

United Nations
GENERAL
ASSEMBLY

FORTY-SECOND SESSION-

Official Records*



SIXTH COMMITTEE
21st meeting
held on
Tuesday, 13 October 1987
at 3 p.m.
New York

SUMMARY RECORD OF THE 21st MEETING

Chairman: Mr. AZZAROUK (Libyan Arab Jamahiriya)

CONTENTS

AGENDA ITEM 131: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

*This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned within one week of the date of publication to the Chief of the Official Records Editing Section, room DC2 730, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

The meeting was called to order at 3.05 p.m.

AGENDA ITEM 131: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued) (A/42/41; see also A/C.6/42/L.1)

1. Mrs. SILVERA NUÑEZ (Cuba) said that it had taken the Special Committee 10 years to fulfil the mandate given to it by the General Assembly. It had taken so long because of differences of opinion on substantive matters and the lack of political will on the part of certain countries, which had gone so far as to try to eliminate the Special Committee. The draft Declaration in the report (A/42/41) was a compromise text which her delegation supported.

2. The development of the principle of non-use of force in international relations strengthened the rule of international law expressed in Article 2, paragraph 4, of the Charter, which made the States responsible for activities not in conformity with the peremptory norm set forth in the Charter. Her delegation disagreed with the views based on the notion that the reaffirmation of such rules in the form of a declaration could give rise to a contrario interpretations. There was no room for different interpretations because the concept was clear and precise, and supplemented the relevant provisions of the Charter. Her delegation also felt that no change of circumstances could be cited, under any pretext, to justify violation of the principle.

3. She noted with satisfaction that various delegations had expressed concern over the pernicious impact of terrorism on international relations. She also observed that there were certain contemporary instances of threats against States that seemed tantamount to a policy of terrorism practised directly by States. The mining of Nicaragua's harbours and the indiscriminate bombing of Libya and Lebanon were recent examples of violations of the fundamental norms of international law.

4. In the text of paragraph 22 concerning human rights, her delegation would have preferred explicit reference to the universal significance of collective rights and a clear description of the causal relationship. It should have been stipulated that systematic violations of the rights of peoples implicitly infringed the human rights of individuals. It also would have been desirable to highlight in the Declaration the interrelationship between peace, the right to development and the need for the establishment of a new international economic order.

5. Her delegation considered that just as the text had a paragraph concerning the inherent right of States to individual or collective self-defence, it should also have a paragraph which mentioned explicitly, and without any possibility of misinterpretation, the right of national liberation movements to resist in any way, including armed struggle, any form of colonial or neo-colonial domination or oppression, and which reaffirmed the scope of self-defence. In respect of disarmament, her delegation joined the consensus that had emerged in the Special Committee, without prejudice to its position on certain specific points. Cuba was grateful to the non-aligned countries and other countries whose help and spirit of compromise had made the declaration possible

6. Mr. NURULLAH (Bangladesh) said that his country, which was not a member of the Special Committee, had none the less followed its work with great interest because of its faith in the principle of the rule of law in inter-State relations. He noted that despite the clear provisions of Article 2, paragraph 4, of the Charter, which excluded 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 most powerful States did not hesitate to violate the principle of non-use of force. Bangladesh therefore had no illusion that another legal instrument would change such behaviour, but felt that the draft Declaration was useful because it elaborated the obligations in force and reflected a strengthening of the political will of States. He did not believe that the adoption of legal measures to enhance the effectiveness of the principle of non-use of force could undermine respect for the obligations arising from the Charter, the work on the codification and progressive development of international law concerning international peace and security taking place in various bodies, or the usefulness of the relevant international and regional instruments.

7. His delegation welcomed the consensus at the most recent session of the Special Committee, but felt that there was still a need to delineate the concepts of force, illegal use of force, necessity, proportionality and imminence in relation to the concept of self-defence. Efforts must be made to correct the flaws in the United Nations machinery for peace-keeping and security, in order to end the double role of judge and party that the retaliatory Power often assumed to the detriment of the fundamental principles of the Charter and hence the specific application of the principle of non-use of force.

8. Despite those concerns, the draft Declaration was a basis for an agreement on the building of a future normative order. The draft was a systematic catalogue of interrelated principles. To that extent, it certainly reinforced Article 2, paragraph 4, of the Charter. His delegation supported the adoption of the draft Declaration in the hope that the concept of peace would triumph over force in the not-too-distant future.

9. Mr. AL-ADHAMI (Iraq) said that the draft Declaration adopted by the Special Committee showed a new political will on the part of Member States. Even though the principle of non-use of force had been reaffirmed in many United Nations texts and instruments, those texts and instruments had not been effective enough to banish the use of force. The draft Declaration represented an effort to make them more effective. Still, the effectiveness of the future Declaration itself would again depend upon the political will of States. It was the international community's task to ensure respect for the rule of law.

10. The draft Declaration also raised the important question of the role of the United Nations, and especially of the Security Council. Council resolution 598 (1987) concerning the conflict between Iran and Iraq had been accepted by the latter. Its full implementation could only strengthen the role of the United Nations, and would mark an important turning-point in the hostilities between the two countries.

11. His delegation hoped that the draft Declaration would be adopted.

12. Mr. AWANDEH (Jordan) said that the consensus that had made it possible for the Special Committee to adopt the draft Declaration showed what importance States attached to the principle of non-use of force. His delegation hoped that the draft Declaration would achieve its goal, which was the peaceful settlement of disputes between States. At a time when tensions were rising in various parts of the world and military arsenals were growing, the non-use of force in international relations was more essential than ever to international peace and security. For his delegation, respect for international law by States was the best guarantee of their commitment to the peaceful settlement of disputes. The Special Committee's experience in the past 10 years, which had led to the adoption of the draft Declaration, could serve as a basis for the organization of future activities in related areas.

13. The draft Declaration was in conformity with the Charter; however, it emphasized the aspects of non-use of force which corresponded most closely to the contemporary situation. He drew attention to the other instruments in force on the subject and stressed the need to comply with them. Clearly, the political will of States was a prerequisite for the attainment of the goals of that series of instruments.

14. His delegation interpreted paragraph 10 of the draft Declaration to mean that the acquisition or occupation of territory by force would not be recognized as legal, no matter what causes or reasons were invoked by the party which had used force. His delegation hoped that all States would adopt and comply with the draft Declaration.

