly resolution 33/73 of 15 December 1978. As regards the listing in operative paragraph 5, it was viewed as incomplete and unnecessary.

22. The other draft of a declaration on enhancing the effectiveness of the principle of non-use of force was contained in a working paper submitted by Benin, Cyprus, Ecuador, Egypt and Nepal (A/AC.193/L.35), which read as follows:

"Draft declaration on the enhancement of the effectiveness  
of the principle of non-use of force or threat of force  
in international relations

"The General Assembly,

"Reminding States of the fundamental obligations incumbent upon them to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations, and to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace,

"Recalling the duty of States to refrain in their international relations from military, political, economic or any other form of coercion directed against the territorial integrity or independence of any State,

"Reconfirming the commitment of States to the basic principle of the sovereign equality of States and stressing that all States have equal rights and duties within the framework of international law,

"Bearing in mind the paramount importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for and promotion of human rights and fundamental freedoms,

"Reaffirming

"A. The legitimate right of all peoples under colonial and racist régimes and all forms of foreign domination and alien occupation to use all means at their disposal, including armed struggle, aimed at obtaining self-determination, independence and territorial integrity;

"B. The right of every nation to choose freely and without any external interference its political, social and economic system,

"Recalling the inherent right to individual and collective self-defence as defined in the United Nations Charter if an armed attack occurs against any State,

"Reaffirming the following United Nations instruments:

"1. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations [2625 (XXV)];

"2. The Manila Declaration on the Peaceful Settlement of International Disputes [37/10];

"3. The Charter of Economic Rights and Duties of States [3281 (XXIX)];

"Reaffirming also the importance of, and interrelationship between, the principles of international law emanating from the instruments mentioned in the previous paragraph, as well as the other relevant principles set forth in

the United Nations Charter and other internationally recognized instruments, and the need to fully respect and apply these principles and to enhance by all means, both in law and practice, their increased effectiveness,

"Deploing the impact of forcible activities committed by individuals or groups sponsored or supported by States contrary to their obligations under international law,

"Expressing deep concern at the existence of dangerous situations in the world constituting a direct threat to international peace and security due to the threat or use of various forms of force in international relations,

"Expressing also deep concern over the ongoing arms race, in particular the nuclear arms race, which constitutes a threat to the peace and security of mankind,

"Conscious of the importance of making effective use of the United Nations system of collective security in order to maintain international peace and security,

"Aware of the urgent need to undertake effective measures to enhance the effectiveness of the principle of non-use or threat of force in international relations,

"Solemnly declares that

"1. States shall strictly abide by the prohibition of the threat or use of force in their relations with any State, regardless of that State's political, economic, social or cultural system.

"2. States shall refrain from:

"A. Undertaking any political, economic, cultural or any other form of coercion directed against the territorial integrity or independence of any State;

"B. Directly or indirectly sponsoring or supporting forcible activities of individuals or groups against any State;

"C. Any forcible action, direct or indirect, which deprives peoples under foreign domination of their right to self-determination, freedom and independence and of their right to determine freely their political status and pursue their economic, social and cultural development.

"3. States shall abide by their commitment to the principle of peaceful settlement of disputes which is an essential complement to the duty of States to refrain from the threat or use of force in their international relations.

"4. States parties to international disputes shall settle their disputes exclusively by peaceful means in such a manner that international peace and security, and justice are not endangered. For this purpose they shall utilize such means as negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice, including good offices.

"5. States shall establish and strengthen appropriate confidence-building measures which by their very nature will act as operational barriers against the violation of the principle of non-use of force or threat of force thus easing tensions and consequently achieving greater effectiveness of the obligation of States to refrain from the threat or use of force in international relations.

"6. States should achieve progress towards the fulfilment of the goal of general and complete disarmament under strict and effective international control, with a view to enhancing the effectiveness of the principle of non-use of force or threat of force in international relations. To this end, States possessing nuclear arms must enter into direct negotiations with a view to eliminating the nuclear threat to the peace and security of mankind at the earliest possible date.

