



SUMMARY RECORD OF THE 15th MEETING

Chairman: Mr. CALLE y CALLE (Peru)

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The meeting was called to order at 3.15 p.m.

AGENDA ITEM 116: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)
(A/36/41, 116, 388, 415, 446, 526 and 556)

1. Mr. MAHBOULI (Tunisia) said that the international community, in its efforts to achieve progress in establishing its relations on a peaceful basis, had found itself vulnerable to recurrent crises which prevented it from meeting the formidable challenge of under-development. The gap between the developing and the industrialized countries led to a fundamental imbalance in the world economy which gravely endangered world peace. In his delegation's view, the conflictual situation prevailing in a number of regions of the world was largely due to a failure to comprehend the relevant principles of the United Nations Charter, and particularly that of non-use of force in international relations. Membership in the Organization implied that States should strictly adhere to the principles to which they had voluntarily subscribed.

2. In a world situation in which the use of force was a permanent feature of the policy of certain States, it had become a matter of urgency to take steps to ensure effective respect for the principles of the Charter, and particularly that of non-use of force in international relations. However, progress in that regard was impossible if the necessary political will was lacking. His delegation believed that a world treaty would help to ensure compliance with the principles.

3. There was no doubt the elaboration of such a treaty would be a protracted and laborious exercise, as was evident from the meagre results achieved by the Special Committee at its fourth session. Lack of progress, however, should not be a deterrent to further effort.

4. The proposed legal instrument, which would be drawn up in conformity with Article 13 of the Charter, must define the principle of non-use of force with much greater precision, eliminating any ambiguities or contradictions. The relevant General Assembly resolutions, particularly resolutions 2625 (XXV), 3314 (XXIX) and 33/74 were valuable contributions to the clarification process. A useful basis for further work was provided by the working paper submitted by the delegations of 10 non-aligned countries (A/36/41, para. 259).

5. The first task to be tackled was the definition of the term "force". The concept had been extended in 1970 by the Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which contained a number of interesting definitions and included, for example, a provision affirming that States had a duty to refrain from acts of reprisal involving the use of force and a prohibition on the indirect use of force. However, in the contemporary world force took many forms, and the definition of the various types of threat or use of force contained in paragraphs 1 and 3 of the working paper prepared by the 10 non-aligned countries constituted an acceptable basis for discussion.

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(Mr. Mahbouli, Tunisia)

6. His delegation was also pleased to note that paragraph 14 of the working paper affirmed that the peaceful settlement of disputes was a necessary corollary to the principle of non-use of force in international relations.

7. His country had always upheld the principle of peaceful settlements of disputes and the fact that Tunisia and the Libyan Arab Jamahiriya - a country with which it enjoyed fraternal relations - had submitted a dispute concerning the delimitation of the continental shelf in the Gulf of Gabes to the International Court of Justice was proof of their support of that principle and their confidence in the work of the Court. It was unfortunately an infrequent occurrence for third world countries to submit disputes to the Court, and he hoped that the example would serve as an encouragement to others to make use of the international machinery for the peaceful settlement of disputes.

8. His country attached great importance to the inclusion in the proposed legal instrument of the principle of non-intervention. Interference by one State in the affairs of another was incompatible with the principle of the sovereign equality of States enunciated in Article 2, paragraph 1, of the Charter, and had already been the subject of a number of General Assembly resolutions, particularly resolution 31/91. It was to be regretted, however, that examples of unacceptable intervention by States continued to pose a serious threat to international peace.

9. The question of a world treaty on the non-use of force could not be considered in isolation from the issue of disarmament, to which his delegation attached great importance. It accordingly welcomed the fact that the 10 non-aligned countries had addressed themselves, in paragraph 12 of their working paper, to the need for general and complete disarmament.

