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# CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

## Report of the Sixth Committee

Rapporteur: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico)

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# I. INTRODUCTION

1. At its 1564th plenary meeting, on 23 September 1967, the General Assembly decided to include item 87, entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations," in the agenda of its twenty-second session and to allocate it to the Sixth Committee. In accordance with General Assembly resolution 2181 (XXI) of 12 December 1966, the item had previously been included in the provisional agenda of the session.

2. The item was considered by the Sixth Committee at its 992nd to 1006th meetings, from 6 to 22 November 1967.

3. The Committee had before it, as a basis for its consideration of the item, the report (A/6799) of the 1967 session of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. The report was introduced in the Committee at its 992nd meeting by the Rapporteur of the Special Committee. At the same meeting, the Chairman of the Special Committee and the Chairman of that Committee's Drafting Committee made separate statements on the activities of the Special Committee and of its Drafting Committee respectively.

4. The report on the 1967 session of the Special Committee was divided into the following six chapters: (1) Introduction; (2) Consideration of the four principles enumerated in paragraph 5 of General Assembly resolution 2181 (XXI) with a view to completing their formulation (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; the duty of States to co-operate with one another in accordance with the Charter; the principle of equal rights and self-determination of peoples; the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter); (3) Consideration of proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX); (4) Consideration of the two principles

referred to in operative paragraph 7 of General Assembly resolution 2181 (XXI) with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee (the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered; the principle of sovereign equality of States); (5) Preambles and general provisions of a draft declaration on the seven principles; (6) Concluding stage of the Special Committee's session.

5. The Committee also had before it a letter (A/C.6/383) dated 8 November 1967 from the President of the General Assembly to the Chairman of the Sixth Committee transmitting a communication from the Chairman of the Fourth Committee, reproduced in the annex to that document. The communication referred to the Fourth Committee's decision to transmit to the Chairman of the Sixth Committee, in connexion with the latter's consideration of the item which is the subject of this report, the statements made by the representative of South Africa at the 1697th and 1704th meetings of the Fourth Committee on 19 and 27 October 1967, during the examination of agenda item 23, entitled "Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (chapter relating to Southern Rhodesia)". The General Assembly had taken note of the Fourth Committee's decision at its 1594th plenary meeting on 3 November 1967.

## II. CONSIDERATION OF THE ITEM PRIOR TO THE TWENTY-SECOND SESSION

6. After examining the item entitled "Future work in the field of the codification and progressive development of international law"[1/] at its sixteenth session, the General Assembly adopted resolution 1686 (XVI) of 18 December 1961 in which it decided to place on the provisional agenda of its seventeenth session the question entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations". Following its inclusion in the agenda of the seventeenth session of the General Assembly the item has since been included in the agenda of subsequent sessions of the General Assembly. The debates on the item at the seventeenth, eighteenth, twentieth and twenty-first sessions led to the adoption by the General Assembly, on the basis of recommendations by the Sixth Committee, of resolutions 1815 (XVII) and 1816 (XVII) of 18 December 1962, 1966 (XVIII) and 1967 (XVIII) of 16 December 1963, 2103 (XX) and 2104 (XX) of 20 December 1965, and 2181 (XXI) and 2182 (XXI) of 12 December 1966.

7. At its seventeenth session,[2/] the General Assembly, in its resolution 1815 (XVII) of 18 December 1962, recognized the "paramount importance, in the progressive development of international law and in the promotion of the rule of law among nations, of the principles of international law concerning friendly relations and co-operation among States and the duties deriving therefrom, embodied in the Charter of the United Nations which is the fundamental statement of those principles..." and resolved "to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more

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1/ Official Records of the General Assembly, Sixteenth Session, Annexes, agenda item 70.

2/ Ibid., Seventeenth Session, Annexes, agenda item 75. Resolution 1816 (XVII) concerned technical assistance to promote the teaching, study, dissemination and wider appreciation of international law. That question later became a separate item on the agenda of subsequent sessions of the General Assembly.

effective application". Under operative paragraph 3 of the above-mentioned resolution 1815 (XVII), the General Assembly also decided to study at its eighteenth session four of the seven principles listed in that resolution, namely:

(a) 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;

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; and

(d) The principle of sovereign equality of States.

8. At its eighteenth session[3/], the General Assembly, in its resolution 1966 (XVIII) of 16 December 1963, established a Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. The Special Committee was requested to draw up and submit to the General Assembly a report "containing, for the purpose of the progressive development and codification of the four principles" referred to in paragraph 7 above "so as to secure their more effective application, the conclusions of its study and its recommendations...". The General Assembly also decided to examine at its nineteenth session the report of the Special Committee and to study the three other principles listed in resolution 1815 (XVII). Those principles are the following:

(a) The duty of States to co-operate with one another in accordance with the Charter;

(b) The principle of equal rights and self-determination of peoples;

(c) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter.

9. At its eighteenth session, the General Assembly, in its resolution 1967 (XVIII) of 16 December 1963 on the question of methods of fact-finding, also invited

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3/ Ibid., Eighteenth Session, Annexes, agenda item 71.

Member States to submit in writing any views they might have on that subject and requested the Secretary-General to study the relevant aspects of the problem and to report on the results of such study to the General Assembly at its nineteenth session and to the Special Committee referred to in the preceding paragraph. Resolution 1967 (XVIII) also requested the Special Committee to include the above-mentioned subject-matter in its deliberations.

10. The Special Committee established under General Assembly resolution 1966 (XVIII) met at Mexico City from 27 August to 1 October 1964. The Special Committee was composed of twenty-seven Member States appointed by the President of the General Assembly in accordance with operative paragraph 1 of resolution 1966 (XVIII), "taking into consideration the principle of equitable geographical representation and the necessity that the principal legal systems of the world should be represented". The Special Committee adopted a report on its work and submitted it to the General Assembly.[4/]

11. The General Assembly was unable to resume consideration of the question which is the subject of this report until its twentieth session. It then examined the report of the 1964 Special Committee, the three principles mentioned in paragraph 8 above, and the report of the Secretary-General on methods of fact-finding.[5/] The item was considered by the Sixth Committee in conjunction with an item entitled "Observance by Member States of the principles relating to the sovereignty of States, their territorial integrity, non-interference in their domestic affairs, the peaceful settlement of disputes and the condemnation of subversive activities".[6/]

12. The Special Committee was reconstituted by resolution 2103 (XX) of 20 December 1965, adopted by the General Assembly at its twentieth session. The Special Committee, thus reconstituted, was composed of thirty-one Member States,[7/]

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4/ Ibid., Twentieth Session, Annexes, agenda items 90 and 94, document A/5746.

5/ Ibid., document A/5694.

6/ Ibid., document A/6165, paras. 6 and 7.

7/ Algeria, Argentina, Australia, Burma, Cameroon, Canada, Chile, Czechoslovakia, Dahomey, France, Ghana, Guatemala, India, Italy, Japan, Kenya, Lebanon, Madagascar, Mexico, Netherlands, Nigeria, Poland, Romania, Sweden, Syria, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia.

the twenty-seven members of the 1964 Special Committee and four other States mentioned in operative paragraph 3 of resolution 2103 (XX). The Special Committee was requested to continue the consideration of the four principles studied by the 1964 Special Committee and to consider the three principles which the General Assembly had decided to begin to study, in accordance with the provisions of its resolution 1966 (XVIII). With a view to enabling the General Assembly to "adopt a declaration containing an enunciation of these principles", resolution 2103 (XX) requested the Special Committee to submit "a comprehensive report on the results of its study of the seven principles". Part B of resolution 2103 (XX) also requested the Special Committee to take into consideration the request for the inclusion in the agenda of the item mentioned in the preceding paragraph, and the discussion of that item at the twentieth session of the General Assembly.

13. At its twentieth session, the General Assembly also adopted resolution 2104 (XX) of 20 December 1965, requesting the Secretary-General to make a supplementary study of the question of methods of fact-finding in relation to the execution of international agreements and inviting Member States to submit any further views they might have on the subject.

14. The Special Committee reconstituted under General Assembly resolution 2103 (XX) of 20 December 1965 met at United Nations Headquarters, New York, from 8 March to 25 April 1966 and adopted a report[8/] on its work, which it submitted to the General Assembly in accordance with the terms of the above-mentioned resolution.

15. The report of the 1966 Special Committee and the Secretary-General's supplementary study on the question of methods of fact-finding[9/] were considered by the General Assembly at its twenty-first session in connexion with the present agenda item. The Assembly also had before it the comments received from Governments on the question of methods of fact-finding.[10/]

16. At its twenty-first session the General Assembly adopted two further resolutions on the subject. Under the first, resolution 2181 (XXI) of 12 December 1966, the Assembly decided to ask the Special Committee, as reconstituted by General Assembly resolution 2103 (XX), to continue its work. The

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8/ Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 87, document A/6230.

9/ Ibid., document A/6228.

10/ Ibid., document A/6373 and Add.1.

Special Committee's terms of reference were defined in operative paragraphs 5 to 8 of resolution 2181 (XXI) as follows:

"5. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first sessions of the General Assembly and in the 1964 and 1966 Special Committees, to complete the formulations of:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(b) The duty of States to co-operate with one another in accordance with the Charter;

(c) The principle of equal rights and self-determination of peoples;

(d) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

"6. Requests the Special Committee to consider proposals on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX);

"7. Requests the Special Committee, having considered, as a matter of priority, the principles referred to in paragraphs 5 and 6 above, to examine any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered and the principle of sovereign equality of States;

"8. Requests the Special Committee, having regard to the work already accomplished by the 1966 Special Committee, as specified in paragraph 3 above, to submit to the General Assembly at its twenty-second session a comprehensive report on the principles entrusted to it for study and a draft declaration on the seven principles set forth in Assembly resolution 1815 (XVII) which will constitute a landmark in the progresive development and codification of those principles;".

17. By resolution 2182 (XXI) of 12 December 1966, the second of those adopted by the General Assembly at its twenty-first session in connexion with the present item, the General Assembly decided to include the "Question of methods of fact-finding" as a separate item in the provisional agenda of its twenty-second session.

18. The Special Committee held its 1967 session at the United Nations Office at Geneva, from 17 July to 19 August 1967. During that session, in pursuance of

resolution 2181 (XXI) of 12 December 1966, the Special Committee examined each of the seven principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations. On the conclusion of its work, the Special Committee adopted the report referred to in paragraphs 3 and 4 above of the introduction to this report and submitted it to the General Assembly, in accordance with the provisions of operative paragraph 8 of resolution 2181 (XXI).