"7. States, in order to enhance the effectiveness of the collective security system of the United Nations as a corollary to the obligation of States to refrain from the threat or use of force in international relations, shall:

"(1) Co-operate fully with the competent organs of the United Nations and support their activities relating to the maintenance of international peace and security;

"(2) Support United Nations peace-keeping operations;

"(3) Make full use of the fact-finding functions of United Nations organs;

"(4) Utilize fully the provisions of Chapter VII of the Charter, including:

"A. Establishing clear rules and principles to govern the military activities of the United Nations;

"B. Giving early consideration to the implementation of Articles 41 and 42 of the Charter by the Security Council;

"(5) Support the actions to be taken and the recommendations to be adopted by the General Assembly in accordance with Articles 10, 11, 12 and 14 of the United Nations Charter, as well as resolution 377 (V);

"(6) Enhance the Secretary-General's capability in discharging his responsibilities under Articles 98 and 99 of the Charter and the relevant rules of the provisional rules of procedure of the Security Council;

"(7) Enhance the capabilities of regional arrangements or agencies in dealing with regional matters;

"(8) Enhance the role of the International Court of Justice in dealing with the legal aspects of international disputes in accordance with Article 96 of the Charter;

"(9) Implement the resolutions and decisions of the United Nations organs dealing with the threat or use of any form of force and the peaceful settlement of disputes.

"8. States shall not recognize as lawful any consequences or special advantages resulting from the threat or use of force in contravention of international law, particularly any occupation or acquisition of territory.

"9. States shall consider as void any treaty which has been procured by the threat or use of force in violation of the principles of international law.

"10. Nothing in the foregoing paragraphs shall be construed as prejudicing in any manner the relevant provisions of the Charter or the rights and duties of Member States or the scope of the functions and powers of the United Nations organs under the Charter."

23. The delegations favourable to the approach reflected in this working paper held the view that, in order meaningfully to strengthen the principle of non-use of force and bring about a qualitative change in the attitude of States, the new instrument should embody an evolutionary approach, build upon agreed interpretations of the norm and reflect constructive results after 10 years of work by the Committee. They observed that agreement on new and practical norms would enhance the effectiveness of the principle of non-use of force.

24. Other delegations stressed that the Special Committee was mandated by a consensus resolution to enhance not the principle of non-use of force but its effectiveness. They pointed out that the norm was clearly enunciated in Article 2, paragraph 4, of the Charter, and that its reiteration or interpretation beyond what had already been done in the Friendly Relations Declaration and in the Definition of Aggression would only detract from its cogency by giving the impression that it was in need of being clarified or strengthened.

25. The following paragraphs contain the views of a number of delegations on what they considered as essential components of the declaration.

26. It was felt indispensable to stress that the principle of non-use of force was a peremptory and universal norm which admitted of no deviation through bilateral agreements or unilateral doctrines and the violation of which could not be justified by any consideration of any kind.

27. As appears from paragraph 2 of document A/AC.193/L.35, some delegations placed emphasis on the principle of non-interference, particularly on the prohibition of political, economic, cultural or any other form of coercion and on the indirect use of force. In this connection, the following proposals were submitted by Mexico (A/AC.193/1987/CRP.1):

"Preambular paragraphs:

"Deeply concerned at the seriousness of the international situation and the growing threat to universal peace resulting from the use or threat of the use of force and other direct or indirect forms of interference that infringe upon the sovereign integrity of States,

"Reaffirming the right of every State to choose its political, economic, social and cultural systems without interference in any form by another State,

"Fully convinced of the vital need to establish appropriate conditions which will enable States to choose, without constraint, their political, economic, social and cultural institutions, as well as the formulation of their foreign policy,

"Recalling the duty of States to refrain from military, political, economic or any other form of coercion against the territorial integrity, political independence or personality of the State,

"Reaffirming the principle of equal sovereign rights and self-determination of peoples,

"Operative paragraphs:

"States are under an obligation not to intervene directly or indirectly, individually or collectively, for any reason whatsoever, in the internal and external affairs of any State, as a corollary which reinforces the duty of States to refrain from the threat or use of force.