10. Mr. KRYSOSIK (Poland) said that the item under consideration was of particular importance in a deteriorating international situation. A world treaty on the non-use of force in international relations would encourage States to maintain peace, thus having a positive effect on international relations, contributing significantly to the process of détente and building up confidence among the international community. It would be of special significance at the present time, since, despite the existing international legal instruments, the world was witnessing the revival of cold war policies, unprecedented efforts to speed up the arms race and the development of new and particularly inhumane types of weapons of mass destruction. Such a treaty, drawing on more than 30 years of experience within the United Nations and in the international community as a whole, would also be an important factor in forming the international legal conscience of nations and an essential element in the preparation of societies for life in peace. His delegation had therefore considered from the outset that the primary task of the Special Committee was the preparation of the draft treaty. The latest session of the Special Committee had shown that the overwhelming majority of Member States continued to support that idea and recognized the draft submitted by the Soviet Union as a good basis for the Special Committee's work.

(Mr. Krystosik, Poland)

11. It was clear that the draft treaty would not in any way impair the right of individual or collective self-defence against an act of aggression, as embodied in the Charter; it should also expressly recognize as lawful the use of force by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and apartheid.

12. The revised working paper submitted by 10 non-aligned countries (A/36/41, para. 259) was a valuable contribution to the work of the Special Committee. The principles which it contained did not contradict the provisions embodied in the Soviet draft treaty, and some of them could be adapted to the requirements of a legally binding document and included in the treaty. It was in the interest of all mankind that the mandate of the Special Committee should be renewed by the General Assembly.

13. Mr. LARREA (Ecuador) said that the banning of the use of force necessarily involved disarmament, which was closely linked with the peaceful settlement of international disputes and socio-economic development, which was only feasible if the resources currently expended on weapons could be channelled into efforts to alleviate poverty.

14. Although the principle of non-use of force had been set forth clearly in the United Nations Charter, and reiterated subsequently in numerous international declarations and resolutions, fresh conflicts had continued to break out, and no effective methods had been found to resolve them. In conformity with international law, his country had always opposed the use of force in any form in international relations, and on the occasion of its recent accession to the movement of non-aligned countries had reaffirmed its rejection of any form of racism or racial discrimination and proclaimed its respect for the sovereignty of States and their territorial integrity. It was therefore eager to see a strengthening of the system of peaceful settlement of disputes.

15. The work of the Special Committee should be directed towards strengthening the Charter provisions stating that recourse to force was justifiable only in two very clearly defined cases, namely, individual or collective self-defence, and drastic measures made necessary by a threat to collective peace and security. No other use or threat of force was tolerated under international law. Consequently, any attempt to impose a treaty by force was contrary to the law, because a treaty was a solemn and free expression of the national will. Further, there was no justification for the use of force to enforce observance of a treaty which had been signed while the territory was under military occupation, when denial of historic rights was involved or when it was impossible to implement such a treaty by reason of geographical or other features. The acquisition of territory resulting from the use of force was not recognized under international law.

16. Particular attention should be given to the definitions of force, aggression, economic coercion, political pressure, hostile propaganda, subversion, terrorism and covert attempts to destabilize Governments. In connexion with economic coercion, his delegation believed that the modern concept of collective security was the course

(Mr. Larrea, Ecuador)

which developing countries should take to defend themselves against economic pressures hampering their development. That idea had been endorsed in the Code of Conduct signed on 11 September 1980 in Riobamba by the States of the Andean Group.

17. There were two fundamental and indivisible aspects to peaceful coexistence among States: the prohibition of the use of force in international relations and the peaceful settlement of disputes; any international instrument on non-use of force should be combined with practical and effective machinery for the peaceful settlement of disputes. The legal obligation contained in Article 2, paragraph 4, of the Charter should be interpreted in the light of the intimate relationship existing between those two principles and the collective security system. The elaboration of an international instrument banning the use of force would reflect the spirit of the Charter itself, and defining the principle in concrete terms could only strengthen the Charter and enhance its effectiveness. The Special Committee should not duplicate the work being done in other forums, such as the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

18. His delegation had supported the initial working paper submitted by the group of non-aligned countries and had carefully studied the revised version (A/36/41, para. 259). It would like to see a clearer link established between paragraph 15 of that document and paragraph 4, concerning non-recognition of the consequences ensuing from the use of force. It also supported the modifications requested by the delegation of Cuba.