## III. PROPOSALS

19. The United States of America submitted the following draft resolution (A/C.6/L.627):

"The General Assembly,

"Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965, and 2181 (XXI) of 12 December 1966, concerning friendly relations and co-operation among States,

"Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

"Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and improvement of the international situation,

"Considering further that the progressive development and codification of these principles so as to secure their more effective application will promote the realization of the purposes of the United Nations,

"Being convinced of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII), but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,

"Having considered the report of the 1967 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States which met at Geneva from 17 July to 19 August 1967,

"1. Takes note of the report of the 1967 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

"2. Expresses its appreciation to the Special Committee for its work;

"3. Decides to ask the Special Committee to complete, as a priority matter, the formulations of:

"(a) 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 manner inconsistent with the purposes of the United Nations;

"(b) The principle of equal rights and self-determination of peoples;

"4. Further requests the Special Committee, if time permits, to complete the formulation of the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;

"5. Requests the Special Committee, following the completion of its work on the three principles specified in paragraphs 3 and 4:

"(a) To examine additional proposals with a view to widening areas of agreement expressed in the formulations achieved in the Special Committee concerning the following principles:

"(i) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

"(ii) The principle of sovereign equality of States;

"(iii) The duty of States to co-operate with one another in accordance with the Charter;

"(iv) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

"(b) To review the formulation of all seven principles and make such editing changes as may be necessary to make them consistent with one another;

"6. Requests the Special Committee to meet at United Nations Headquarters or at any other suitable place for which the Secretary-General receives an invitation;

"7. Requests the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;

"8. Decides to include an item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" on the provisional agenda of its twenty-third session."

20. Afghanistan, Algeria, Argentina, Barbados, Bolivia, Brazil, Bulgaria, Cameroon, Ceylon, Chile, Colombia, the Congo (Brazzaville), the Congo (Democratic Republic of), Costa Rica, Czechoslovakia, Dahomey, the Dominican Republic, Ecuador, Ethiopia, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iraq, Jamaica, Kenya, Kuwait, Lebanon, Lesotho, Libya, Madagascar, Mali, Mexico, Mongolia, Morocco, Nepal, Nicaragua, Nigeria, Paraguay, Poland, Romania, Rwanda, Sierra Leone, the Sudan, Syria, Trinidad and Tobago, Tunisia, the United Arab Republic, the United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia and Zambia also submitted a draft resolution (A/C.6/L.628). Burma, Chad and the Central African Republic (A/C.6/L.628/Add.1), Peru and the Ukrainian Soviet Socialist Republic (A/C.6/L.628/Add.2) and the Byelorussian Soviet Socialist Republic, Mauritania, Panama and the Union of Soviet Socialist Republics (A/C.6/L.628/Add.3) subsequently became co-sponsors of this draft resolution. The sixty-seven Power draft resolution read as follows:

"The General Assembly,

"Recalling its resolution 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965, and 2181 (XXI) of 12 December 1966, which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

"Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

"Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and improvement of the international situation,

"Considering further that the progressive development and codification of those principles, so as to secure their more effective application, would promote the realization of the purposes of the United Nations,

"Bearing in mind that the Second Conference of Heads of State or Government of Non-Aligned Countries, which met at Cairo in 1964, recommended to the General Assembly the adoption of a declaration on these principles as an important step towards the enhancement of the role of international law in present day conditions,

"Being convinced of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII), but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles.

"Having considered the report of the 1967 Special Committee on principles of International Law concerning Friendly Relations and Co-operation among States, which met in Geneva from 17 July to 19 August, 1967,

"1. Takes note of the report of the 1967 Special Committee on principles of International Law concerning Friendly Relations and Co-operation among States;

"2. Expresses its appreciation to that Committee for the valuable work it has performed;

"3. Decides to ask the Special Committee, as reconstituted by General Assembly resolution 2103 (XX), to meet in 1968 at New York/Geneva or at any other suitable place for which the Secretary-General receives an invitation to continue its work;

"4. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth, twenty-first and twenty-second sessions of the General Assembly and in the 1964, 1966 and 1967 Special Committees to complete the formulations of:

"(a) the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

"(b) the principle of equal rights and self-determination of peoples;

"5. Requests the Special Committee to consider proposals compatible with the General Assembly resolution 2131 (XX) on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, with the aim of widening the area of agreement already expressed in that resolution;

"6. Calls upon the Members of the Special Committee to devote their utmost efforts to ensuring the success of the session of the Special Committee, in particular, by undertaking, in the period preceding the session of the Special Committee, consultations and other preparatory measures, as they may see necessary;

"7. Requests the Special Committee to submit to the General Assembly at its twenty-third session, a comprehensive report on the principles entrusted to it;

"8. Requests the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;

"9. Decides to include an item entitled 'Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations' in the provisional agenda of its twenty-third session."

21. The Committee on Conferences, established under General Assembly resolution 2239 (XXI) of 20 December 1966, decided to recommend that, if draft resolutions A/C.6/L.627 and A/C.6/L.628 and Add.1-3 were approved, the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States should be convened at United Nations Headquarters commencing 9 September 1968 for a period of three to four weeks. The Chairman of the Committee on Conferences informed the Chairman of the Sixth Committee of this recommendation in a letter dated 20 November 1967 (A/C.6/L.629). The Secretary-General submitted a statement (A/C.6/L.630) concerning the administrative and financial implications of these draft resolutions.

## IV. DEBATE

### 1. General comments on the work done by the Special Committee in 1967 and on the aims of the work

22. In the opinion of many representatives, the progress made by the Special Committee in 1967, though limited, was laudable and represented a definite step towards the codification of the seven principles which the Committee had been asked to consider. Even though certain representatives reaffirmed their reservations in that regard, texts concerning the duty of States to co-operate with one another in accordance with the Charter of the United Nations and the principles that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations had been agreed upon by the Drafting Committee of the Special Committee, submitted to the Special Committee and included in the Special Committee's Report (A/6799). On the other hand, agreement had been reached on further points relating to other principles, mainly the principle of the prohibition of the threat or use of force, and certain areas of disagreement had been more clearly defined. In view of those circumstances and the fact that the Special Committee had already adopted in 1966, subject to further improvement, formulations for two other principles - the settlement of international disputes by peaceful means and the sovereign equality of States - and that it had linked the principles of non-intervention with General Assembly resolution 2131 (XX), some representatives considered that the results obtained were encouraging from the point of view of the adoption of a declaration by the General Assembly, which would constitute a landmark in the progressive development and codification of those principles. Some representatives also mentioned that another positive result of the Special Committee's 1967 session had been the opportunity provided by it for States to display their determination to try harder to reach an agreement, it being significant that two new complete draft declarations had been examined by the Special Committee in 1967, as well as other proposals on each individual principle. One representative pointed out that the Special Committee had achieved those results in only some fifteen weeks of work, which was not a lot

considering that the Special Committee was composed of jurists representing States and not of experts acting in their private capacity like the International Law Commission.

23. Other representatives, however, expressed regret that not more progress had been made in 1967. In their view, the results achieved were not enough to justify the efforts that had been made; and they emphasized the lack of general agreement or consensus in the Special Committee on the three principles most important for the maintenance of international peace and security, namely, the prohibition of the threat or use of force and the equal rights and self-determination of peoples, and the duty to refrain from intervention. Lastly, some representatives expressed the view that though some progress had beem made, the results were not satisfactory, since the wordings adopted were too limited and should be amplified or improved. Nor should it be forgotten that the two consensus texts of 1967 had so far been approved only by the Special Committee's Drafting Committee.

24. Some of the representatives who spoke recognized that the main reason why the results achieved by the Special Committee were incomplete, was that the scope, variety and complexity of the subject made the task ambitious, arduous and difficult. Various representatives observed that the seven principles affect the international legal order as a whole and have a bearing on vital or sensitive sectors of inter-State relations. It was pointed out in that connexion that concessions made by a State in relation to a particular principle could subsequently be invoked against it and weaken its position in a future dispute. Others mentioned the fundamental divergence of view between those who wished to maintain the status quo and those who wished to adapt international law to the realities and needs of the contemporary international community. It was also pointed out that the debates in the Special Committee had simply reflected the profound differences of opinion which separated the great from the lesser Powers, the economically developed countries from those which were less developed and the States with long-established traditions from the new States. Others maintained that the failure to make greater progress was due to those who adopted imperialist attitudes and were supporters of power politics. It had also been said that the discussions in the Special Committee had been

adversely affected in 1967 by the international situation. In the view of other representatives, the difficulties encountered were not due only to political and legal reasons, but also to the procedures, methods and codification techniques employed, and they pointed out that the work had not been so thorough or on such a firm legal basis as could have been wished.

25. The representatives who spoke in the debate congratulated the Rapporteur of the Special Committee for the value of its Report (A/6799) for the consideration of the item, since it clearly reflects the determinant factors in the study of the seven principles.

26. Many representatives reaffirmed the necessity and importance of the codification and progressive development of the principles of international law concerning friendly relations and co-operation among States. The codification and progressive development of those basic principles of the Charter and of the international legal order would allow to determine with precision their scope and content, thus helping to ensure the maintenance of international peace and security and promote coexistence and peaceful co-operation between States with different political, economic and social systems. In their view, it was becoming increasingly urgent to strengthen the international legal system in view of the repeated violations of the Charter and of the fundamental principles of international law.

27. One representative emphasized that international law could and should guide the conduct of States, and that the rule of law in international life was perfectly compatible with the sovereign position of States in their mutual dealings. In his view, there was no need to resort to such concepts as the "supremacy" of international law to uphold the authority of the law. He added that in seeking to define the principles it was important to keep in mind the structure of international relations, and the prime moving forces - such as the nation - of the world's social and political evolution.

28. Various representatives emphasized the need to develop the principles, taking into account the realities of international life and the changes that have occurred since the adoption of the Charter. It was pointed out in particular that the number of Members of the United Nations had more than doubled since the adoption of the Charter. It was also emphasized that the progressive

development of the principles should ensure the equality of all States, great and small, should make more effective the principle of the indivisibility of prosperity and should speed up decolonization. Some representatives affirmed that the great Powers had a special responsibility in that connexion. Stress was also placed on the part played by the small countries in the progress of law and international legal institutions.

29. Other representatives considered it illusory to seek the solution of conflicts in the formulation of rules. Attention was also drawn to the need for bearing in mind the cardinal requirement that the formulations adopted for the principles should be such that they could be recognized and applied; and that therefore a balanced and painstaking effort, though slow, was preferable to undue haste, which might prevent the achievement of the aim in view. Some representatives said in this connexion that if it was desired that the principles should eventually be recognized as universal, it was necessary that they should be formulated in such a way that they would receive as wide a measure of support as possible.