"Respect for the prohibition of all forms of interference or attempted threat against the sovereignty and personality of the State or against its political, economic, social and cultural elements is an essential factor in the maintenance of international peace and security and an essential condition for the conduct of relations between States.

"To this end:

"(a) States shall respect the duty not to use or encourage the use of economic, political or any other type of coercive measures in order to obtain from another State the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

"(b) States shall refrain from fomenting, financing or tolerating paramilitary, terrorist, subversive or armed activities directed against the personality of another State;

"(c) States shall refrain from using information in a defamatory manner and from carrying out disinformation activities directed against the personality of another State.

"A State is under an obligation to make reparations for all injury caused by breaches of the obligations enumerated above."

It was furthermore proposed by Cuba (A/AC.193/1987/CRP.3) to include in the operative part of the declaration a paragraph reading as follows:

"States shall refrain from resorting to the threat or use of force, whether in the form of armed aggression or in the form of political or economic coercion or pressure or in any other form, including the use of hostile propaganda against another State."



28. Other delegations objected to bringing the use of economic coercion and other forms of pressure under the umbrella of the prohibition of the use or threat of force. It was said in particular that the section of the Friendly Relations Declaration on the principle of non-intervention was a fair and reasonable statement of the law on the use of economic and other forms of coercion, which it would be unwise to call into question, and that a discussion of the ambit of Article 2, paragraph 4, of the Charter was unlikely to lead to any generally agreed conclusions.

29. Referring to terrorist activities, some delegations placed emphasis on acts perpetrated by groups or individuals without any State involvement, which experience showed could dangerously strain international relations. Other delegations highlighted State-supported activities, adding that the complex issue of terrorism should be covered in all its aspects, including its underlying causes.

30. The prohibition of the use of information for hostile purposes and of disinformation was considered by some delegations as an important element that should be included in the declaration. In this connection, it was proposed by Mexico (A/AC.193/1987/CRP.1) to insert in the operative part a paragraph reading as follows:

"(c) States shall refrain from using information in a defamatory manner and from carrying out disinformation activities directed against the personality of another State."

and it was proposed by Cuba (A/AC.193/1987/CRP.3) to include in the text of the declaration a reference to "the use of hostile propaganda against another State".

31. Some delegations observed that hostile propaganda did not involve the use of force and was therefore alien to the subject-matter before the Committee. It was also said that disinformation activities directed against the personality of the State and the use of information in a defamatory manner were vague and subjective concepts that might easily lead to unjustifiable restrictions to the free flow of information.

32. Other delegations drew attention to the fact that under the section of the Friendly Relations Declaration dealing with the principle of non-use of force, States had a duty to refrain from propaganda for wars of aggression and that, historically, hostile propaganda and defamation had often served as a prelude to the use of force. It was also said that the fear that the concepts in question might give rise to abusive interpretations was unfounded, inasmuch as the proposed paragraphs were limited to activities carried out by the State and to intentional and deliberate distortions of the facts.

33. It was generally recognized that the declaration should contain provisions on the peaceful settlement of disputes (dealt with in paragraph 8 of document A/AC.193/L.34 and in paragraphs 3 and 4 of document A/AC.193/L.35), as well as on the right of individual or collective self-defence (also dealt with in the two documents).

34. It was also widely recognized that the declaration should contain provisions on human rights. The remark was made in this connection that history attested to the relevance of respect for human rights and fundamental freedoms to the maintenance of international peace and security. Attention was drawn in this

context to the first paragraph of the preamble to the International Covenant on Economic, Social and Cultural Rights. It was also said that the concept of human rights was indivisible and encompassed economic, social and cultural, as well as civil and political rights.

35. Some delegations stressed that mass and flagrant violations of human rights were of particular relevance to the principle of non-use of force, and reference was made in this connection to the fifth preambular paragraph and to operative paragraph 2 of General Assembly resolution 41/155 of 4 December 1986.