19. As a peace-loving country which respected the principles of international law and all binding international instruments and supported any efforts to eliminate the use of force and promote international peace and security, Ecuador considered that the work of the Special Committee was of great importance and therefore favoured the renewal of that body's mandate.

20. Mr. KRISHNAN (India) said that the great importance his country attached to the principle of non-use of force in international relations derived from its acceptance of the basic concept of non-violence as expounded by Mahatma Gandhi, who had regarded the doctrine of non-violence, not as passive submission to evil, but as an active and positive instrument for the peaceful settlement of disputes. His country therefore continued to support initiatives aimed at reinforcing the principle of non-use of force in international relations.

21. His delegation had already affirmed its support for the early conclusion of a treaty on the non-use of force in international relations in both the Special Committee and the Sixth Committee on a number of occasions. In that connexion, he recalled that the Sixth Conference of Heads of State or Government of the Non-Aligned Countries, held at Havana in September 1979, had welcomed the creation of the Special Committee and had expressed the hope that its work would be successfully concluded in the shortest possible time. The Conference had further noted that the proposed treaty should reaffirm the right of States to defend themselves, their right to use force for the purpose of liberating their occupied territories, and the right

(Mr. Krishnan, India)

of peoples under alien and colonial domination to struggle for self-determination and against colonialism and apartheid.

22. Various arguments had been put forward against the drafting of a universal treaty on the non-use of force. It had, for example, been contended that non-use of force, as a jus cogens principle, did not require reaffirmation or elaboration. When the principle was embodied in Article 2, paragraph 4, of the United Nations Charter in 1945 it was already a peremptory norm of international law. Since that time it had been reaffirmed in many international instruments adopted by the United Nations and other international organizations. In his delegation's view, the wealth of jurisprudence accumulated over the years could form a valid basis for the drafting of a world treaty.

23. In co-operation with the representatives of other non-aligned countries his delegation had submitted to the Special Committee a working paper containing 17 principles aimed at reaffirming, elaborating and developing the principle of non-use of force as a peremptory norm of international law. He was gratified to note that the working paper had elicited favourable reactions from several delegations outside the non-aligned group. In the light of the constructive suggestions made on the specific principles contained in the working paper, the sponsors had submitted a revised version at the most recent session of the Special Committee (A/36/41, para. 259). The revised text, like its predecessor, was not intended to be a final document, and he had no doubt that there was room for improvement. He hoped that the Special Committee at its next session would be able to give further consideration to the revised working paper with a view to early completion of its work in accordance with its mandate. He also hoped that the work of the Special Committee would be conducted in a rational and business-like manner, and that polemics would be eschewed as far as possible. His delegation was in favour of renewing the Special Committee's mandate.

24. Mr. THOMAS (Guyana) said that all delegations participating in the debate on the item under consideration had expressed legitimate concern at the continued resort by States to the use or threat of force in their international relations. Recent pronouncements by the super-Powers had unmistakably pointed to an escalation of the arms race, a disturbing trend which obviously did not augur well for the task of enhancing the effectiveness of the principle of the non-use of force in international relations. The gravity of the situation should, however, serve to strengthen the resolve to find ways of effectively prohibiting armed conflict in the day-to-day relations between States.