15. Mr. GUNAY (Turkey) noted that the agreement on the Special Committee's mandate at the forty-first session of the General Assembly, the adoption of the final document of the Stockholm Conference on Confidence- and Security-building Measures and Disarmament in Europe and the agreement reached at the Harare Conference of Non-Aligned Countries in favour of adopting a universal declaration on non-use of force in international relations were the three major events which had made it possible to conclude the 10 years of work done by the Special Committee.

16. As a member of the Special Committee, Turkey had been able to gauge the efforts made by all delegations, and mainly by the sponsor of the agenda item, the Soviet delegation, to promote the adoption of the draft Declaration. The draft was entirely in conformity with the provisions of the Charter, and its adoption proved that delicate problems could be solved even under difficult circumstances if all participants showed the necessary political will.

17. The draft Declaration, although not fully satisfactory in all respects, was generally well-balanced and expressed the highest level of understanding and consensus possible in the current international situation. Its preamble reaffirmed the principle enshrined in Article 2, paragraph 4, of the Charter that States should refrain in their international relations from the threat or use of force. The text was declarative in nature and did not add anything to the rights and obligations of States that were set forth in the Charter. Nevertheless, it reminded Member States of their obligations under that instrument to help enhance

(Mr. Guney, Turkey)

the effectiveness of its relevant provisions. It also noted the close relationship between the principle of non-use of force and other principles, including self-defence and the peaceful settlement of disputes, and the principle that States should fulfil in good faith the obligations assumed by them in accordance with the Charter. It stressed the obligation of States to prevent and combat international terrorism and promote favourable conditions in the international economic environment. Its adoption would have a salutary effect in respect of the conflicts threatening international peace and security.

18. He noted that the Greek delegation had drawn attention in its statement to the situation in Cyprus, thereby straining the topic under consideration, and had felt it necessary to attack Turkey without provocation. As everyone knew, the problem of Cyprus had originated in Greece's attempt to extend its sovereignty to the entire island and annex it to Greece. It was not appropriate for the Greek delegation to distort history deliberately, while Greece was the party mainly responsible for that history.

19. Mr. JOSHI (Nepal) welcomed the adoption of the draft Declaration by the Special Committee and noted that, as a member of that body, his country had taken part in all its meetings at the 1987 session. His delegation was convinced that the drafting of the Declaration had become possible because of the maximum co-operation and good will shown by Member States during the work of the Special Committee.

20. As some previous speakers had pointed out, the draft Declaration was not perfect, but it contained many positive elements. It was an affirmation by Member States of the inadmissibility of the threat or use of force as a means of resolving conflicts and of their commitment to peace, in accordance with the relevant provisions of the United Nations Charter. The rejection of any justification or excuse for the threat or use of force was one of the most important positive elements of the text.

21. The draft Declaration had made an attempt to codify and elaborate several prescriptions against the threat or use of force. Article 8 was of particular importance. His delegation saw in those provisions a strong legal guarantee against the threat or use of force and felt that their strict observance would undoubtedly enhance the effectiveness of the principle.

22. His delegation noted, however, that the draft was silent about what constituted the threat or use of force. It might be necessary in that regard to draw up a list of all manifestations of the threat or use of force. Moreover, the declaration did not make any reference to the measures that could be taken in the event of the threat or use of force in violation of the United Nations Charter. His delegation had always upheld the view - and still did so - that the full utilization of the provisions of Chapter VII of the Charter offered an effective means in that area. Lastly, promotion of the concept of zones of peace would greatly contribute to the enhancement of the principle of non-use of force as

(Mr. Joshi, Nepal)

underlying the concept of refraining from the threat or use of force in inter-State relations. With that end in view, His Majesty the King of Nepal had proposed that Nepal should be declared a zone of peace.

23. His delegation supported the draft Declaration, as it was convinced that it would be instrumental in developing orderly relations between States, although much depended on the conduct of each State.

24. Mr. KATEKA (United Republic of Tanzania) noted that, several years before, the sharp differences between proponents and opponents of a world treaty on the non-use of force in international relations had almost "killed" the Special Committee. He was especially pleased that the Special Committee had been able to agree on the draft Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, and he hoped that the Sixth Committee would adopt the draft by consensus. He agreed with the Deputy Minister for Foreign Affairs of the Soviet Union, however, that the draft Declaration was not an ideal reflection of what each State or group of States would like to see in it. It was, nevertheless, the non-realistic document which could be achieved under the circumstances.

25. For the sake of compromise, therefore, his delegation supported the draft Declaration, although it was not fully satisfied with it. In particular, it was unnecessary to have repetitive references to the Charter, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, the Definition of Aggression and the Manila Declaration. It was also uncalled for to confirm Article 103 of the Charter (in the last paragraph of the Declaration) and to urge the General Assembly and the Security Council to make use of the Charter provisions concerning a request for an advisory opinion on any legal question from the International Court of Justice. His delegation would also have preferred that paragraph 19 of the Declaration, concerning the prevention of armed conflicts, including those in which nuclear weapons could be used, had been incorporated in a treaty; even a single sentence committing States not to use nuclear weapons would have been much more important than the 33 paragraphs of the Declaration.

26. However, although the draft prepared by the Special Committee was not a normative document, the reaffirmation of the principles of non-use of force, the peaceful settlement of disputes, observance of human rights, the right to self-determination, the inadmissibility of the acquisition of territory by force and the inherent right of individual or collective self-defence was a positive development in international relations.

27. When introducing the report (A/42/41), the Chairman of the Special Committee had indicated that that Committee, having fulfilled its mandate, considered the report containing the draft Declaration to be its final one. The United Republic of Tanzania hoped that the item would not remain on the agenda. It would be regrettable from the point of view of the rationalization of the General Assembly's work if the debate on the item were to continue, as it had in the case of the item

(Mr. Kateka, United
Republic of Tanzania)

on the peaceful settlement of disputes - despite the adoption of the Manila Declaration. The adoption of the draft Declaration on the non-use of force was a demonstration of the spirit of reconciliation and good will shown in the Special Committee, which should always prevail in the Sixth Committee.