36. The remark was made that the right to self-determination of peoples under colonial or racist régimes or other forms of foreign domination and alien occupation was of special importance in the present context. Some delegations said that the right to self-determination was universal and objected to what they viewed as a differential treatment based on the particular political circumstances of certain peoples. Other delegations remarked that the above-mentioned peoples were forcibly deprived of the right to self-determination and that their situation was therefore of special relevance to a document on the non-use of force.

37. Many delegations considered that the declaration should contain provisions on the role of the United Nations, dealt with in section II of document A/AC.193/L.34 and in paragraph 7 of document A/AC.193/L.35, as well as in the following proposals submitted by Mexico in document A/AC.193/1987/CRP.2:

"Operative paragraphs (section dealing with the United Nations):

"States should put into effect the recommendations of the Security Council and the General Assembly of the United Nations relating to the threat or use of force and coercion and the peaceful settlement of disputes.

"States shall comply effectively with decisions of the Security Council in accordance with the Charter.

"States shall, in exercise of their sovereignty and in conformity with the Charter of the United Nations, opt for making greater use of the facilities offered by the International Court of Justice for the settlement of legal disputes, including those in which the principle of prohibition of the threat or use of force has been violated.

"To ensure effective implementation of judgements of the International Court of Justice, States and the organs of the United Nations shall encourage compliance with them on the part of the States involved in respect of that particular case.

"When non-compliance with a judgement of the International Court of Justice is brought to the attention of the Security Council, the Council shall, when it deems necessary, make recommendations or order rapid and effective measures to ensure that the judgement is executed. To this end, and in order not to obstruct the course of justice, the members of the Security Council shall abstain from voting when they are parties to the case in question.

"States should respect the advisory opinions of the International Court of Justice relating to the maintenance of international peace and security."

38. Some delegations said that, in dealing with the collective security system, the declaration should highlight the need for the effective implementation of the provisions of Chapter VII of the Charter. Other delegations felt that an explicit call for sanctions and the use of force by the United Nations was inadvisable in this context and therefore expressed preference for a formulation covering all the aspects of the collective security system.

39. Several delegations placed emphasis on the obligation of States under Article 25 of the Charter to accept and carry out the decisions of the Security Council.

40. The remark was made that the third, fourth and fifth of the proposals submitted by Mexico in document A/AC.193/1987/CRP.2 aimed at drawing attention to Article 94, paragraph 2, of the Charter, with a view to encouraging States to resort more often to the International Court of Justice. It was recalled that all the principal organs of the United Nations should support each other in the implementation of their decisions. Attention was also drawn to legal interpretations of Article 27, paragraph 3, and to the need to respect judgements of the Court.

41. The view was on the other hand expressed that the above-mentioned Mexican proposals were neither useful nor legally correct, that, given their background, there was little likelihood that they could elicit general support and that the singling out of a Charter provision taken out of context could be of more consequence than appeared at first sight.

42. The remark was also made that the option given to the Council under Article 94, paragraph 2 of the Charter, was governed by substantive and procedural rules and that when the Council decided whether or not to take action under Article 94, paragraph 2, it thereby decided whether non-compliance with the obligations flowing from a judgment of the Court resulted in a threat to the maintenance of international peace and security.

43. Some delegations felt that the declaration should deal with the question of the consequences of the use of force.

44. In this connection, it was proposed by Cuba (A/AC.193/1987/CRP.3) to include in the preambular part of the declaration the following paragraph:

"Considering that the use of force in international relations may, in some of its manifestations, cause serious loss of human life and material damage to the economy of the countries affected, whose progress may be set back by such acts,".

45. Some delegations felt that this paragraph expressed a truism and should therefore be dispensed with. Others considered it as useful and said that a concrete reminder of the tragic consequences of the use of force was entirely warranted in this context. Some delegations favoured the inclusion of a reference to the threat of force, while others held the view that only the actual use of force could produce the consequences described in the text. Some delegations observed that the idea expressed in the last part of the proposal should be reflected in a separate paragraph, so as not to detract from the generality of the statement contained in the first part. Others held the view that the idea was useful and should be retained at the end of the paragraph.