25. Two schools of thought had emerged in the course of the Committee's deliberations on how best the international community could enhance the effectiveness of the principle of non-use of force. The majority of States, consistent with General Assembly resolution 35/50, had reiterated their support for the elaboration of a world treaty on the subject. Other delegations had, with equal consistency, expressed their opposition to such a treaty on the basis of the adequacy, for the effective prohibition of the use of force, of Article 2, paragraph 4, of the Charter. His delegation believed that it was essential to

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(Mr. Thomas, Guyana)

read that paragraph in conjunction with Article 51 of the Charter, which permitted an exception to the use of force in the exercise of the right of individual or collective self-defence. The consistent misapplication of that exception was a cause for concern and, in the light of increasing world tension, a clarification of the principle was even more urgently needed.

26. Many delegations had attributed the increasing incidence of breaches of the Charter provisions on non-use of force to a lack of political will on the part of those engaged in armed conflicts and had consequently suggested that the exercise of political will, together with a demonstrable commitment to Article 2, paragraph 4, could adequately serve to prohibit or minimize the use of force in international relations. His delegation, however, felt very strongly that, even if such political will existed, Article 2, paragraph 4, was not in itself sufficient to stem the ever-increasing tide of armed conflict. The ineffectiveness of that provision in enhancing the principle of the non-use of force was a function of its generality, and his delegation therefore supported the drafting of an international legal instrument proscribing the use or threat of force in any of its various manifestations. It believed that a world treaty would not only be a definitive elaboration of the scope of Article 2, paragraph 4, but would also clarify the dubious application of Article 51, which had on occasion been used to justify armed aggression. States with aggressive designs and superior military strength had frequently and deliberately misapplied the principle of the right of individual or collective self-defence in order to resort to force against smaller States and to threaten their territorial integrity. Such actions should be unequivocally outlawed by the international community through the promulgation of a comprehensive world treaty drafted in clear and unambiguous language. Such an instrument would also further the development of the principles and norms of international law.

27. The argument advanced by certain delegations that a world treaty would constitute a source of confusion was groundless. In the drafting of similar international treaties, provision had always been made for the resolution of any possible conflicts which might arise between the text of two or more legal instruments. There was no reason to suppose that such conflicts could not be avoided in the case of the proposed world treaty. Moreover, Article 103 of the Charter provided that, in the event of a conflict between the obligations of Members of the United Nations under the Charter and their obligations under any other international agreement, their obligations under the Charter should prevail.

28. His delegation believed that the draft Treaty submitted by the Soviet Union, the working paper prepared by the 10 non-aligned countries, and the relevant proposals and observations made by other delegations provided a good basis for constructive discussions on the substantive aspect of the text of any world treaty. His delegation supported a renewal of the Special Committee's mandate and expressed its resolve to co-operate fully with a view to the elaboration of a world treaty prohibiting the use of force in international relations.

29. Ms. SILVERA NUÑEZ (Cuba) applauded the initiative taken by the group of non-aligned countries; the revised working paper they had submitted to the Special Committee (A/36/41, para. 259) was an important contribution to the efforts to

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(Ms. Silvera Muñoz, Cuba)

translate the principles of Article 2, paragraph 4, of the Charter into a binding legal document. The tone of the debate provided grounds for optimism that a multilateral instrument, expressing the interests of all peace-loving countries, might be concluded in the fairly near future. Such a treaty would contribute to the development of international law. The preliminary draft prepared by the Soviet Union and the

be subjected to a detailed comparative analysis and fused into a single text. That would make it possible to analyse a definitive legal instrument containing a comprehensive definition of the use of force. To that end, it was necessary to extend the mandate of the Special Committee.

30. Although the working paper submitted by the non-aligned countries was generally acceptable, two modifications were required for the sake of clarity and legal objectivity: subparagraphs (a) and (c) of paragraph 7 should be deleted, and the words "provided that they have not been signed as a result of the use of force" inserted in paragraph 15.