28. Mr. IMAM ALI KAZI (Pakistan) said that it had been in order to protect mankind from the scourge of war that the framers of the Charter of the United Nations had sanctified the principle of non-use of force in international relations, in Article 2, paragraph 4, of the Charter. That principle was the corner-stone of the policy pursued by Pakistan, which had, for example, taken the initiative of proposing a non-aggression pact with India; negotiations were under way and, once they were completed, the pact would represent a major contribution to the application of the universal principle in question.

29. It was regrettable that force continued to be used in inter-State relations, threatening small States especially. The asymmetries of power, the desire of powerful States to establish spheres of influence and the injustices of the existing world order were some of the underlying causes of conflict that gave rise to the threat or use of force. While Pakistan welcomed the adoption of the draft Declaration, it hoped above all that the comity of nations would redouble its efforts to eliminate the root-causes of conflicts and tensions. Even today, millions of people were suffering under colonialism, alien domination and foreign occupation, in violation of the principle of non-use of force. The violation of international law must be neither permitted or, even more importantly, legitimized under any circumstances. It was only through the maintenance of a firm position in that respect that it would be possible to establish a world order that was in conformity with the principles laid down in the Charter.

30. In its own region, Pakistan was witnessing the violation of the independence, territorial integrity and sovereignty of Afghanistan - a country that had prided itself on its independence and non-aligned status. The use of force in Afghanistan was in violation of all norms of international law and the principles and purposes of the Charter. Foreign military intervention was the cause of the tragedy that Afghanistan was experiencing. The General Assembly had repeatedly called for the immediate withdrawal of foreign forces, and Pakistan had assiduously co-operated in all international efforts to achieve a solution to the Afghan problem and to enable the Afghan people to determine their own destiny freely without any outside pressure. All States should co-operate fully with the United Nations in the maintenance of international peace and security and enhance the effectiveness of the collective security system through scrupulous implementation of the provisions of the Charter.

31. Pakistan had always believed that a declaration on the non-use of force should ensure compliance on the part of all States with the Charter and the decisions of the United Nations; that the prohibition on the use of force was without prejudice to the inherent right of self-defence, as acknowledged in Article 51 of the Charter, and to the right of peoples and liberation movements to fight colonial and

(Mr. Imam Ali Kazi, Pakistan)

alien domination in order to be able to exercise their legitimate right to self-determination; and that it was only on the basis of scrupulous compliance with United Nations decisions and strict observance of the principles of the peaceful settlement of disputes and non-intervention in the internal affairs of States that it would be possible to establish a just, stable and peaceful world order that would allow all nations, particularly developing countries, to concentrate their energies and resources on the social and economic development of their peoples.

32. Mr. DROUCHIOTIS (Cyprus) said that the adoption of the draft Declaration by the Special Committee was a step forward in the enhancement of the effectiveness of the principle of refraining from the threat or use of force in international relations and confirmed the international community's commitment to the principle laid down in Article 2, paragraph 4, of the Charter as a peremptory norm of international law from which there could be no derogation. Together with a number of other instruments already in existence, it formed part of the ongoing process of building upon the principles of the Charter and international law and strengthening the role of the United Nations. Strict adherence to the principles of the Charter, and in the case in question to the principle of non-use of force, was vitally important to the non-aligned and developing States and to peoples struggling against colonialism, foreign domination and occupation, as repeatedly stressed in the General Assembly debate and at the recent Meeting of the Ministers for Foreign Affairs of the Non-Aligned Countries in New York.

33. Small and militarily-weak States, particularly those that were invaded, occupied or oppressed, relied on the United Nations because their only form of defence lay in the principles and provisions of the Charter, international law and the effective safeguarding of human rights. The Republic of Cyprus, which had been invaded and a substantial part of whose territory was still occupied by Turkey, was a clear example in that connection. The General Assembly and Security Council resolutions adopted recognized the rights of such States, and - although it was regrettable that they were not implemented - those resolutions did nevertheless send a clear message to the aggressor and oppressor country.

34. Although the role of international law in international affairs was limited, it was not insignificant. In certain cases where law coincided with power, it could determine the outcome of a conflict. In other cases, it served as a restraint on full application of the law of the jungle, by providing a defence for the weaker party to a conflict and by laying down international standards. For the weaker parties, international law could make possible tomorrow that which was not possible today.

35. The Special Committee could not be expected to perform miracles in an imperfect world. However, since Cyprus itself had suffered from violations of the principles of international law and shared the concerns of the other non-aligned and developing countries, it expected much more from an instrument concerned with the principle of non-use of force in international relations. As had already been emphasized during the debate, if the Special Committee had had more time and if its members had displayed more political will, it would undoubtedly have been able to

(Mr. Drouchiotis, Cyprus)

draft a more comprehensive document. Nevertheless, as a member of the Special Committee, his delegation was associated with the draft Declaration and supported its adoption by the General Assembly.

36. Mr. BISSEMBER (Guyana) stressed that the report of the Special Committee (A/42/41) was concerned essentially with the "enhancement" of the effectiveness of the principle of non-use of force in international relations, rather than with the identification or development of that principle. The use of force manifested itself in various forms, including economic pressures, the manipulation of public opinion and propaganda. The issue of use of force by States was also linked with disarmament activities and with the work of the Sixth Committee on terrorism and mercenarism. Over the years the clamour for adherence to the principle of non-use of force in international relations had become increasingly persistent and had found expression, inter alia, in General Assembly resolution 40/9, in statements made at the Eighth Non-Aligned Summit Conference, held at Harare in 1986, and in the address to the forty-second session of the General Assembly by the Minister of Foreign Affairs of Guyana, who had referred to the need to guarantee global stability and secure international peace.

37. The principle of non-use of force in international relations and other peremptory and universal norms of international law, such as the principle of peaceful settlement of disputes, had been the subject of discussion in many regional and international forums. It was clear, however, that the United Nations must make tireless efforts to enhance the effectiveness of that principle. The work of the Sixth Committee and the report of the Special Committee testified to the efforts being made to achieve that objective. His delegation approved of the references made in the report to Article 2, paragraph 4, of the Charter and to the principle of the peaceful settlement of disputes enshrined in paragraph 3 of that Article. By highlighting the relationship between the two principles in question, the report emphasized the role of the United Nations in maintaining international peace and security.