46. Some delegations were of the view that the declaration should provide for the inadmissibility of acquisitions of territory by force. Among them, some expressed preference for paragraph 8 of document A/AC.193/L.75 and others for the formulation appearing in paragraph (13) of the Document of the Stockholm Conference or in the relevant provision of the Final Act of Helsinki. In connection with the latter formulations, it was observed that, under contemporary international law, acquisition of territory resulting from the threat or use of force was illegal, whether or not force had been used in contravention of international law. The remark was made in this context that if this approach, which was to be found in the relevant section of the Friendly Relations Declaration, were to be retained, the safeguard clause therein would also have to be included in the text.

47. Proposals were also submitted by Greece (A/AC.193/1987/CRP.4) reading as follows:

"Operative part"

"1. The illegal use of force entails the international responsibility of the State which has used it.

"2. The territory of a State may not be the subject of acquisition by another State following recourse to the threat or use of force.

"No territorial acquisition obtained by the threat or use of force shall be recognized as legal.

"Similarly, such acquisition may in no case give rise to a succession of States.

"3. States have the duty to assist the victims of the illegal use of force.

"4. A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law.

"Similarly, a fundamental change of circumstances may not be invoked as grounds for terminating or withdrawing from a treaty by a party which has provoked such change by the threat or use of force."

Reference is furthermore made to the last paragraph of the proposals submitted by Mexico referred to in paragraph 27 above regarding reparation for violation of the principle.

48. Some delegations, while agreeing that point 1 of the proposal submitted by Greece and the above-mentioned proposal by Mexico reflected generally accepted norms of international law, observed that the reiteration of those norms in the context of a declaration dealing with one particular principle could open the door to unfortunate a contrario interpretations. It was suggested that, instead of being the subject of a separate paragraph, the idea should be presented as a consequence of the characterization of the use of force as a violation of international law. The thrust of the first two paragraphs under point 2 was also generally viewed as acceptable. The last paragraph under point 2 was viewed as largely unrelated to the subject-matter before the Committee. It was suggested to add under point 2 a reference to the duty not to recognize changes in the

demographic, cultural or geographic characteristics of occupied territories. The proposal in point 3 was viewed as having no basis in State practice or existing instruments and finding no support in the conclusions reached by the International Law Commission in the area of State responsibility. The view was expressed, on the other hand, that assistance to the victims of the illegal use of force found its legal justification in the principle of solidarity among members of the United Nations as it emanates from Article 2, paragraph 5, and Chapter VII of the Charter. The thrust of the first paragraph under point 4 was viewed as unobjectionable inasmuch as it reflected a generally accepted principle of the law of treaties codified in article 52 of the 1969 Vienna Convention. Doubts were, however, expressed with regard to the second paragraph under point 4.

49. With respect to the question of general and complete disarmament, in particular nuclear disarmament, some delegations expressed the view that disarmament issues were too crucial to the maintenance of international peace and security to be treated casually in the declaration. It was said that curbing the arms race and preventing it from spreading to outer space would help consolidate strategic stability to the general advantage of all States; that the question of the use of weapons and particularly of weapons of mass destruction, whether on land, at sea, in the air or in outer space, was inseparable from the question of non-use of force; that lowering the level of international tension would reduce the risk of conflicts, consolidate the international legal order and contribute to the creation of a reliable and comprehensive system of international security; that special attention should be paid to the prevention of nuclear war; that in the present-day world in which nuclear weapons existed there was no reasonable alternative to the peaceful coexistence of States; and that steps should be taken to rid the earth of nuclear weapons and other weapons of mass destruction by the end of the present century. In this connection, the Soviet Union submitted proposals (A/AC.193/1987/CRP.6) which read as follows:

#### "Preambular paragraphs

"Recognizing the necessity to eliminate the weapons of mass destruction from the arsenals of States,

"Convinced that in the present world situation there is no reasonable alternative to the peaceful coexistence of States.