30. One representative pointed out that, under Article 13 (1) (a) of the Charter, the General Assembly could not, through its resolutions, adopt binding rules of international law, but only recommendations. So far as progressive development was concerned, he thought that the preparation of draft conventions was perhaps the most appropriate method at the General Assembly's disposal for carrying out its task. Another representative observed that the General Assembly had reaffirmed every year, almost unanimously, its previous decisions relating to the continuation of the Special Committee's work without any change in the procedures and methods adopted. That, he added, was proof that the General Assembly had demonstrated its understanding of the limits of its own competence and powers in the matter of the development or creation of international law, in accordance with the provisions of the above-mentioned paragraph of Article 13 of the Charter.

31. One representative said that his delegation's position on the subject was based on two points. The first was that there should be clarity in the objectives which were being pursued, especially in view of the ambiguity of the legal status of resolutions of the General Assembly. Not enough attention, he

added, had been given to the implications, from the point of view of the question that was being studied, of the declaration on the interpretation of the Charter as adopted at San Francisco. The second point was that the current efforts should not, as seemed to be the case with some of the provisional formulations, be intended to lead to any amendment of the Charter, through a procedure not provided for therein, by enlarging or narrowing the scope of the obligations which its provisions contained.

32. Some representatives stressed the relationship of the seven principles to each other, and concluded that any attempt to develop and codify one of them must take into account the existence and formulation of the others, especially if they were to be incorporated in a single declaration. One representative expressed the opinion that in formulating the principles for which consensus texts had been produced, there were certain basic points which would have to be borne in mind in studying the principles relating to the use of force and the self-determination of peoples. Those points were, according to him, the following: (1) recognition of the universal legal validity of the principles in question, as proclaimed in or deriving from the Charter; (2) the need for formulations which would respect the sovereign equality, territorial integrity and political independence of States, and the obligation of States to co-operate among themselves, at the current stage of development of their relations in all fields; (3) recognition of the importance of the Charter as one of the principle sources of universal international law and of the need to improve the work of the United Nations; (4) the need to take account of the general development of international law, as expressed in conventions adopted since the Charter, in State practice and, in particular, in the form of the instruments of the General Assembly and other international organizations and conferences, thus making it possible not only to define the principles but to set out the legal rules concerning their application; (5) the interdependence of the seven principles, of which the greatest account had had to be taken in the course of formulating the four principles already enunciated.

33. Various representatives said that if it were desired to advance the work of the Special Committee and arrive at just and reasonable solutions it would be necessary to proceed by mutual concessions, in a spirit of co-operation and goodwill. Some considered that it would be desirable to concentrate on less controversial questions, whereas others were of the opposite opinion. Some representatives also said that new agreements should not be sought at the expense of the texts already agreed upon.

## 2. Observations on the principles examined by the Special Committee in 1967

34. In the course of the debate various representatives refrained from repeating the observations they had made on the seven principles examined by the Special Committee, and referred to what had been said on previous occasions by their respective delegations in the Sixth Committee or in the Special Committee. Many, however, repeated their views on general aspects of the principles and on their scope, content and formulation. It is those points of view which are summarized in the present section.

### (a) Principles enumerated in operative paragraph 5 of General Assembly resolution 2181 (XXI)

#### (i) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations

35. A certain number of representatives considered it unfortunate that the Special Committee had been unable, at its 1967 session, to formulate the principle of the prohibition of the threat or use of force. Some attributed this to political reasons, believing that certain States were unwilling to have their freedom of action limited in this matter. Others stressed the need to improve upon the working methods which had thus far been followed, and one representative suggested that the Drafting Committee of the Special Committee should deal only with those aspects of the principle on which negotiation was feasible as determined through informal negotiations prior to the next session of the Special Committee. It was also stated that negotiation would sometimes be facilitated if undue emphasis was not placed on purely formal differences. Others again pointed out that some of the difficulties were due to the very nature of the principle, and one representative noted that some elements of the principle were so closely interrelated that a separate formulation of them was not always possible or correct.

36. Many representatives, however, while acknowledging the fundamental differences which were still apparent, felt that in 1967 the Special Committee had done important exploratory work and had made progress with regard to the formulation of this principle. A further serious effort should be made at the next session of the Special Committee, with a view to reaching a consensus on those

aspects of the principle which were still in dispute. The representatives in question laid stress on the areas of agreement which had been reached in the Working Group that had considered the principle and which were set out in the report of the Working Group transmitted to the Special Committee by the Drafting Committee (A/6799, para. 107). These representatives considered the areas of agreement sufficient to justify the hope that a general formulation of the principle might be achieved in the near future. They felt that progress could best be made by preserving areas of agreement as and when they were reached. Some representatives considered that the proposal submitted to the Special Committee by its Latin American members was constructive and valuable and could serve broadly as a basis for agreement. Others referred to the near-consensus text which had been produced by the 1964 Special Committee as being one of those most likely to facilitate the formulation of the principle. Regret was expressed by certain representatives that some had tended to put aside this text which had, over a period of time, been agreed to by all members of the 1964 Special Committee. It was also explained that the joint proposal submitted to the Special Committee by Italy and the Netherlands set out a programme de lege ferenda, bearing in mind the impossibility of achieving complete agreement at present and the fact that the adoption of a declaration of principles by the General Assembly was not an end in itself, but that the preparation of instruments and machinery would be required in order for the principles embodied therein to become a genuine force in international life.

37. Some representatives stressed the need to produce as soon as possible an adequate formulation of this fundamental Charter principle, which was the corner-stone of the international legal order, because repeated violations of it were creating situations of extreme gravity to world peace. A clear and unequivocal statement of the principle would facilitate its observance and application in international relations, thus contributing to stability and balance in the international community and to the maintenance and development of friendly relations and co-operation among States. The formulation of the principle should be in conformity with the Charter, taking into account the developments which had occurred in international law and State practice since the Charter had been drawn up. General Assembly resolution 2160 (XXI) of 30 November 1966 was mentioned by some representatives as an element which could serve to facilitate the codification and progressive development of the principle.

38. One representative traced the historical development of the principle proclaimed in article 2 (4) of the Charter and stated that, in contemporary international law, the prohibition of the use of force had become a norm of jus cogens. It was also emphasized that the Charter had centralized the use of force in the United Nations by virtue of the powers and the authority conferred on its organs for the maintenance of international peace and security. It was only to the extent that the Organization was ineffective that certain limited aspects of the power to use force were retained by States within the framework of the exercise of the right of individual or collective self-defence, as recognized and regulated by the Charter.

39. Other representatives referred to the need to take into account the relation between this principle and the others, especially the principle of non-intervention, with a view to specifying the area protected by each of the principles and determining accordingly what elements should be included in each of them. One representative advocated devoting a few paragraphs to the relationship between the principle of non-use of force, the principle of non-intervention, and the principle of sovereign equality of States.

40. The representatives who referred to this point took the view that the prohibition of armed force which was stated in the principle extended to the prohibition of the use of irregular forces, volunteer or mercenary forces or armed bands, and to other acts of indirect aggression. The representatives in question asserted that States had an obligation to refrain from such acts and from inciting to civil war or fomenting acts of terrorism in other States, and favoured the inclusion of an express provision on this point in the formulation of the principle of non-use of force, although they recognized that certain aspects of such acts were also related to the principle of non-intervention.

41. A number of representatives maintained that the term "force" covered not only armed force, but also any form of coercion, including political, economic or any other kind of pressure directed against the territorial integrity or political independence of a State. They considered that political or economic pressure was sometimes quite as dangerous as the use of armed force, especially when such coercive action was taken against developing countries or countries

which had recently become independent. In the view of these representatives, a broad interpretation of the term "force" in the context of article 2 (4) of the Charter was perfectly compatible with the provisions of the Charter, found support in the writings of legal experts, strengthened the principle of the threat or use of force, and was in keeping with developments since the entry into force of the Charter. In support of that interpretation, mention was made of the Charter of the Organization of American States, the Programme for Peace and International Co-operation adopted by the Second Conference of Non-Aligned countries at Cairo in 1964, and General Assembly resolution 2160 (XXI) referred to above.

42. Several representatives condemned wars of aggression, and some stressed the necessity and urgency of producing an adequate formulation of the principle of the responsibility of States which unleashed wars of aggression or committed other crimes against peace. One of these representatives stated that this gave rise to political and material responsibility of States and to penal liability of the perpetrators of those crimes, and that the principle of responsibility would be strengthened by the adoption of the convention on the non-applicability of statutory limitations to war crimes and crimes against humanity. Some representatives also said that States should enact domestic legislation prohibiting propaganda designed to encourage wars of aggression, and recalled that the League of Nations had considered the question and that the General Assembly of the United Nations had condemned all war propaganda in its resolutions 110 (II) of 3 November 1947 and 381 (V) of 17 November 1950 and had included a provision to that effect in article 20, paragraph 1, of the International Covenant on Civil and Political Rights, which it had adopted in its resolution 2200 (XXI) of 16 December 1966. Armed reprisals were also condemned by some representatives as being contrary to the Charter.

43. On the question of the prohibition of the use of force in territorial disputes and frontier claims, one representative expressed the view that since it was quite illegal to use force to violate an "international line of demarcation" as it was to use it to alter a frontier, a reference to international lines of demarcation should therefore be included in the formulation of the principle. In the view of this representative, the application of article 2 (4) of the Charter

to international demarcation lines would in no way imply that an armistice demarcation line was political in character or of indefinite duration; it would merely state that any change in such a demarcation line as in the case of a border or frontier could only be brought about by peaceful means.

44. The inviolability of State territory was regarded by a number of representatives as an essential element of the principle, especially for the newer or weaker States. Some of these representatives maintained that a State's territory could not be subjected - even temporarily - to military occupation or other measures involving force by another State, directly or indirectly, for any reason whatsoever. One representative also condemned the peaceful occupation of foreign territories which the sovereign owner was unable to protect because of its weakness. Several representatives took the view that the formulation of the principles should exclude the possibility of recognizing territorial acquisitions obtained by the threat or use of force or other forms of coercion, since international law could not sanction the consequences of unlawful acts which were incompatible with the Charter. In the view of one representative, the rule concerning the non-recognition of situations brought about by the threat or use of force, which had come to be known as the "Stimson Doctrine", had been implicit in the Briand-Kellog Pact, in the Covenant of the League of Nations and in the United Nations Charter, and had been rendered explicit in many instruments of American States, in the 1964 Declaration of Non-aligned Countries and in the draft Declaration on Rights and Duties of States prepared by the International Law Commission in 1949.