38. Guyana had always been steadfast in its adherence to the principles of non-use of force in international relations, non-interference in the internal affairs of another State and respect for the sovereignty and territorial integrity of States. It was not averse to any of the means of achieving peaceful settlement of disputes, whether that meant resolving conflicts at the international level or developing programmes of economic and technical co-operation. In that connection, the conclusion of non-aggression pacts represented one specific means of enhancing the effectiveness of the principle of non-use of force in international relations. With regard to the implementation of Article 33 of the Charter, which concerned the peaceful settlement of disputes, his country had never overlooked any of the means listed therein. In adherence to the principle of non-use of force in international relations, however, it was carefully considering the option set out in that Article in the words "other peaceful means of their own choice".

(Mr. Bissenber, Guyana)

39. With regard to the text of the draft Declaration itself, he approved unreservedly of the numerous references to the Charter, to the Purposes of the United Nations and to the unshakeable principles which made the United Nations system of collective security the only viable response to the use of force in inter-State relations. The paramount role of the United Nations was further underlined by references to the special responsibilities of the General Assembly, the Security Council, the Secretary-General and the International Court of Justice, respectively.

40. He pointed out that the concept of sovereignty had been omitted from the first preambular paragraph, following the reference to "the territorial integrity or political independence of any State". That omission was, to some extent, offset by the reference in a later preambular paragraph to the basic principle of sovereign equality of States.

41. He noted with interest the way in which the obligation to refrain from the threat or use of force was defined in paragraph 1 and welcomed the acknowledgement in paragraph 2 of the universal nature of the principle of refraining from the threat or use of force. The international community would, accordingly, be in a strong position when it came to critical judgement of any State failing to honour its international obligations.

42. In drafting paragraph 6 of the draft Declaration, which concerned the obligations of States in connection with the activities of terrorists and mercenaries, the Special Committee should have emphasized the fact that certain omissions by States amounted to the use of force. His delegation approved without reservation of paragraph 15, which presented regional and bilateral co-operation as a means of enhancing the effectiveness of the principle of non-use of force in international relations, and paragraph 17, which reiterated the principle of peaceful settlement of disputes. He emphasized the importance of implementation of the latter for all States interested in preserving the welfare and livelihood of their peoples.

43. His delegation fully approved of the report of the Special Committee and welcomed the adoption of the draft Declaration, which it urged the General Assembly to adopt at its forty-second session.

44. Miss PHALA (Botswana) welcomed the fact that the preamble to the draft Declaration paid full attention to the rules of customary international law and to the principles of international law. It was regrettable that paragraph 1 did not contain a definition of the word "force". That term should be interpreted broadly, as encompassing not only armed force, but also the means of economic pressure, on the understanding that that interpretation did not include economic sanctions imposed on any State by the United Nations.

45. Although paragraph 2 reaffirmed the universal and binding nature of the principle of non-use of force, it made no provision for sanctions in the case of non-compliance with that principle. Such sanctions could take the form of

(Miss Phala, Botswana)

intervention by a United Nations peace-keeping force or other enforcement action by the United Nations. As a victim of both the threat and use of force by the racist Pretoria régime, Botswana attached very special importance to that issue.

46. She fully endorsed paragraph 5 of the draft Declaration, which reaffirmed the right of all peoples to self-determination. It would be appropriate, however, to consider those cases in which negotiations had failed, judgements of the International Court of Justice had been ignored and United Nations resolutions had not been implemented. Namibia was a case in point. The paragraph should provide for that type of situation and also specify the way in which the right to self-determination could be reconciled with the principle of non-use of force.

47. Paragraph 13 of the draft Declaration should define the expression "collective self-defence", otherwise it might be interpreted as encouraging external interference, which could only heighten tension and greatly increase the risk of war. Botswana endorsed exercise of the right of individual self-defence which, according to international law, was the only justification for the use of force.

48. Her delegation considered that the effectiveness of the principle of non-use of force could be further enhanced if some of the gaps in the text were filled. Notwithstanding its reservations, it fully supported adoption of the draft Declaration by the General Assembly.

49. Mr. ZURITA (Venezuela) said that the draft Declaration adopted by consensus bore witness to the considerable effort made to achieve compromise solutions with regard to non-use of force in international relations, and to the political will of the members of the Committee in accomplishing their mandates. It would have been preferable, however, if the Special Committee had concentrated on producing a world treaty on non-use of force in international relations, in accordance with Article 13, paragraph 1 (a), of the Charter, in other words, as part of the progressive development of international law. A binding legal instrument would have done more to enhance the effectiveness of non-use of force in international relations and collective security, by emphasizing the prohibition of the use of force in international relations. Nevertheless, in adopting resolution 41/75, the General Assembly had rejected that possibility in favour of the drafting of a solemn declaration.

50. The draft Declaration submitted to the Sixth Committee had the advantage of having been adopted by consensus but the disadvantage of being the type of instrument that did not entail commitments for Member States and was merely a political instrument embodying certain rules of behaviour that were desirable but not mandatory.

51. In connection with the preamble to the draft Declaration, he said that the notion of the use of force should include the threat of economic, political or other pressure against States as well as military force and it was therefore appropriate to include paragraphs 7 and 8 of section I of the draft Declaration.

(Mr. Zurita, Venezuela)

52. Venezuela reaffirmed its belief that States should resolve their international disputes by peaceful means, in accordance with the provisions of the Charter and the Manila Declaration.

53. Strengthening the United Nations bodies responsible for maintaining international peace and security was an obligation and a challenge for those who believed in the Organization. Venezuela therefore considered that the provisions of section III of the draft Declaration were a positive move towards that objective.

54. His delegation supported the draft Declaration and hoped that it would help in practice to enhance the effectiveness of the principle of non-use of force in international relations.

55. Mr. LOULICHKI (Morocco) said that the non-aligned countries had collectively reiterated their support for the draft Declaration at the meeting of the Ministers for Foreign Affairs of their movement held at Headquarters during the current month.

56. His delegation was pleased that the draft Declaration was shortly to be adopted but wondered what effect that new instrument would really have. It must be recognized that it was essentially a faithful reproduction of the provisions already set forth in the Charter, in earlier declarations of the General Assembly on friendly relations and on the peaceful settlement of disputes between States, in General Assembly resolution 3314 (XXIX) on the Definition of Aggression and in the Vienna Convention on the Law of Treaties.