#### "Operative paragraphs

"States should take measures to prevent the arms race in space and to terminate it on earth and to make a radical turn towards disarmament and elimination of the danger of nuclear war, as well as to lower the level of military confrontation and to reduce existing military potentials.

"States shall refrain from the use of force employing any types of weapons, including weapons of mass destruction, on land, at sea, in the air and in outer space; they shall not threaten such use or threaten the safety of international sea, air and space communications passing through areas beyond the limits of national jurisdiction.

"States shall undertake active efforts aimed at the relaxation of international tensions, the consolidation of the international legal order and the creation of a reliable and comprehensive system of international security in accordance with the Charter of the United Nations.

"States reaffirm that a nuclear war should never be fought and can never be won.

"States shall take effective measures aimed at a step-by-step, consistent process of ridding the earth of nuclear weapons and other weapons of mass destruction."

50. Those proposals were objected to on the grounds that, while disarmament was in itself a desirable goal, it was not necessarily related to the subject-matter before the Committee, inasmuch as the prohibition of the use of force as set forth in the Charter was binding on all States irrespective of the armament situation in the world and of the pace of the arms race and applied regardless of what types of weapons might be used. It was remarked that, as a rule, States built or maintained military arsenals not in order to wage wars of aggression, but to ensure their security, and that confidence-building measures were therefore, unlike disarmament, of direct relevance to the work of the Committee. Readiness was, however, expressed to cover the issue of disarmament in the declaration by way of a general clause, leaving aside specific aspects which were dealt with in specialized forums and omitting any mention of particular types of weapons. Attention was drawn in this connection to paragraph 6 of document A/AC.193/L.34 and to paragraph 5 of document A/AC.193/L.35, as well as to paragraph 19 of the Final Document of the Tenth Special Session of the General Assembly, the first special session devoted to disarmament (General Assembly resolution S-10/2).

51. Some delegations stressed that the third world suffered from the stresses and strains of economic imbalances which were potential causes of the use of force and that the declaration should contain several paragraphs exhorting States to take immediate steps to establish the new international economic order. It was also proposed to include in the declaration the idea that States shall refrain from any action directed against the economic security of States. Other delegations cautioned against trying to import into the draft elements which, in their opinion, bore no direct relationship to the effectiveness of the principle of non-use of force and which were not generally accepted.

52. It was also proposed to include in the declaration the obligation of States to refrain from organizing, instigating, assisting or participating in any subversive activities. Doubts were, however, raised as to the precise meaning of the word "subversive" in this context.

53. Several delegations felt that the declaration should provide for the strengthening of international co-operation in all areas. Some also insisted on the development of co-operation at the bilateral and regional levels. In this context, some delegations referred to the proposal submitted by Cuba (A/AC.193/1987/CRP.3) to include in the preamble the following paragraph:

"Resolved to promote international co-operation in accordance with the Charter of the United Nations,".

54. It was proposed to include in the declaration the principle that States shall fulfil in good faith all their international obligations. There was a detailed exchange of views concerning a proposal to include in the declaration a reference in this connection to the generally recognized principles and rules of international law. Some delegations wished to see this phrase included on the basis of its appearance in the Friendly Relations Declaration. Others favoured leaving it out, as it was, in their view, unclear.

55. The Chairman, taking into account the discussion in the Working Group, produced a revised paper which served as a basis for intensive informal consultations. The result of this phase of the work is reproduced in section III below.

III. DRAFT DECLARATION ON THE ENHANCEMENT OF THE EFFECTIVENESS OF  
THE PRINCIPLE OF REFRAINING FROM THE THREAT OR USE OF FORCE  
IN INTERNATIONAL RELATIONS

56. The text of the draft Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations reads as follows:

The General Assembly,

Recalling the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,

Recalling that this principle is enshrined in Article 2, paragraph 4, of the Charter of the United Nations and has been reaffirmed in a number of international instruments,

Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Definition of Aggression and the Manila Declaration on the Peaceful Settlement of International Disputes.