45. One representative stated that, where a territory was under dispute between two States and one of them refused to comply with article 33 of the Charter, the latter State could not invoke the guarantee of "territorial integrity" provided in article 2 (4), especially if both States had recognized the existence of the dispute and the United Nations had called upon the parties to settle the dispute by peaceful means.

46. The hope was also expressed that it would be possible to include in the formulation of the principle a statement concerning the desirability of making the United Nations security system more effective, because, while there were differing views as to how the Organization might best be equipped to fulfil its principal purpose, there appeared to be general agreement on the purpose itself. Other delegations emphasized that there should be an urgent appeal to States to secure general and complete disarmament under effective international control.

47. With regard to exceptions to the prohibition of the threat or use of force, certain representatives emphasized that the right of individual or collective self-defence should be limited strictly to the circumstances specified in Article 51 of the Charter. Some of these representatives also referred to the lawful use of force pursuant to a decision by a competent organ of the United Nations.

48. Some delegations expressed the view that the use of force by regional agencies, except in the case of self-defence, individual or collective, required the express authorization of the Security Council. In that connexion, it was noted that regional arrangements, such as the Rio de Janeiro Treaty of Reciprocal Assistance of 1947 and the Charter of the Organization of American States, should be interpreted in the light of Articles 51 and 53 of the United Nations Charter. One representative agreed with that interpretation, on the understanding that in that context the expression "use of force" by regional agencies meant "use of armed force"; he also emphasized that any State which was subject to subversive or terrorist acts had the right to take reasonable and appropriate measures to safeguard its institutions, including the right to seek assistance from regional agencies. Another representative, however, took the view that any coercive measure taken by a regional organization against a Member of the United Nations without the cognizance of the Security Council would constitute a violation of the principle proclaimed in Article 2 (4) of the Charter. One representative maintained that the Rio de Janeiro Treaty conflicted with the Charter, since it did not limit collective self-defence to cases where an armed attack occurred, as required by Article 51 of the Charter, and introduced new factors, such as any act or situation that might endanger the peace of America.

49. Several representatives expressed the view that the prohibition of the threat or use of force could not be interpreted as affecting the right of peoples to defend themselves against colonial domination in exercise of their right of self-determination. They believed that self-defence against colonial domination should be regarded as an exception to the general rule, since - as some of these representatives stated - colonialism was an act of force and was actually aggression. In support of the legitimacy of the struggle against colonialism and of assistance to national liberation movements, some representatives cited General Assembly resolutions 1514 (XV) of 14 December 1960 and 2105 (XX) of 20 December 1965, and article 1 of the International Covenant on Civil and Political Rights, which had also been adopted by the General Assembly. Other representatives felt that every State should refrain from the use of force against those dependent peoples to whom resolution 1514 (XV) applied. Others considered it unacceptable to extend the doctrine of self-defence into the colonial field, and felt that attempts to do so had been one of the major obstacles to agreement on the formulation of the principle.

(ii) The duty of States to co-operate with one another in accordance with the Charter of the United Nations

50. The consensus text on this principle approved by the Drafting Committee of the Special Committee in 1967 was considered by a number of representatives to be generally satisfactory, although some expressed the hope that its content could be expanded or improved in the future. One representative said he believed that the main objectives of co-operation were stated in that text.

51. During the debate, many speakers acknowledged the general importance of this principle and the necessity of codifying it as soon as possible because, in their view, the affirmation of the principle was essential to international stability and the maintenance of peace. Some representatives stated that it was a prerequisite for, or a corollary of, the concept of peaceful coexistence. In the view of one representative, its applicability extended to every aspect of international relations, and all States should co-operate, irrespective of their political, economic and social systems. Another representative stated in that connexion that it was the very task of his country, as a permanently neutral State, to co-operate with all States.

52. One representative observed that the duty to co-operate was quite clearly enunciated in various provisions of the Charter, particularly Article 1 (3), Article 2 (5), and Articles 25, 48, 49, 55 and 56. Some representatives felt that this principle implied the recognition not only of a duty but also of a right; in the view of one representative, to envisage it solely as a duty resulted in an incomplete formulation thereof. The last-mentioned representative believed that the principle applied not only to States but also to such entities as groups of countries or international agencies. In addition, it was an institution which differed from the other principles under consideration because, while the latter could be stated in mere declarations, the system of rights and obligations which co-operation imposed required a whole body of functional rules.

53. Some representatives took the view that there was a close relationship between this principle and other principles of international law. If co-operation was lacking, the other principles studied by the Special Committee would remain of no effect. One representative considered that international co-operation was based on, and called for, the promotion of respect for national sovereignty and independence, equal rights of States, non-intervention and mutual advantage. All these were constituent elements of the principle of co-operation and should be included in its definition, as his delegation had formally proposed in 1967 in the Special Committee; he hoped that that proposal would be considered in greater detail during the Special Committee's future deliberations.

54. Several representatives pointed out that the economic and social imbalance between countries was not conducive to the maintenance of friendly relations and co-operation among them. In the view of one representative, the purpose of co-operation in that field should be to create, especially in developing countries, the conditions of stability, well-being and economic growth which were vital to the maintenance of peace and to world stability. It was recalled that the wealthier countries had a special responsibility in that respect, and the hope was expressed that it would be possible at some future date to establish the obligation of the wealthier peoples to come to the aid of the poorer peoples, as proclaimed in the Declaration of Philadelphia adopted by the ILO in 1944.

55. Some representatives referred to the efforts made by developing countries through regional groupings in South-East Asia and Latin America. With regard to the latter, mention was made of the Central American Common Market and the Latin

American Free Trade Association. The purpose of those groupings was to co-operate together for the welfare and development of their peoples, to protect their primary commodities, to promote investment and technical assistance accompanied by respect for the sovereignty of each State, and to bring about more complete independence vis-à-vis foreign Powers. In this connexion, one representative felt that the consensus text ignored one important element of the principle, namely, the duty of States to refrain from hindering other States which were co-operating among themselves in accordance with the Charter.

56. With respect to paragraph 1 of the text approved by the Drafting Committee of the Special Committee, some representatives expressed gratification at the reaffirmation of the concept of co-operation among States having different political, economic and social systems, without any discrimination based on such differences. Other representatives, however, considered that the text would have derived greater strength from an open acknowledgement of the fact that non-discrimination was an essential part of the duty to co-operate. One representative took the view that, in order to make such co-operation universal, all discrimination between States must be prohibited, and that that could be achieved by the adoption of the proposals in paragraphs 115 and 123 of the report of the Special Committee (A/6799). Another representative regretted the failure to mention, among the aims listed in paragraph 1 of the formulation of the principle, the eradication of colonialism, the persistence of which ran counter to the maintenance of peace, economic progress and general well-being. To mention it in the context of that principle would not mean that it could not be included in the formulation of the principle of equal rights and self-determination of peoples.

57. Several delegations felt that the Drafting Committee had rightly given primacy of place, in paragraph 2 of its text, to the duty of States to co-operate with one another in the maintenance of international peace and security. Some of them stressed the importance of the obligation to co-operate with the United Nations in this vital area. One representative, however, stated that sub-paragraph (a) of that paragraph simply reproduced what had already been said in paragraph 1 and that, in his view, the repetition added nothing to the content of the principle.

58. Many representatives said they were gratified at the inclusion, in paragraph 2, of sub-paragraph (b) concerning human rights and fundamental freedoms and the elimination of all forms of racial discrimination and religious intolerance - an addition which represented an improvement upon the text nearly agreed to in 1966. Several representatives spoke of the importance which their delegations attached to the idea of the legal obligation in that field, especially in view of the persistent violation of human rights and fundamental freedoms by certain Governments. One representative considered that sub-paragraph (b) should be interpreted as broadly as possible. Another representative took the view that that sub-paragraph was in conformity with Article 55 of the Charter and that the principle would be applied without distinction as to race, sex, language or religion. Yet another representative considered that, in view of the fact that the General Assembly had recently adopted a Declaration on the Elimination of Discrimination against Women, the words "and the elimination of discrimination against women", should be added at the end of sub-paragraph (b), since that aspect did not appear to be covered by the formulation as it stood.

59. One representative was of the opinion that the reference in paragraph 2, sub-paragraph (c), to the principles of sovereign equality and non-intervention was not very clear. Another representative expressed his satisfaction with the provision in paragraph 2, sub-paragraph (d); so general a clause could not resolve the issues which had divided the membership of the Organization, but it represented considerable progress.

60. Some representatives stressed the fact that paragraph 3 of the consensus text did not speak of a legal duty; its sole purpose was to promote co-operation in the area to which it referred and to encourage States towards a desirable future goal. Another representative felt that that text established a happy balance between the existing positions and opened the door to a beneficial evolution. Some others, however, expressed regret that paragraph 3 was only in the form of an exhortation. One of these representatives felt that the fact that paragraph 1 imposed a legal obligation but paragraph 3 did not weaken, and indeed appeared to contradict, the relevant provisions of the Charter. Another representative expressed the belief that, if it was not possible to give that concept a legal content, it would have

been preferable to omit it from a text which formulated legal obligations stemming from the Charter principles with a view to their codification.

(iii) The principle of the equality of rights and self-determination of peoples

61. A number of representatives expressed regret that there were aspects of this principle on which the Working Group concerned had been unable to reach agreement in 1967, and that the Drafting Committee had arrived at the conclusion that the points on which agreement had been reached were insufficient to justify reference to the Special Committee. In the opinion of various representatives, that situation was the result of the divergency of opinions on the content of the principle, divergencies which existed despite the sincere efforts that had been made by some delegations to reconcile the opposing viewpoints. In that connexion, one representative regretted the fact that the Working Group's report had not been published, for it would have enabled delegations not represented in the Special Committee to study those points of agreement. A number of representatives said that in their opinion it was urgent that the Special Committee should succeed in giving that basic principle a generally acceptable legal formulation; and at the same time they expressed the hope that further discussion in the Special Committee would prove more fruitful. In one representative's opinion, the current international situation had given urgency to the task. Various representatives considered that the existing differences of view were not so great as to prevent that aim from being achieved, which it could be if all delegations were prepared to co-operate. One representative said he hoped that future endeavours would take into account the areas of agreement that had been reached in the Working Group.

62. Some representatives recalled that the principle was embodied in the Charter, explicitly in Articles 1 (2) and 55, and implicitly in Chapters XI, XII and XIII, and that it had been reaffirmed in numerous resolutions of the General Assembly, particularly resolutions 1514 (XV) and 2160 (XXI), in other international instruments such as the International Covenants on Human Rights, and in declarations by international conferences, such as the conferences of non-aligned States. Some

representatives said that the principle was the basis of one of the characteristic features of our time, namely the national emancipation movement, which in the last twenty years had enabled more than fifty countries, today united in the organized international community, to achieve independence and sovereignty. In the opinion of those representatives, that was the most important success which the United Nations had achieved. The principle continued to be of decisive importance to peoples still living under colonial domination.