57. Paragraph 1 of section I, which reaffirmed the principle set forth in Article 2, paragraph 4 of the Charter, should be read in conjunction with paragraph 6 of section I. When armed subversion reached certain proportions and showed evidence of flagrant complicity by one or more States, it could not fail to be classified as use of force prohibited under the Charter and entailing international responsibility on the part of its perpetrator or perpetrators.

58. The obligation to settle disputes peacefully, like the principle of non-use of force, was clearly mandatory and should not be subject to any derogation by special agreement, as the International Court of Justice had recalled in 1976 in the Aegean Sea continental shelf case. His delegation fully supported paragraph 16 of the draft. Morocco was equally committed to those obligations and determined to promote co-operation with all States, in particular the Maghreb States.

59. Loyal co-operation by all States with United Nations bodies, in particular the Security Council, would be a major contribution to the elimination of disputes and focuses of tension. His delegation totally supported paragraph 31 of the draft. Recent experience had shown that the part played by the Secretary-General, in accordance with the letter and spirit of Articles 98 and 99 of the Charter, had prevented the escalation of certain conflicts and had opened the way to the solution of other situations of conflict or tension.

(Mr. Loulichki, Morocco)

60. Respect for the principle of non-use of force in international relations depended on the political will of States, without which reaffirming its validity would have no real effect on the international situation. Nevertheless, everything must be done to enhance its effectiveness.

61. Mrs. HILLO (Finland) said that the resolution adopted at Harare at the Eighth Conference of Heads of State or Government of Non-Aligned Countries had helped to speed up the Special Committee's work and the Final Act of the Stockholm Conference on Confidence- and Security-building Measures and Disarmament in Europe had to a large extent provided a model for the draft Declaration, the completion of which had been made possible by the co-operative spirit of the members of the Special Committee.

62. Her delegation shared the view that the draft Declaration must be looked upon as a whole. It was the result of reciprocal concessions and the debate should not be reopened. It was in that form and in that spirit that her delegation advocated its adoption at the current session of the General Assembly.

63. The completion of the Special Committee's work paved the way for other activities. Care should be taken, however, to avoid any hasty initiatives and to prepare the Sixth Committee's future agenda with a view to making the best use of the available resources.

64. Mr. TREIKI (Libyan Arab Jamahiriya) said that the interest shown by the Eighth Conference of Heads of State or Government of Non-Aligned Countries in the question of the non-use of force and the fact that it had declared its readiness to adopt an international declaration on non-use of force in international relations augured well for the outcome of the Special Committee's work.

65. The various delegations which had co-operated in preparing the draft Declaration had shown their will to strengthen the role of the United Nations in the field of maintenance of international peace and security by ensuring the effective implementation of the Charter and the principles set forth in it.

66. The Libyan Arab Jamahiriya had always respected the principle, set forth in paragraph 32 of the draft Declaration, that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice, and had always considered that the General Assembly and the Security Council should make use of the possibility offered by the Charter to ask the Court for an advisory opinion.

67. The draft Declaration was a strict minimum in a troubled world threatened by the arms race and by the use of weapons of mass destruction. The enhancement of the principle of non-use of force was an urgent necessity for all States, in particular the smallest States which, in the face of external threats, had no other recourse but the United Nations. The United Nations must therefore continue to take practical and effective measures to enhance the principle, in particular by working for disarmament, curbing the arms race and abolishing the stockpiling of

(Mr. Treiki, Libyan Arab Jamahiriya)

nuclear weapons. The Organization's role must be strengthened and its decisions made mandatory. The international community must prevent all forms of aggression: pressure against peoples engaged in struggle, use of mercenaries, destruction of installations, continued attacks designed to destabilize régimes that were unpopular with the colonialist countries. States which committed acts of aggression should be punished and made an example of.

68. Certain countries, which tried to impose their hegemony on the rest of the world, had used the most devious forms of aggression, sending their fleets close to or into the territorial waters of other countries, imposing economic blockade, paying mercenaries or mining the ports of small countries. All those forms of aggression, which were occurring in Africa, Central America and the Mediterranean, must be condemned.

69. His country, whose policy was based on the principles of good-neighbourliness, understanding and peaceful coexistence among all peoples, could not but support the draft Declaration and called upon all States to do likewise and to respect it in letter and spirit. However, effective implementation of the Declaration would never be possible without strengthening the Organization's role in the maintenance of peace and security.

70. Mr. MAKTARI (Yemen) commended the Special Committee on its efforts to ensure the implementation of one of the fundamental principles set forth in the Charter, namely, prohibition of the use or threat of force in international relations. Unfortunately that principle was far from being implemented in the modern world, where so many peoples saw their rights violated, their territory occupied and their resources plundered.

71. It was essential for all States to respect the United Nations Charter and the principles of international law, and for disputes arising between them to be settled by peaceful means such as negotiation. Force must not be an instrument of State policy. An end should be put to all acts of aggression, campaigns of denigration, war propaganda, and political and economic pressures in all their forms.

72. The principle of non-use of force could not be applied, however, to national liberation movements recognized by the League of Arab States or the United Nations that were still struggling against the colonialists and racists in order to achieve true independence.

73. The Yemen Arab Republic considered that, in order to enhance the effectiveness of the principle of non-use of force in international relations, it would be necessary first of all to achieve the following objectives: (a) that countries should undertake to implement the principle effectively; (b) that existing disputes and conflicts should be settled through the peaceful means envisaged by the Charter and by international law; (c) that international public opinion should become aware of the need for States to respect the principle; (d) that all States Members should be obliged to implement the principles of the Charter and United Nations

(Mr. Maktari, Yemen)

resolutions; (e) that as the Charter indicated, the principle of non-use of force should in no way affect the right of States to legitimate self-defence; (f) that the principle should not be interpreted as applying to peoples and liberation movements struggling for independence and self-determination.

74. Mr. MIRMEHDI (Islamic Republic of Iran) said that his delegation was not a member of the Special Committee but had followed its work very attentively and carefully studied its report to the Sixth Committee (A/42/41). It was pleased that, after 10 years of deadlock and in spite of the opposition of a group of States, the Special Committee had been able to complete the draft Declaration and had adopted it by consensus.