Reaffirming the obligation to maintain international peace and security in conformity with the purposes of the United Nations,

Expressing deep concern at the continued existence of situations of conflict and tension and the impact of the persistence of violations of the principle of refraining from the threat or use of force on the maintenance of international peace and security, as well as at the loss of human life and material damage in the countries affected, whose development may thereby be set back,

Desiring to remove the risk of new armed conflicts between States by promoting a change in the international climate from confrontation to peaceful relations and co-operation and taking other appropriate measures to strengthen international peace and security,

Convinced that, in the present world situation, in which nuclear weapons exist, there is no reasonable alternative to peaceful relations among States,

Fully aware that the question of general and complete disarmament is of the utmost importance and that peace, security, fundamental freedoms and economic and social development are indivisible,

Noting with concern the pernicious impact of terrorism on international relations,

Stressing the need for all States to desist from any forcible action aimed at depriving peoples of their right to self-determination, freedom and independence,



Reaffirming the obligation of States to settle their international disputes by peaceful means,

Conscious of the importance of strengthening the United Nations system of collective security,

Bearing in mind the universal significance of human rights and fundamental freedoms as essential factors for international peace and security,

Convinced that States have a common interest in promoting a stable and equitable world economic environment as an essential basis for world peace and that, to that end, they should strengthen international co-operation for development and work towards a new international economic order,

Reconfirming the commitment of States to the basic principle of the sovereign equality of States,

Reaffirming the inalienable right of every State to choose its political, economic, and social and cultural systems without interference in any form by another State,

Recalling that States are under an obligation not to intervene directly or indirectly, for any reason whatever, in the internal or external affairs of any other State,

Reaffirming the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

Reaffirming the principle of equal rights and self-determination of peoples enshrined in the Charter,

Reaffirming that States shall fulfil in good faith all their obligations under international law,

Aware of the urgent need to enhance the effectiveness of the principle that States shall refrain from the threat or use of force in order to contribute to the establishment of lasting peace and security for all States,

Solemnly declares that:

# I

1. Every State has the duty to refrain, in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and entails international responsibility.

2. The principle of refraining from the threat or use of force in international relations is universal in character and is binding regardless of each State's political, economic, social or cultural system or relations of alliance.

3. No consideration of whatever nature may be invoked to warrant resorting to the threat or use of force in violation of the Charter of the United Nations.
4. States have the duty not to urge, encourage or assist other States to resort to the threat or use of force in violation of the Charter of the United Nations.
5. By virtue of the principle of equal rights and self-determination enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.
6. States shall fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in paramilitary, terrorist or subversive acts, including acts of mercenaries, in other States, or acquiescing in organized activities within their territory directed towards the commission of such acts.
7. States have the duty to abstain from armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements.
8. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.
9. In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.
10. Neither acquisition of territory resulting from the threat or use of force nor any occupation of territory resulting from the threat or use of force in contravention of international law will be recognized as legal acquisition or occupation.
11. A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.
12. In conformity with the Charter of the United Nations and in accordance with the relevant paragraphs contained in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, States shall fulfil in good faith all their international obligations.
13. States have the inherent right of individual or collective self-defence if an armed attack occurs, as set forth in the Charter of the United Nations.

14. States shall make every effort to build their international relations on the basis of mutual understanding, trust, respect and co-operation in all areas.

15. States should also promote bilateral and regional co-operation as one of the important means to enhance the effectiveness of the principle of refraining from the threat or use of force in international relations.

16. States shall abide by their commitment to the principle of peaceful settlement of disputes which is inseparable from the principle of refraining from the threat or use of force in their international relations.

17. States parties to international disputes shall settle their disputes exclusively by peaceful means in such a manner that international peace and security, and justice, are not endangered. For this purpose they shall utilize such means as negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice including good offices.

18. States shall take effective measures which, by their scope and by their nature, constitute steps towards the ultimate achievement of general and complete disarmament under strict and effective international control.