63. A number of representatives said that the principle could not be regarded as a mere moral or political postulate but constituted an established rule of contemporary international law. In the view of one representative, it was also one of the pillars of the present international order; it defined, in his opinion, one of the constituent elements of the community of nations - a community of peoples based on self-determination and equal rights - in which subject peoples did not exist. In the view of another representative, the principle was part of the foundations on which the United Nations had been built. One representative said that there was no basis in the discussions at San Francisco or in the practice of the General Assembly for the view that only the principles set out in Article 2 of the Charter were legal principles. Various representatives said that the maintenance of international peace and security, the development of friendly and co-operative relations between States and the promotion of the economic, social and cultural advancement of mankind largely depended on the unequivocal recognition of the principle.

64. With respect to the content of the principle, some representatives referred to the freedom of any State to choose, without foreign interference, the political, economic and social system which it considered desirable; one representative expressed his disagreement with a proposal aimed at replacing self-determination by the idea of uniting divided countries, which in his view bore no relation to the principle in question. Reference was also made by some representatives to the exercise of full sovereignty and the right of any State to dispose freely of its wealth and natural resources.

65. Some representatives expressed the view that any formulation of the principle must be based on the relevant provisions of the Charter and on the letter and spirit of General Assembly resolutions 1514 (XV), 1541 (XV) and 2131 (XX). One representative said that in studying the principle it was essential to bear in mind that the right of peoples to self-determination resulted from the principle

of equal rights, and that it must therefore be recognized without any reservation by all States. Other representatives considered that the formulation should include a statement to the effect that the right of self-determination was inalienable. On that point, some representatives expressed support for certain of the proposals put forward by the Special Committee in 1967.

66. One representative expressed disagreement with another of those proposals, in which the right of peoples to self-determination was recognized as being more in the nature of an individual right, within the context of human rights. In his opinion, the truth was rather that respect for the right of peoples to self-determination - one of the foundations of peaceful and friendly relations among States and of international co-operation according to the Charter - was on the contrary the basis for the enjoyment of human rights, which in turn was one of the components of the notion of peaceful relations. One representative expressed the view that since self-determination was an individual as well as a collective right, its exercise involved certain duties which must be regulated through codification.

67. Some representatives drew attention to the existence of differences of opinion regarding the definition of "people" and the recognition of the rights of peoples as differentiated entities in international law. One representative observed that while for some States "people" meant primarily independent States, other States held that the principle applied essentially to peoples still living under colonial domination. In the view of one representative, the question of definition was not an insurmountable obstacle to agreement. In the judgement of other representatives, the proposals submitted to the Special Committee in 1967 confirmed the vast scope of the principle, which applied to all peoples. Nevertheless, one representative repeated that it was desirable to use the term "all subject peoples" instead of "all peoples", for the use of the latter expression would encourage secessionist movements in multilateral States and thus endanger the territorial integrity and political independence of certain States.

68. A number of representatives expressed agreement with the idea that the principle should not be used in such a way as to affect the national sovereignty and territorial integrity of States. In the opinion of one of them, the principle could not be invoked by minorities living in the territory of a State to bring about the dismemberment of that State; respect for minorities, in his opinion,

was at once a duty and a right laid down by international instruments, and it was the responsibility of the United Nations to enforce it while protecting the territorial integrity of States.

69. In the opinion of some representatives, self-determination could not be exercised, either, by the populations of territories which were the subject of a legal dispute between States, especially, in the opinion of one of those representatives, if such territories had been acquired by force or through unjust treaties imposed by the threat or use of force. In the opinion of another representative, such disputes could not be left either to the population which had been placed in that territory by the State which illegally had possession of it; the issue, in his view, was a dispute which could only be settled in accordance with juridical principles.

70. One representative affirmed that the idea that a State should refrain from any action aimed at the disruption of the national unity and territorial integrity of other States was foreign to the principle, and belonged rather to the principle of non-intervention, or the principle of the non-use of force. Another representative, however, said that subversive activities aimed at changing the régime of another State by violence were a violation of the principle and constituted intervention.

71. On the subject of the legality of the colonial system, one representative said that he could not accept the doctrine that any colonial relationship was illegal merely because it was colonial; in his view, the existence of Chapter XI of the Charter contradicted that contention. Some representatives, however, considered that colonial situations were only de facto situations without any legal basis. In their view, the provisions of Chapter XI of the Charter had, of course, legal validity, but far from providing a foundation for colonialism they could be applied only in the context of the right of peoples to self-determination and subject to the implementation of that right. In the view of one representative, even if it was granted that the colonial system had been based on customary rules, the latter had lost their binding force through the absence of an opinio necessitatis. Another representative reached the conclusion that if particular obligations were mentioned in the formulation of the principle on the basis of Chapter XI of the Charter, he would be obliged to ask that the principle should be made applicable to all existing situations involving colonial territories. The view

was also expressed, by another representative, that all States should render assistance to the United Nations in bringing about an immediate end to colonialism and transferring all powers to the peoples of territories which had not yet achieved independence. He also considered that territories under colonial domination did not constitute an integral part of the territory of States exercising colonial rule over them.

72. In the view of some representatives, the affirmation of the colonial peoples' so-called right of self-defence had raised a very serious obstacle to agreement on the formulation of the principle. Another representative, on the other hand, considered that people deprived of their freedom and their right to self-determination were entitled to exercise their right of self-defence by every means, without the rules of the Charter relating to the non-use of force being applicable to them. Those peoples, they added, might receive assistance from other States by virtue of that right.

(iv) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations

73. Several representatives expressed satisfaction at the results achieved in 1967 in connexion with this principle despite the difficulties involved in its formulation. Most of the observations made during the discussion concerned mainly the text agreed upon in 1967 in the Special Committee's Drafting Committee, but general opinions on the principle were also expressed. One representative, for example, felt that the principle was fully justified; since it involved the rule pact sunt servanda, which was the basis of contemporary international law, an observance of it was the prerequisite for the observance of all the other principles under consideration. Others noted that it was founded upon mutual trust between States having different political, economic and social systems, a trust which was vital at a time when the complexity and diversity of international relations were increasing. In the opinion of one representative, the fact that his country, as a permanently neutral State, had renounced any active use of force implied that it depended in its international relations on the good faith of other States in fulfilling their obligations. Another representative, however, said that the principle seemed to be only very remotely connected with friendly relations and

co-operation among States. One representative also found it disturbing to note that the principle was not applied in practice by certain countries, which was one of the causes of the current international tension.

74. The 1967 Drafting Committee's text was praised for its brevity and succinctness, but certain criticisms were also voiced. In the view of one representative, the text presented difficulties in that it dealt with delicate and complex questions which had not been adequately explored from either a theoretical or a practical point of view, such as the relationship between the Charter and treaty law, between the Charter and customary international law, and between treaty law and customary international law. Another representative considered that the text was not entirely satisfactory, for such expressions as "good faith" and "the generally recognized principles and rules of international law" had not been defined, and he thought they might later be given divergent and even conflicting interpretations.

75. Several representatives welcomed the fact that the formulation of the principle not only proclaimed the legal requirement that the paramount obligations deriving from the Charter should be fulfilled, but also properly reflected the need for compliance with the obligations arising from both customary and conventional international law. That formulation, in the opinion of one representative, strengthened those obligations. Another felt that it went beyond a mere paraphrase of the provisions of the Charter; in his opinion, it was a reaffirmation of the vital importance, in an interdependent world, of the fulfilment of such Charter obligations as the duty to refrain from the threat or use of force against the territorial integrity or political independence of any State. In the view of a third representative, the formulation correctly placed those obligations in perspective, striking a satisfactory balance between the obligations of conventional and customary international law, thus clarifying and elaborating the relevant provisions of the Charter. One representative also expressed satisfaction that the text had implicitly recognized some of what he considered to be exceptions to the principle, for example, a State was not required to fulfil obligations assumed in violation of the Charter or of the generally recognized principles and rules of international law.

76. A number of representatives referred to the duty to fulfil obligations arising from treaties, as formulated in paragraph 3 of the consensus text. In that connexion one representative said that in his opinion only obligations deriving from treaties that were still valid must be fulfilled. Another representative considered that paragraph 3 interpreted the rule pacta sunt servanda in the light of the principles of the Charter and in a way complemented the relevant provisions of the draft articles on the law of treaties prepared by the International Law Commission. Some representatives also stressed that the duty to fulfil obligations deriving from treaties did not apply to treaties resulting from the threat or use of force, and reference was made in that connexion also to the work of the International Law Commission. Another representative said it was entirely in order that treaties which conflicted with a peremptory norm of international law should be declared void. One representative also affirmed that the wording of the principle should allow for the rebus sic stantibus clause. Several representatives referred to the fact that in 1967 the Drafting Committee of the Special Committee had rejected the proposal to add to paragraph 3 the words "freely concluded on a basis of equality". They expressed approval of that decision, for the proposal in question was related to complex and controversial problems of treaty law, which were to be the subject of a profound examination at the forthcoming Vienna Conference on that subject. One representative also noted that the International Law Commission had postponed a detailed consideration of the problem of unequal treaties as being more appropriate to its future work on the succession of States. Other representatives, however, expressed regret that there was no explicit provision in the consensus text that only those international agreements which were concluded freely and on the basis of equality were valid. In the absence of such a provision and with the hope that that idea might still be specifically included, they accepted the formulation arrived at by the Drafting Committee, on the understanding that the text in question covered that vital point.

77. One representative noted in that connexion that in recent years new States had emerged which had had to choose between different economic and social systems, a choice which had given a new direction to international law because it implied the right to refuse to be bound by the treaties concluded under the former régime. Another representative expressed a similar view, referring to the draft articles on the law of treaties prepared by the International Law Commission; he conceded, however, that there were some unequal treaties which were justified, such as a treaty under which one country, without any quid pro quo, granted permanent access to the sea to another country that was land-locked.

78. Some representatives expressed satisfaction that paragraph 4 of the consensus text clearly recognized the supremacy of obligations arising from the Charter over other obligations of States Members of the United Nations. In the view of one representative, that paragraph clearly brought out the interdependence of two basic provisions of the Charter, those of Article 2 (2) and Article 103. Another representative said that although the provision in paragraph 4 was correct, the wording of the consensus text might lead to misinterpretation, for it was not sufficiently clear whether the provision in that paragraph also applied to the obligations of Member States under generally recognized principles and rules of international law. In his opinion, paragraph 4 of the consensus text should be made to cover the obligations referred to in paragraph 2 thereof. One representative said that his country's status of permanent neutrality did not prevent it from fulfilling in good faith its obligations as a Member of the United Nations because it was convinced that that special status, which had been duly notified, would be taken into account by the Security Council and all States Members of the United Nations.