75. Given the current critical world situation in which the unlawful use of force in the conduct of international relations had increased, the strengthened military presence of major Powers in different corners of the globe had led to greater tension and even some flagrant cases of aggression, and the arms race threatened the existence of the human race, the adoption of a measure such as the draft Declaration was without doubt urgently necessary to enhance the practicality of the United Nations Charter.

76. It went without saying that the success of the draft Declaration was wholly dependent upon the international political will and the commitment of Member States to respect and fully implement its principles. However, in recent years, certain States had violated their international or regional obligations with impunity, particularly the principle of non-use of force. The current norms of conduct of international relations were characterized by the lack of an institutional enforcement mechanism of both a preventive and a compensatory nature. The relevant international organizations and their organs, especially the Security Council, which was constitutionally responsible under the Charter for maintaining international peace and security, unfortunately had not fulfilled their obligations on the basis of the principles of objectivity, justice and impartiality.

77. Any discussion on the principle of non-use of force, including consideration of a detailed declaration on the subject, would have been redundant if, on the one hand, all Member States respected the general concept of non-use of force contained in current international legal instruments, together with their other international and regional commitments, and if, on the other hand, there were provisions for institutional mechanisms to deal with violations by Member States of their treaty obligations.

78. Unfortunately certain major Powers, as the current situation in the Middle East, the Persian Gulf, Africa and Central America showed, were basing their conduct on the saying "Might is Right" rather than on the principle of non-use of force, while at the same time affecting to support the United Nations Charter. The draft Declaration was therefore very timely and represented an important positive step towards strengthening the principles of the Charter as well as enhancing the role of the United Nations.

(Mr. Mirmehdi, Islamic Republic of Iran)

79. His delegation believed the provision in Part I, paragraph 1 of the draft Declaration to the effect that the unlawful use of force by any State entailed international responsibility, the draft's emphasis that no consideration whatever might be invoked to warrant resort to the threat or use of force in violation of the United Nations Charter, and the draft's reaffirmation of the inherent right of individual or collective self-defence if an armed attack occurred, to be of vital significance. His delegation was gratified that States were invited to encourage the Secretary-General to exercise his functions with regard to the maintenance of international peace and security. In view of those positive elements, his delegation accepted the draft as a whole in principle.

80. Finally, his delegation reaffirmed its position on the following issues directly related to the principle of non-use of force: (a) according to the Definition of Aggression embodied in General Assembly resolution 3314 (XXIX) and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations embodied in General Assembly resolution 2625 (XXV), aggression was the most serious and dangerous form of illegal use of force; (b) a war of aggression was the most serious breach of international law; (c) resort by a State to a war of aggression was a crime against humanity which gave rise to international responsibility; (d) the execution of collective punitive measures adopted in conformity with the United Nations Charter against those guilty of acts of aggression would strengthen and enhance respect for international law.

81. His delegation hoped that the United Nations and its major organs would live up to their responsibilities and fulfil their obligations under the foregoing principles, which had been developed and codified under their auspices.

82. Mr. AL-ATTAR (Syrian Arab Republic) said that enhancing the effectiveness of the principle of non-use of force in international relations was a most urgent topical problem, because international tensions had become so serious that the outbreak of nuclear war was to be feared and there was an upsurge of armed conflicts in various parts of the world. His country attached great importance to the question under discussion because for many years it had been suffering the consequences of a violation of the principle of non-use of force: part of its territory, like other Arab territories, was occupied by force.

83. The States which based their policy on force were the same ones that opposed application of the provisions of Chapter VII of the United Nations Charter and maintained that it would be useless to revise the Charter, which they had deprived of any practical content. That situation had obliged the Special Committee to seek an alternative formula to establish the supremacy of the principle of non-use of force in international relations. After many years of effort, the Special Committee's work had been crowned with success and the formulation of the draft Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations was an important stage in the development of international law.

(Mr. Al-Attar, Syrian Arab Republic)

84. His delegation noted with satisfaction the provision that States which resorted to force in a manner incompatible with the aims of the United Nations were internationally responsible; its reaffirmation of the non-recognition of the acquisition or occupation of territory by resort to the threat or use of force; and its demands that States should abstain from any propaganda in favour of wars of aggression and from using military, political or economic pressures against the political independence or territorial integrity of other States. The draft Declaration emphasized the need to strengthen the roles of the Security Council, the General Assembly and the Secretary-General in preserving international peace and security, and the need for conventional and nuclear disarmament and the prevention of an arms race in outer space, all measures which should increase confidence in international relations. He was glad to note that the draft Declaration clearly established the right of peoples under colonial or racist régimes, or other forms of foreign domination, to struggle and to receive support in order to exercise their right to self-determination, freedom and independence.

85. Paragraph 17 of the draft provided that States parties to international disputes should settle their disputes exclusively by peaceful means, such as negotiation, inquiry or mediation. However, when internationally outlawed racist régimes oppressed the peoples under their domination, the international community must take collective measures to induce those régimes to observe the principles of justice and law and to respect the will of the international community.

86. The draft Declaration also dealt with terrorism, which had become a threat to international relations and a danger to innocent lives, requiring the international community to take decisive steps to combat it and eliminate its causes. However, one deficiency of the draft Declaration was that it did not draw a distinction between terrorism, which must be combated, and the legitimate struggle of peoples for freedom and independence.

87. In conclusion, he noted that it was not enough to support the principle of non-use of force in international relations; all States must have the will to apply it effectively. He expressed the hope that the day would come when law would prevail over the law of the jungle in international relations.

88. Mr. VELASCO (Peru) noted that the drafting of a world treaty on the non-use of force in international relations, which had been the original intention, would have been fully justified, since such an instrument would have been a perfect way to ensure the application of the principle in question.

89. His delegation had some doubts about the title of the draft Declaration, since the expression "enhancement of the effectiveness" could imply that the jus cogens norm of general international law which the prohibition of the use of force had become might have only relative effectiveness, which was contrary to juridical reality.

90. The principle of non-use of force in international relations was closely linked to that of non-interference and non-use of political, economic or other pressures against the sovereignty and territorial integrity of States.