19. States should take effective measures in order to prevent the danger of any armed conflicts, including those in which nuclear weapons could be used, to prevent an arms race in outer space and to halt and reverse it on earth, to lower the level of military confrontation and to enhance global stability.

20. States should co-operate in order to undertake active efforts aimed at ensuring the relaxation of international tensions, the consolidation of the international legal order and the respect of the system of international security established by the Charter of the United Nations.

21. States should establish appropriate confidence-building measures aimed at preventing and reducing tensions and at creating a better climate among them.

22. States reaffirm that the respect for effective exercise of all human rights and fundamental freedoms and protection thereof are essential factors for international peace and security, as well as for justice and the development of friendly relations and co-operation among all States. Consequently, they should promote and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion, inter alia, by strictly complying with their international obligations and considering as appropriate becoming parties to the principal international instruments in this field.

23. States shall co-operate at the bilateral, regional and international levels in order to:

(a) Prevent and combat international terrorism;

(b) Contribute actively to the elimination of the causes underlying international terrorism.

24. States shall endeavour to take concrete measures and promote favourable conditions in the international economic environment in order to achieve international peace, security and justice; they will take into account the interest of all in the narrowing of the differences in the levels of economic development, and in particular the interest of developing countries throughout the world.

### III

25. The competent United Nations organs should make full use of the provisions of the Charter of the United Nations in the field of maintenance of international peace and security with a view to enhancing the effectiveness of the principle of refraining from the threat or use of force in international relations.

26. States should co-operate fully with the organs of the United Nations in supporting their action relating to the maintenance of international peace and security and to the peaceful settlement of international disputes in accordance with the Charter of the United Nations. In particular, they should enhance the role of the Security Council so that it can fully and effectively discharge its duties. In this regard, the permanent members of the Security Council have a special responsibility under the Charter.

27. States should strive to enhance the effectiveness of the collective security system through the effective implementation of the provisions of the Charter, particularly those relating to the special responsibilities of the Security Council in this regard. They should also fully discharge their obligations to support United Nations peace-keeping operations decided upon in accordance with the Charter. States shall accept and carry out the decisions of the Security Council in accordance with the Charter.

28. States should give the Security Council every possible type of assistance in all actions taken by it for the just settlement of crisis situations and regional conflicts. They should strengthen the part the Security Council can play in preventing disputes and situations the continuation of which is likely to endanger the maintenance of international peace and security. They should facilitate the task of the Council in reviewing situations of potential danger for international peace and security at as early a stage as possible.

29. The fact-finding capacity of the Security Council should be enhanced on an ad hoc basis in accordance with the Charter.

30. States should give full effect to the important role conferred by the Charter on the General Assembly in the area of peaceful settlement of disputes and the maintenance of international peace and security.

31. States should encourage the Secretary-General to exercise fully his functions with regard to the maintenance of international peace and security and the peaceful settlement of disputes, in accordance with the Charter, including those under Articles 98 and 99, and fully co-operate with him in this respect.

32. States should take into consideration that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court as an important factor for strengthening the maintenance of international peace and security. The General Assembly and the Security Council should consider making use of the provisions of the Charter concerning the possibility of requesting the Court to give an advisory opinion on any legal question.

33. States parties to regional arrangements or agencies should consider making greater use of such arrangements and agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate, pursuant to Article 52 of the Charter.

Declares that nothing in the present Declaration shall be construed as:

(a) Enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful;

(b) Prejudicing in any manner the relevant provisions of the Charter or the rights and duties of Member States or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the threat or use of force.

Declares that nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist régimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration;

Confirms that in the event of a conflict between the obligations of Members of the United Nations under the Charter of the United Nations and their obligations under any other international agreement, their obligations under the Charter will prevail in accordance with Article 103 of the Charter.

#### Notes

1/ For the membership of the Special Committee at the session held in 1987, see document A/AC.193/INF/10.

2/ Official Records of the General Assembly, Forty-first Session, Supplement No. 41 (A/41/41), para. 90.

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