79. Some representatives recognized the supremacy of international legal obligations over those deriving from domestic law and regretted that the Drafting Committee of the Special Committee had been unable to include that point in the consensus text. In that connexion one representative recalled that that supremacy had already been affirmed by the International Law Commission in article 13 of the draft Declaration on the Rights and Duties of States, and that

the General Assembly had taken note of that draft in its resolution 375 (IV) of 6 December 1949. Another representative, however, expressed the opinion that the consensus text in its present wording incorporated that idea as the very function of the entire text is to call the attention of States to their international legal obligations.

(b) Principles set forth in operative paragraph 6 of General Assembly resolution 2181 (XXI)

The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations

80. The situation which had arisen in the Special Committee with regard to this principle was a matter of concern to a number of representatives, who felt that there was a broad area of agreement on it in General Assembly resolution 2131 (XX) of 21 December 1965, containing the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty. Some of those representatives attributed the lack of progress at the Special Committee 1967 session to the fact that certain delegations, in ignoring the Special Committee's terms of reference as specified in operative paragraph 6 of General Assembly resolution 2181 (XXI) of 12 December 1966, and the Special Committee's own decision taken in 1966, had submitted proposals which, far from widening the area of agreement expressed in resolution 2131 (XX), had had the effect of restricting that agreement or ignoring it, and thus cutting down the content of the principle and reducing its scope. The fact that not all the members of the Special Committee had adhered unequivocally to resolution 2131 (XX), and that some of them had sought to change the agreement already set forth in that resolution, had had the effect, in the opinion of the representatives in question, of preventing to fulfil the terms of reference given to the Special Committee by resolution 2181 (XXI) and paralysing the Committee's work on the principle. Consequently it had not been possible to widen the area of agreement expressed in the above-mentioned resolution 2131 (XX). Some representatives said they had supported the proposal in document A/AC.125/L.54 - that the Special Committee should include the operative paragraphs of resolution 2131 (XX) in the formulation of the principle of non-intervention - with the idea of checking any attempts to weaken the resolution.

81. However, some representatives considered that although resolution 2131 (XX) was an important political document, it was not legal in character. Some of them were of the opinion that the delegations responsible for the situation which had arisen in the Special Committee in connexion with this principle had been those whose interpretation of the mandate contained in resolution 2181 (XXI) was to the effect that the Special Committee did not even have the authority to make formal changes in the text of resolution 2131 (XX). It was pointed out that the restrictive interpretation given to the Committee's mandate was at variance to what resolution 2181 (XXI) had been understood to mean. Some of these representatives indicated that they could not accept an interpretation which made it inadmissible to introduce the slightest modification to any of the paragraphs of resolution 2131 (XX). Other representatives maintained that what in reality had virtually paralysed the Special Committee had been not so much disagreement on substance as disagreement on how the principle was to be formulated. In their opinion, the resulting stalemate should cause delegations to reflect on the desirability of continuing on the course which had been pursued so far. For the purposes of the formulation of the principle, it was pointless to talk about the existence of a consensus which did not reflect reality, for to do so would only delay the solution of the problem. What was required was an effort to harmonize the positions in so far as they were in conflict or divergent, bearing in mind that the basis for agreement already existed, and to prevent procedural or drafting questions from continuing to stand in the way of a consensus. It was recalled in that connexion that both operative paragraph 2 of resolution 2131 (XX) and the proposal submitted to the Special Committee by the United Kingdom (A/AC.125/L.44, part III) contained the substance of the idea that had been at the centre of the discussion, namely, that coercive intervention involving measures of an economic, political or other nature constituted a violation of international law and of the Charter.

82. Some representatives indicated that although for them the content of resolution 2131 (XX) was definitive, they respected the position of those delegations which did not share that view and they would be prepared to enter into negotiations, not, of course, on the content or form of resolution 2131 (XX) but

on a wording which would not do violence to the fundamental positions of all delegations and would allow the Special Committee to continue its work.

83. Resolution 2131 (XX) was regarded by many representatives as the expression of a universal juridical conviction of the principle of non-intervention and not merely as a political declaration. Stressing the importance of the content of the resolution, that it had been adopted with no votes casted against it, what gave it the character of general State practice, and the fact that it embodied a principle recognized in several international instruments for over a century, those representatives considered that resolution 2131 (XX) was the accepted minimum on which the Special Committee should base its work on the princple. They felt that the operative part of the resolution should be included in the formulation of the principle, and some of them were in favour of including the preamble also, or at least certain ideas expressed in the preamble. In their view, the agreement expressed in resolution 2131 (XX) could be widened but a formulation of the principle which did not fully reflect the resolution would be unacceptable and contrary to what had already been decided by the General Assembly. One representative pointed out that those who criticized the Declaration in resolution 2131 (XX) for containing vague ideas which lent themselves to varying interpretations forgot that a number of current legal concepts ("due process of law", "due diligence", "ordre public", etc.) are in effect no less precise than some of the terms used in the resolution so often referred to. Another representative considered the text of resolution 2131 (XX) entirely appropriate for a formulation of the principle, since the purpose was to adopt not a treaty but a declaration which would be approved by the General Assembly and which would have the same legal standing as resolution 2131 (XX). A third representative felt that if the Special Committee could not agree on the extent to which resolution 2131 (XX) should be widened, it would be better to so inform the General Assembly instead of ctiticizing certain terms or limiting the scope of the resolution.

84. Some representatives found it strange that it should be so difficult to draft a legal text in language all could accept when there existed a large measure of agreement, expressed in the near-unanimous support for resolution 2131 (XX). One representative, while fully endorsing all the provisions of the resolution, did not consider it a legal document in the strict sense and thought that the

Special Committee should formulate the principle in legal terms after giving due consideration to the area of agreement marked by the resolution.

85. Other representatives were of the opinion that the General Assembly had done well to adopt resolution 2131 (XX) as an expression of its concern at the many violations of the principle but they thought that the wording of the resolution was open to differing interpretations and was therefore not suitable for a legal text. For example, the resolution dealt with some of the most fundamental principles of the United Nations without clearly defining their relationship to non-intervention. One representative pointed out that the wording of the resolution's operative part was so sweeping as to appear to prohibit any action which, whether intentionally or not, might adversely affect the interest of other States, thus ignoring the fact that that was often only a consequence of the interdependence among nations that existed in the present-day world.

86. Some representatives stressed the need for affirming and strengthening the principle, in view of the fact that intervention was becoming more frequent, assuming varied forms, violating the basic principles of peaceful coexistence and endangering peace. They considered non-intervention a central principle of international law, general and universal in character and of special importance to developing countries, countries not very strong or which had recently acceded to independence.

87. Others took the view that the complexity of international relations urgently required that the formulation of the principle should define what forms of intervention could not be tolerated and should therefore be outlawed. One emphasized that a careful distinction must be made between lawful and unlawful intervention on the one hand, and aggression and self-defence on the other, lest the victim of aggression be labelled the aggressor. On the other hand, another representative expressly opposed the tendency to consider the principle a mere limitation of an alleged right of intervention.

88. It was also pointed out that in formulating the principle it was necessary to bear in mind its relationship to the principle of sovereign equality, the principle of the non-use of force and the principle of equal rights and self-determination of peoples. In the view of one representative, the prohibition of the use of force would be a specific manifestation of the principle of non-intervention.

89. In reviewing the historical evolution of the principle, representatives observed that it had been laid down in one form or another in many international instruments, including the Convention on the Rights and Duties of States concluded at Montevideo in 1933, the Charter of the Organization of American States, the Charter of the Organization of African Unity and the Charter of the United Nations. Some representatives said that the history of Latin America was the history of the principle of non-intervention. For the peoples of Latin America the principle, far from being a mere formal clause, reflected their profound convictions and constituted the main juridical defence of their independence and sovereignty.

90. It was also emphasized by certain representatives that Article 2 (7) of the Charter dealt with only one aspect of non-intervention, namely interference in the internal affairs of another State. One representative expressed the view that in Article 2 (7) the term "United Nations" meant both the Organization and any of its Members and the word "essentially" referred to matters in respect of which States had exclusive competence.

91. Some representatives called on the Special Committee to attempt to define the limits of the principle of non-intervention by indicating what was to be regarded as falling within the domestic jurisdiction of States. One representative considered as not coming within that jurisdiction such acts as genocide, crimes against humanity, the denial of the right of self-determination to peoples under colonial or alien rule, or acts committed in violation of international agreements. Another representative felt that the principle could not be construed to mean that a country could violate the fundamental human rights of its citizens without such violations becoming the concern of the entire world community and that it could not be understood to refer to Governments which had not been voluntarily created by the people.

92. Recalling that military intervention was only one of the possible forms of intervention, which tended to assume clandestine and concealed forms, some representatives felt that the formulation of the principle should deal with intervention in any form, whether open or indirect, in the foreign or domestic affairs of a State for political, military, economic, ideological or other reasons. Others emphasized the obligation not to interfere in the internal affairs of a State, condemning as unlawful not only the various forms of aggression but also

subversive activities, the activities of infiltrators and mercenaries, and propaganda campaigns aimed at changing the system of another State by violence. It was added that certain apparently passive attitudes could also constitute acts of intervention. One representative was of the opinion that the formulation of the principle must exclude any possibility of subjective evaluations so as to prevent interventionists from trying to justify their intervention. Certain representatives also condemned acts of intervention for the maintenance of colonialism or neo-colonialism, and felt that the obligation laid down in the principle did not apply to aid given to peoples under colonial rule with a view to accelerating their accession to independence.

(c) Principles referred to in operative paragraph 7 of General Assembly resolution 2181 (XXI)

(i) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered

93. Various representatives expressed regret that the Special Committee, despite a further exchange of views, had been unable in 1967 to amplify the consensus text adopted on this principle in 1966. Some representatives thought, however, that an amplification could still be achieved by taking into account some of the proposals submitted to the Special Committee in 1967.

94. It was affirmed that this principle, which is closely akin to the principle relating to the prohibition of the threat or use of force, should be respected by all States, since the establishment of peaceful international relations depends on its implementation. In the opinion of one representative, the formulation of the principle must be compatible with Chapter VI of the Charter, in that States must be allowed to choose among the various means of peaceful settlement listed in Article 33. He drew attention to the adoption by the Organization of African Unity, in accordance with article XIX of its Charter, of a protocol on mediation, conciliation and arbitration.