(Mr. Velasco, Peru)

91. While non-interference and the non-use of force and coercion formed one of the pillars of peaceful coexistence, observance of the international legal order, especially observance and fulfilment in good faith of international obligations, formed the other pillar.

92. Scrupulous observance of the principle pacts sunt servanda, which was enshrined in the United Nations Charter and in the Vienna Convention on the Law of Treaties, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and other international instruments, including the Final Act of the Conference on Security and Co-operation in Europe, which had been reaffirmed by the Harare Conference of Heads of State or Government of Non-Aligned Countries, was also a sine qua non of the maintenance of international peace and security.

93. In view of the pressing need to ensure the full application of the principle of non-use of force, threat of force or coercion, he deplored the fact that the text of the draft Declaration contained gaps and deficiencies. Regrettably, instead of allowing the negotiation process to follow its normal course towards reaching a real agreement among the delegations, the Special Committee had remained captive to the time-limit set for it by General Assembly resolution 41/76. The compromise solution had certainly made it possible to escape the impasse, but the question could be legitimately asked as to whether the draft Declaration would have any practical effects on the conduct of States. Peru would not oppose the consensus on the draft Declaration, with the express reservation that none of its provisions must be interpreted as restricting the legal rules concerning the question of the principle of non-use of force enshrined in the United Nations Charter, the Vienna Convention on the Law of Treaties and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States.

94. Mr. GUTIERREZ (Nicaragua) said that the draft Declaration embodied the fundamental principles of Article 2 of the United Nations Charter and the principles stated in General Assembly resolution 2625 (XXV), namely, the prohibition of the threat or use of force against the territorial integrity of States, and referred to important elements such as disarmament, economic rights, human rights and international responsibility. He noted that all these principles were related to each other, so that the violation of one entailed the violation of all the others.

95. His delegation was satisfied with the content of paragraph 3 of Part I of the draft Declaration, which stipulated that no consideration of whatever nature might be invoked to warrant resorting to the threat or use of force in violation of the Charter of the United Nations. Nicaragua was also satisfied with the fourteenth preambular paragraph and paragraphs 6, 8 and 24.

96. The draft Declaration could have been improved, however, in both substance and form, especially with regard to international responsibility, and if the principles already set forth in current instruments had been reaffirmed, progress would have

(Mr. Gutierrez, Nicaragua)

been made at least in the area of its progressive interpretation. Despite the considerable value of the draft Declaration, Nicaragua deplored the fact that it did not provide for any practical measures to give effect to the principle of non-use of force and to regulate State conduct in that regard. As merely one example, he cited the non-compliance with the historic Judgment of the International Court of Justice, of 27 June 1986, concerning military and paramilitary activities in and against Nicaragua. That decree, which dealt with the non-use of force, the peaceful settlement of disputes, non-interference in the internal affairs of States and compliance with treaties, was of paramount importance for international peace and security, since recourse to the policy of force would condemn the United Nations system and the current international legal order, and would reduce law to a matter of whoever was the strongest. The non-compliance with that Judgment underlined the existence of a dangerous vacuum in the collective security system provided for under the Charter. The principle stated at the end of Article 27, paragraph 3, of the Charter must cease to be a dead letter in order for the international legal order and the decisions of the International Court of Justice to regain their strength.

97. His delegation was convinced that peace could be found solely through fair negotiations, in which the parties were treated with respect. Nicaragua was therefore resolutely endeavouring to apply the agreements signed by the presidents of the Central American countries on 7 August 1987 in Guatemala. Those agreements were a decisive step in the quest for a peaceful solution to the problems of the region. After studying the draft Declaration, his delegation was convinced that it deserved support, although the spirit of compromise seemed to have won over the need to find imaginative solutions to the problems of a world which was increasingly at the mercy of the powerful.

98. Mr. ECONOMIDES (Greece), speaking in exercise of the right of reply, said that his country had never tried to extend its sovereignty to the island of Cyprus. Turkey, on the other hand, had committed a flagrant aggression against the Republic of Cyprus and was illegally occupying more than one third of its territory. It had openly violated international law, the Charter of the United Nations and, in particular, the jus cogens principle of non-use of force, thereby committing an affront to the international community as a whole. Those violations had been committed solely for the purposes of expansionism and imperialism. That was the historical reality which was reflected in the many relevant United Nations Security Council and General Assembly resolutions which Turkey was flouting.

99. Mr. GUNEY (Turkey), speaking in exercise of the right of reply, said that the Greek delegation, which never failed to raise the question of Cyprus during the consideration of the Special Committee's report, should, contrary to what it had stated, deplore the fact that the Special Committee had completed its work. It would have to find another channel by which to attack Turkey before the Sixth Committee.

(Mr. Guney, Turkey)

100. Turkey had always held the view that a discussion about the problem of Cyprus before inappropriate forums would be counterproductive. The reality of the facts must be dealt with and accepted. By attacking Turkey, the representative of Greece had forgotten to mention the proposals made by the Secretary-General in the framework of his mission of good offices, and he had of course not mentioned that Turkey's intervention 13 years before had followed Greece's invasion of Cyprus. Under the circumstances, Turkey had been forced to intervene under the security treaty which Greece had also signed.

101. Mr. ECONOMIDES (Greece) replied that his delegation refused to accept facts imposed by force, in violation of international law and the United Nations Charter.

102. There had not been any attack by Greece on the Turkish minority in Cyprus in 1974. Moreover, Turkey had launched the second military operation in Cyprus, known as Attila II, at a time when the rule of law had been restored both in Cyprus and in Greece. He would be curious to know how Turkey justified that further act of aggression, the continuation up to today of the military occupation of a large part of Cypriot territory and the establishment of a Turkish Cypriot pseudo-State that it was alone in recognizing.

103. The Treaty of Guarantee by no means gave Turkey the right to intervene militarily in Cyprus. Moreover, no provision of a treaty could have precedence over a rule of jus cogens, such as the principle of non-use of force. It was in fact Turkey that had violated the Treaty, article 2 of which prohibited partition of the island.

104. Mr. DROUSHIOTIS (Cyprus), speaking in exercise of the right of reply, said that Turkey had made one third of the population of Cyprus into refugees in their own country, committed serious violations of the Cypriot population's human rights, set up an illegal secessionist entity and established settlers in the occupied zone and was endeavouring to destroy the national and cultural heritage of Cyprus, in violation of international law and numerous General Assembly resolutions, particularly resolution 3212 (XXIX), and Security Council resolutions 365 (1974), 541 (1983) and 550 (1984). It was only through implementation of those resolutions that a just and lasting solution to the Cyprus problem could be achieved - that was to say, through the withdrawal of the forces of occupation and the settlers, through the provision of international safeguards and through observance of the fundamental human rights of all Cypriots, particularly liberty of movement, freedom to choose their residence and the right to own property.

105. In seeking to justify Turkey's invasion of Cyprus, the representative of Turkey was making a mockery of the Charter, particularly Article 2, paragraph 4, and Article 103, as well as of the articles of the Vienna Convention on the Law of Treaties concerning law embodied in treaties that conflicted with a peremptory norm of general international law. In any event, the Treaty of Guarantee had never given a guarantor Power any right to intervene militarily in Cyprus.

106. Mr. ROSENSTOCK (United States of America), speaking in exercise of the right of reply, said that at the previous meeting the representative of Panama had pretended to confuse violations of Article 2, paragraph 4, of the Charter with peaceful measures taken by the Government of the United States in response to disquieting developments. It was a classical strategy of Governments that felt they were cornered at home to invent a foreign threat in order to deflect their population's attention. In repeating, in even more unacceptable terms, the untruths proffered by Panama's Minister for Foreign Affairs in the general debate, the representative of Panama had succeeded in deceiving nobody.

107. The United States supported the Panamanian people's endeavour to solve their country's political crisis and to restore democracy and observance of human rights, and that was the message that it had sent to the Panamanian Government when, in July 1987, it had frozen economic and military assistance to the Government of Panama. The United States had always met its obligations under the Panama Canal Treaty of 1936 and would continue to do so.

108. Despite the existence of agenda item 30, another speaker had seen fit to make reference, under the item under discussion, to a recent Judgment of the International Court of Justice. The fact that a judicial organ had exceeded its jurisdiction did not confer any jurisdiction upon it.

109. To those who had referred to the vote in the Security Council, he wished to reply that they would do well to reread Article 27 of the Charter with greater care.

110. As for the references to the Agreement of 7 August 1987 concerning Central America and to the promises to honour it, it was to be hoped that compliance with the Agreement would replace revolutions that knew no frontiers. If the commitments made earlier had been honoured there would have been no problems, and if both the spirit and the letter of the Agreement were scrupulously respected it was not out of the question that the assistance granted by the United States just after the ouster of Somoza would materialize once again.

111. Mr. GUNAY (Turkey), speaking in exercise of the right of reply for the second time, said that he wished to remind the representative of Greece and the representative of the Greek Cypriot community that, after the coup that had threatened the very existence of the Turkish Cypriot community in Cyprus, Archbishop Makarios had indicated to the Security Council that Cyprus had been the victim of a genuine invasion and occupation by Greece, whose purpose was to annex the island. Politics was the art of the logical and the possible, which did not apply to Greece's policy on the question of Cyprus.

112. Mr. KAM (Panama), speaking in exercise of the right of reply, said that it was regrettable that the representative of the United States had chosen to engage in slander and disinformation, a course of action that many members of his Government had, moreover, all too great a tendency to follow.

(Mr. Kam, Panama)

113. It was a primary concern of the Panamanian Government to improve its democratic institutions, safeguard the enjoyment of human rights and enhance justice in the country. That task was incumbent solely on the Panamanians, and it was not for the United States to give them either advice on democracy or lessons on how to conduct their own domestic affairs.

114. As for the United States representative's accusations that the Panamanian delegation and the Minister for Foreign Affairs of Panama had lied, he wished to quote a series of incidents (for example, penetration, without prior consultation, into Panamanian waters by United States warships; and unauthorized overflight of Panamanian military installations by United States helicopters) and arrests of members of the United States armed forces caught in the act of either provoking or participating in riots organized by a group of opponents of the Government - the incidents and arrest in question having occurred between June and August 1987. All those incidents and provocations - not the least of which being participation by the United States Ambassador to Panama himself and his daughter in political and religious demonstrations organized by a movement seeking to overthrow the Panamanian Government - were proof of direct United States intervention in Panamanian affairs.

115. As for the resolution adopted by the United States Senate, setting a deadline for adoption by the Panamanian Government of measures concerning matters that were in the sole province of the Government of Panama, he wished to stress that Panama was not a United States colony and had no intention of becoming just one more star on the United States flag.

116. Mr. DROUSHIOTIS (Cyprus), speaking in exercise of the right of reply for the second time, said, in response to the representative of Turkey, that the statement made by Archbishop Makarios before the Security Council in 1974 must be seen in the proper context. He also wished to take the liberty of reminding the representative of Turkey about Security Council resolution 541 (1983), which condemned the unilateral declaration of independence by the Turkish party to the conflict and recognized the Government of the Republic of Cyprus as the sole legitimate Government of Cyprus.

117. Mr. ICAZA GALLARD (Nicaragua), speaking in exercise of the right of reply, said that his delegation had referred to the historic Judgment rendered by the International Court of Justice on 27 June 1986 because it was a sort of Bible where the principle of non-use of force was concerned and because the Special Committee had taken due account of it in preparing the draft Declaration.

118. Unfortunately, despite the Judgment and despite the efforts undertaken by the Central American countries - with assistance from the Contadora Group and the Support Group - with a view to achieving a peaceful solution to the Central American crisis, the United States was continuing its unlawful and unacceptable policy. It was continuing that policy even after the adoption of the Guatemala Agreements, which specified very clearly that it was absolutely essential that the aid provided to irregular forces by a foreign Government should be terminated. In

(Mr. Icaza Gallard, Nicaragua)

that connection, he wished to draw attention to the fact that paragraph 3 of the draft Declaration, in whose drafting the United States delegation had participated, provided that no consideration of whatever nature might be invoked to warrant resorting to the threat or use of force. Nicaragua hoped that the United States would refrain, once and for all, from imposing on other peoples its views on democracy, society and economics.

The meeting rose at 6.45 p.m.