95. Various representatives commented on some aspects of the principle in relation to the consensus text of 1966. One of them considered that that text was open to misinterpretation because it ignored the principle which appeared in Article 95 of the Charter. Another representative expressed the view that, with regard to the right of States members of a regional agency to have direct recourse to the United Nations, the consensus text struck a just balance by recommending that such States

should make all possible efforts to bring about the peaceful settlement of disputes of a local character by means of those agencies. On this subject, however, another representative maintained that the formulation could be improved by insertion of the amendment proposed in the Special Committee by Chile. According to another representative, the formulation should stress that only the United Nations, through its appropriate organs, could use force to impose its decisions, except in cases of self-defence against an armed attack pending action by the United Nations. Lastly, another representative expressed support for the five-Power proposal submitted to the 1967 Special Committee concerning the settlement of disputes relating to the application and interpretation of general multilateral agreements, since the fact that such agreements were carefully drafted with the participation of the entire international community seemed sufficient reason to recommend that the parties should deny themselves the power to decide unilaterally on the interpretation or application of them.

96. A number of representatives expressed the opinion that the procedure for judicial settlement, and in particular the role of the International Court of Justice, should be taken into account in the final formulation of the principle. One representative stressed the need for compulsory jurisdiction of the Court in legal disputes arising from treaties or conventions, and for compulsory resort to arbitration in disputes of any other kind. Another representative, however, thought it unwise to include any reference to the Court or to the recognition of its jurisdiction as compulsory, owing to the present structure and membership of the Court. On this point, some representatives stressed the need for a truer and fairer geographical representation in the Court of all legal systems and of the principal forms of civilization.

97. Lastly, one representative said that the new States would have to be given a larger role in the creation of international law. In his opinion, the codification and progressive development of the principles studied by the Special Committee afforded those States that possibility. Recalling that the new States had played no part in the creation of the rules of international law which were in existence at the time they became independent, he expressed the view that in so far as the new rules that were being formulated were the legal expression of existing practice and met the just aspirations of the new States, the latter would be more inclined to submit freely to their application.

(ii) The principle of sovereign equality of States

98. In the opinion of one representative, the formulation of this principle in the Special Committee in 1966 had been of good augury for the subsequent consideration of the principles as a whole, for it had implied the reaffirmation of the principle on which the international relations of States and their participation in international organizations were based. According to another representative, the principle implied that States had the sovereign right to determine their reciprocal relations, and were strictly equal, so that no State, acting indivdually or with others, could lawfully claim superiority or authority of any kind over any other State.

99. One representative said he supported the consensus text because it reproduced, in the main, the wording adopted at San Francisco in 1945, with the addition, in paragraph 1, of a reference to the right of every State freely to choose and develop its political, social, economic and cultural system. The inclusion of that clause had represented, in the opinion of another representative, a real advance in the codification of the basic principle enunciated in Article 2 (1) of the Charter. One representative, however, was of the opinion that the second sentence in paragraph 1 of the consensus text adopted in 1966 was not clear, and that it seemed to mean that States were equal in law in spite of their inequalities in economic, social, political or other fields. That would legalize some de facto inequalities between States. In order to avoid such an erroneous interpretation, and in view of the fact that the implications of the words "differences" and "different systems" were not the same, his delegation had suggested that the sentence should read as follows: "They have equal rights and duties and are equal members of the international community, notwithstanding the different economic, social and political systems or other way of life they have adopted."

100. A number of representatives referred to specific aspects which in their opinion should have been included in the text with a view to widening the area of agreement. For example, frequent mention was made of the matter of the right of States to dispose freely of their national wealth and natural resources. Several representatives noted with satisfaction that in 1967 the Special Committee had agreed in principle that a matter of such great importance to the developing countries should be included in the formulation of the principle, and expressed

the hope that appropriate agreement on a specific wording would finally be reached. On that point, in the view of one representative, the formulation of the principle should be done in the light of General Assembly resolutions 1803 (XVII), 2158 (XXI) and 2200 A (XXI).

101. One representative expressed his gratification at the agreement in principle of the Special Committee in 1967 with respect to the possible mention in the formulation of the principle of the right of every State to participate in the solution of international questions affecting its legitimate interests.

102. Finally, certain representatives strongly supported the right of every State to be admitted to international organizations, to become a party to multilateral treaties that affect its legitimate interests, to eliminate foreign military bases established on its territory and to prohibit aircraft carrying nuclear weapons from flying over its territory. Emphasis was also laid on the primacy of international law.

### 3. Considerations on future work and methods of work

103. There was general agreement on the need to continue the work of codification and progressive development of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, and the idea that an item with that title should be included in the provisional agenda for the twenty-third session of the General Assembly was approved. Certain representatives, however, expressed reservations about the procedures or methods of work adopted so far and some stated that the final position of their Governments on any texts that might be adopted would depend on the adequacy of the methods of legal codification and development to be followed in the Special Committee.

#### (a) Convening of the Special Committee

104. It was generally recognized that the best way of continuing the examination and formulation of the principles was to again invite the Special Committee reconstituted by General Assembly resolution 2103 (XX) of 20 December 1965 to continue its work. Although some representatives expressed doubts about the advisability of convening the Special Committee at too early a date, in view of the United Nations heavy programme of legal activities for 1968, the majority of

those who spoke in the debate declared themselves in favour of holding a new session of the Special Committee in 1968, as provided for in operative paragraph 3 of draft resolution A/C.6/L.628 and Add.1-3. It was agreed that in view of the administrative facilities and the time available, the 1968 session of the Special Committee should last three or four weeks.

(b) Mandate of the Special Committee for its 1968 session

105. In the general debate there were various trends of opinion on this question. Some representatives urged that the Special Committee should try to finish its work at its 1968 session. Others, however, considered it more realistic, in view of the time the Special Committee would have available, to keep its task in 1968 limited, bearing in mind the state of work on each of the principles and the draft declaration as a whole. Certain representatives considered that the Special Committee should adopt a programme of work in three stages, namely: 1. Formulation of the principles on which there had been no consensus; 2. Widening of the points of agreement on the other principles; 3. Preparation of a legal document or draft declaration on all the principles.

106. Some representatives were of the view that the Special Committee should resume its work in 1968 at the point where it had left off at the close of its 1967 session and that the seven principles should therefore be referred to it with an order of priority which took into account the state of work on each of them. Many representatives, on the contrary, expressed the opinion that in 1968 the Special Committee should concentrate on those principles on which there had not been any agreement. In that connexion, some mentioned the principle of the prohibition of the use of force and the principle of equal rights and self-determination. It was urged by others that the principle of non-intervention should also be referred to the Special Committee. Some favoured referral of this principle but insisted that consideration should be limited to only those proposals relating to it that were compatible with General Assembly resolution 2131 (XX), with a view to extending the area of agreement already set out in that resolution. Others favoured referral but would have the Special Committee address itself to the principle only after work had been completed on the principle of the prohibition of the use of force and the principle of equal rights and self-determination.

Some representatives were opposed to sending the principle of non-intervention to the Special Committee in such terms that its study would be unduly restricted. Certain representatives thought that it would be preferable to seek the improvement of the texts on which agreement has already been reached when the final text of the draft declaration is drafted. Finally, one representative considered that the new mandate given to the Special Committee should not depart from that laid down in General Assembly resolution 2181 (XXI).

107. Operative paragraphs 3, 4 and 5 of draft resolution A/C.6/L.627 and operative paragraphs 4, 5 and 7 of draft resolution A/C.6/L.628 and Add.1-3 set forth the mandate of the Special Committee for its 1968 session. The position of representatives on those paragraphs was determined on the basis of the following main questions: 1. Whether an order of priority should be expressly established for the consideration of the principles referred to the Special Committee; 2. Whether it was appropriate to refer to it all seven principles or only those on which there had not yet been any agreement; 3. Whether reference should be made to resolution 2131 (XX) in connexion with the principle of non-intervention, and if so, how the task to be performed by the Special Committee on that principle should be defined; 4. Whether the Special Committee should try to widen the area of agreement on the principles already formulated; 5. Whether it was appropriate to entrust the Special Committee with the task of revising the drafting of the seven principles in order to harmonize the texts and in what terms that task should be defined; 6. Whether it would be opportune to ask the Special Committee to prepare a draft declaration, including the preamble and final clauses; 7. Whether the Special Committee should be expressly requested to submit a complete report on the principles it was asked to consider. Differences with regard to the third question had a decisive effect on the nature of the voting.

(c) Consensus and majority

108. Several representatives considered that the method of consensus or general agreement should be an incentive for negotiation and compromise, but not an absolute rule or immutable dogma. They emphasized that unanimity or consensus was a legally desirable and important goal to be aimed at, but they were opposed to its abuse as a kind of right of veto to prevent or hinder the progressive development of international law. It was unacceptable that a small number of States should

oppose such development by refusing to recognize rules of international law that were almost universally accepted. Furthermore, the main concern should be with the substance of the rules and not with trying at all costs to reach a consensus in which their content was sacrificed. A clear formulation accepted by a great majority of States would be preferable to an inadequate or defective rule adopted unanimously. One representative added that most of the present rules of international law had originated in the practice of some States only and that even for the adoption of the Charter the procedure of a qualified majority vote had been used. All these representatives agreed that the Special Committee should do everything possible to reach a consensus, but that if that proved impossible because of unjustified opposition by some States, the Committee should give up the rigid procedure of consensus and adopt majority decisions. Some representatives said that in that event they would prefer the procedure of a qualified majority. Pointing out that the rules of procedure of the General Assembly applied to the proceedings of the Special Committee, some representatives welcomed the reference to them in the sixth preambular paragraph of draft resolution A/C.6/L.628 and Add.1-3. Finally, it was also observed that the consensus of a body with limited membership like the Special Committee did not necessarily represent the consensus of the international community.

109. Other representatives, on the other hand, expressed concern at the fact that doubt had been cast on the advisability of following the consensus method in dealing with the development of principles of international law and opposed any attempt to substitute majority vote for consensus. To those representatives, the method of consensus, based on a spirit of mutual co-operation, was not only the most appropriate method, but in fact the only possible one. Noting the great importance attached to consensus in the Sixth Committee and the International Law Commission, those representatives stated that if that method was abandoned there would be less effort to overcome differences and compromise and that there would be appreciably less possibility of universal recognition and application of formulations which were adopted by majority vote and lacked the support of all or almost all States. A text adopted by consensus, however imperfect, would be more likely to be faithfully respected and observed by all States in their relations with each other. Consequently, those representatives felt the codification and

development of principles by means of a simple majority vote would be harmful to the unity and indivisibility of the international legal order. One of them said that codification achieved through such a procedure would merely reveal the existence of open disagreement among States, which might mean that the development of the principles of international law under consideration would move backwards rather than forwards. It was added that only if the declaration on those principles ultimately adopted by the General Assembly met with the quasi-unanimous approval of the Members of the United Nations could it be said to express a universal legal conviction and thus be considered a source of law under Article 38, paragraph 1 (c), of the Statute of the International Court of Justice. Lastly, it was also asserted that undue haste would only place the texts already adopted by consensus in jeopardy and undermine the authority of the United Nations by drawing attention to its limitations.

110. One representative felt that the Special Committee should continue to employ the method of unanimity unless it might be desirable in the future to resort to a majority vote in order not to have to abandon the formulation of principles on which unanimity could not be achieved. Some representatives pointed out that a minority position in the Special Committee could become a majority position in the General Assembly and the Sixth Committee. One representative believed that the Special Committee should continue to adopt its formulations by consensus but that the General Assembly and the Sixth Committee should take decisions on them by majority vote. He added that where the Special Committee failed to achieve a consensus on a particular text because of a slight difference of opinion, it could authorize its Rapporteur to note and examine the differences and to recommend an objective formulation in his report.

(d) Need to improve future methods of work

111. The suggestions made by the Italian representative in the Special Committee in his statement on methods and procedures for future work (A/6799, paras. 481 and 482) were received with interest and some representatives considered that the Special Committee should study the question seriously at its next session.

112. Certain representatives maintained that the Committee should base its work on a serious legal study of the theoretical positions and practices of all States, old and new, also taking into account the instruments and declarations concerning the principle under study. In point of fact, they said, the Committee's work had been based on proposals which mainly reflected the States' own points of view on those aspects of the principles in which they were particularly interested.

113. Others stressed the advantages of making better use of the working groups set up within the Drafting Committee of the Special Committee. It was suggested that these groups should meet before the next session of the Special Committee and that any States which so desired should be allowed to participate in their discussions. Some representatives saw the working groups' activity as a general preparation for the debate in the Drafting Committee. It was also suggested that the results of the working groups' proceedings could be submitted to the Special Committee itself.

114. Certain representatives considered it essential that possible compromise formulations should be discussed outside the conference rooms or by unofficial groups composed of representatives of the countries upholding different points of view. One representative was in favour of reducing the time allowed by the Special Committee for general statements on the principles, in order to increase that allocated to the detailed study of the texts submitted and another thought that the Special Committee should have a free exchange of views on the principle as a whole while studying the formulation of each of its particular elements.

115. With regard to the appointment of special rapporteurs by the Special Committee, the special rapporteur would at the same time be a representative of one of its Member States; he thought it might be preferable to entrust the preparatory work to a body of experts such as the International Law Commission.

(e) Preparatory consultations

116. Many representatives said that the Committee's work could be advanced if the Governments of Member States gave more attention to the preparation of its sessions; particular importance should be attached to unofficial contacts and preliminary consultations between sessions. That would facilitate the planning and co-ordination of the Committee's work. These representatives emphasized their agreement with the recommendation in operative paragraph 6 of draft resolution A/C.6/L.628 and Add.1-3.

(f) Future work after 1968

117. A few representatives thought that if the Special Committee did not complete its work in 1968, the General Assembly should decide at its twenty-third session on the way in which the work should be pursued. One representative said that,

to hasten the adoption of the declaration, whatever draft resolution was adopted at the present session of the General Assembly should indicate that if the Special Committee did not reach general agreement in 1968, the Assembly itself would undertake the task of codifying the principles. It was also said that the Special Committee could not be reconstituted indefinitely.

(g) Adoption of a General Assembly declaration on the principles

118. Several representatives reaffirmed the aim of the Committee's work, the adoption by the General Assembly of a declaration setting down the principles of international law concerning friendly relations and co-operation between States, adding that no effort should be spared to see that the declaration was adopted as soon as possible.

119. Some representatives stressed the close connexion between the principles under consideration and took the view that they should be included in a single declaration, forming a coherent whole, accompanied by a preamble and the necessary final clauses. Others stated that if the existing differences of opinion prevented the adoption of a declaration on the seven principles, they would not be opposed to the approval of separate declarations on the principles upon which agreement had been reached.

120. Certain representatives thought that each of the seven principles and the draft declaration as a whole should be formulated and adopted by the Special Committee in accordance with appropriate procedures before their adoption by the General Assembly. Others, on the contrary, considered that the General Assembly would have to take a decision on the questions upon which the Committee had not been able to agree, with a view to the final adoption of the draft declaration.

121. It was also suggested by certain representatives that when the Special Committee prepared its final draft declaration, all Members States should be given the opportunity to express their opinions explicitly and in detail by the submission of written observations, as was done for the drafts prepared by the International Law Commission. One representative suggested that the International Law Commission should be requested to comment on the final formulation of the seven principles before they are sent to the Sixth Committee for their examination.

122. Several representatives emphasized that the adoption of a declaration by the General Assembly was only an important step, a "landmark" in the codification and progressive development of the seven principles under study. Some thought that it would ultimately be necessary to consider the possibility that the formulation of the principles, or at least of some of them, would be the subject of conventions which would give them the status of conventional norms.

123. After pointing out that codification and progressive development were very different operations and indicating the General Assembly's competence in that respect, one representative said that the declaration, when adopted, would be important in so far as it expressed not merely a political desire but the recognition of those principles by all the Member States through a formulation on which they obviously intended to confer a legal character. That would encourage the generalization of a practice which might become established as a custom within the meaning of paragraph 1 (b) of Article 38 of the Statute of the International Court of Justice.

## V. VOTING

124. At the 1006th meeting, the Sixth Committee proceeded to vote on the draft resolutions (see paragraphs 19 and 20 above). It decided to vote first on the sixty-seven-Power draft, contained in document A/C.6/628 and Add.1-3. The voting took place as described below.

(a) Paragraph 5 of the operative part of the sixty-seven Power draft resolution (A/C.6/L.628 and Add.1-3), on which a separate vote was requested by the representative of the United States, was adopted in a roll-call vote by 72 votes to 13, with 7 abstentions. The result of the vote was as follows:

In favour: Afghanistan, Algeria, Argentina, Barbados, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Ceylon, Chile, China, Congo (Brazzaville), Congo (Democratic Republic of), Czechoslovakia, Dahomey, Dominican Republic, Ecuador, Ethiopia, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Hungary, India, Indonesia, Iran, Iraq, Ireland, Ivory Coast, Jamaica, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Romania, Rwanda, Sierra Leone, Spain, Sudan, Syria, Thailand, Togo, Trinidad and Tobago, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: Australia, Belgium, Denmark, Iceland, Japan, Luxembourg, Malta, Netherlands, New Zealand, Norway, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstentions: Austria, Canada, Finland, Italy, Somalia, Sweden, Turkey.

(b) On the proposal of the representative of Cameroon, a vote was taken on the rest of the sixty-seven Power draft resolution (A/C.6/L.628 and Add.1-3). It was adopted by 88 votes to none, with 3 abstentions.

(c) The sixty-seven-Power draft resolution (A/C.6/L.628 and Add.1-3) was then put to the vote as a whole. By a roll-call vote, it was adopted by 78 votes to none, with 15 abstentions. The result of the vote was as follows (see paragraph 126 below):

/...

In favour: Afghanistan, Algeria, Argentina, Austria, Barbados, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Czechoslovakia, Dahomey, Dominican Republic, Ecuador, Ethiopia, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Italy, Ivory Coast, Jamaica, Kenya, Kuwait, Lesotho, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Romania, Rwanda, Sierra Leone, Somalia, Spain, Sudan, Syria, Thailand, Togo, Trinidad and Tobago, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: None.

Abstentions: Australia, Belgium, Denmark, Finland, Iceland, Japan, Luxembourg, Malta, Netherlands, New Zealand, Norway, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

125. At the same meeting, the representatives of Australia, Austria, Belgium, Canada, Finland, France, Italy, the Netherlands, New Zealand, Pakistan, the Philippines, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, and the United States of America gave explanations of the votes of their delegations.

## VI. RECOMMENDATION OF THE SIXTH COMMITTEE

126. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

### Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

The General Assembly,

Recalling its resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963, 2103 (XX) of 20 December 1965 and 2181 (XXI) of 12 December 1966,

which affirm the importance of the progressive development and codification of the principles of international law concerning friendly relations and co-operation among States,

Recalling further that among the fundamental purposes of the United Nations are the maintenance of international peace and security and the development of friendly relations and co-operation among States,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations is of paramount importance for the maintenance of international peace and security and the improvement of the international situation,

Considering further that the progressive development and codification of those principles, so as to secure their more effective application, would promote the realization of the purposes of the United Nations,

Bearing in mind that the Second Conference of Heads of State or Government of Non-Aligned Countries, which met at Cairo in 1964, recommended to the General Assembly the adoption of a declaration on these principles as an important step towards the enhancement of the role of international law in present-day conditions,

Being convinced of the significance of continuing the effort to achieve general agreement in the process of the elaboration of the seven principles of international law set forth in General Assembly resolution 1815 (XVII), but without prejudice to the applicability of the rules of procedure of the Assembly, with a view to the adoption of a declaration which would constitute a landmark in the progressive development and codification of those principles,

Having considered the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, which met at Geneva from 17 July to 19 August 1967,

1. Takes note of the report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States;

2. Expresses its appreciation to that Committee for the valuable work it has performed;

3. Decides to ask the Special Committee, as reconstituted by the General Assembly in resolution 2103 (XX), to meet in 1968 in New York, Geneva, or any other suitable place for which the Secretary-General receives an invitation, to continue its work;

4. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth, twenty-first and twenty-second sessions of the General Assembly and in the 1964, 1966 and 1967 sessions of the Special Committee to complete the formulation of:

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(b) The principle of equal rights and self-determination of peoples;

5. Requests the Special Committee to consider proposals compatible with General Assembly resolution 2131 (XX) on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations, with the aim of widening the area of agreement already expressed in that resolution;

6. Calls upon the members of the Special Committee to devote their utmost efforts to ensuring the success of the Special Committee's session, in particular by undertaking, in the period preceding the session, such consultations and other preparatory measures as they may deem necessary;

7. Requests the Special Committee to submit to the General Assembly at its twenty-third session a comprehensive report on the principles entrusted to it;

8. Requests the Secretary-General to co-operate with the Special Committee in its task and to provide all the services, documentation and other facilities necessary for its work;

9. Decides to include in the provisional agenda of its twenty-third session an item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations".

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