31. The current international situation was becoming increasingly ominous and insecure, owing to, among other factors, the pursuit of military supremacy, the arrogant economic superiority and the imagined technological superiority of the Government of the United States, self-appointed world policeman. The irresponsibility of that Government had caused an increase in the cases of use and threat of force against small countries. Countless examples were to be found in South-East Asia, in southern Africa and, most recently and dramatically, in the Middle East, with United States military activity on a huge scale in the Persian Gulf and the Indian Ocean, bombings in Iraq and Lebanon, and the shooting down of two Libyan aircraft, all with the aim of achieving absolute control of the immense energy resources of the region. As President Fidel Castro had made clear in his opening address to the sixty-eighth Interparliamentary Conference held in Havana earlier in the year, the responsibility for all those events lay with the United States of America.

32. Latin America and the Caribbean had also been the scene of a variety of manifestations of the threat or use of force, ranging from economic blockades, political pressure and blackmail to military invasions, threatened naval blockades, and the use of bacteriological weapons. The tone of the threats against her own country had become increasingly aggressive and arrogant, involving an intense mass media campaign. Despite that campaign, world public opinion was well aware of the irrefutable acts of aggression and criminal activities perpetrated against her country. Many of them had even been revealed by the United States Senate; a Senate document currently in the possession of her delegation provided proof of the part played by the CIA and members of the United States Government in assassination plots against leaders of other countries. Such violations of the principles of sovereignty and peaceful settlement of disputes embittered the international climate and endangered peace. For those reasons, it was more than ever desirable at the present time to adopt a binding legal instrument such as the one currently being elaborated.

33. Mr. GHARBI (Morocco) said it was regrettable that in the French title of the Special Committee the word "efficacité" was used instead of "effectivité".

34. There should be no loopholes with regard to the fundamental principle of non-use of force embodied in the United Nations Charter. The Special Committee's task was to seek the most appropriate legal means of ensuring effective universal respect for that principle. Believing that the Charter took precedence over any other instrument of international law and convinced of the usefulness of seeking to give more concrete shape to a cardinal Charter principle, his delegation had co-sponsored General Assembly resolution 32/150, establishing the Special Committee. The renewed interest shown by States at the Special Committee's recent sessions had served to bolster that conviction.

35. The report under consideration (A/36/41) showed that although the Special Committee was far from completing its work, it had not come to a dead end. The very active involvement of the non-aligned countries had ushered in a new approach characterized by frank and uninhibited dialogue - a prerequisite for an in-depth examination of the item from the legal standpoint. The role of those countries was in no way surprising; indeed, the birth of non-alignment had been prompted by, inter alia, the desire to restructure international relations on a sounder basis, prevent the unlawful use of force, eliminate the concept of permanent confrontation between military blocs and put an end to the rivalry between socio-economic or ideological systems. While the non-aligned movement had not always lived up to its noble principles, there had been extenuating circumstances. The third world had, after all, been the hunting-ground for imperialists and colonialists. The violence of the remote or relatively recent past had left the world a legacy that included zionism and apartheid. The distortions in the world economy and the imbalance in the terms of trade had condemned to endemic instability much of the third world, where the rivalries between great Powers and lesser Powers alike continue to be acted out. Not surprisingly, the non-aligned movement had been exposed to contamination by the bloc mentality against which it had initially rebelled. Fortunately, however, it had managed to preserve its cohesiveness and was still able to play its unique role in the international arena.

36. It was against that political and economic background that 10 non-aligned countries, including Morocco, had submitted a revised version of their working paper to the Special Committee (A/36/41, para. 259). That paper was not a definitive text; it represented an attempt to give new impetus to the debate and was generally recognized to be an initial step in the right direction. The 10 countries had been commended on their open-mindedness and pragmatism, primarily because of the flexibility they had shown with regard to the delicate question of the definition of the threat or use of force contained in paragraph 1 of the working paper.

37. His delegation failed to understand the objections to the link between disarmament and the non-use of force, and to the statement in paragraph 14 of working paper that "the peaceful settlement of disputes is a necessary corollary to the principle of non-use of force in international relations". The excessive accumulation of weapons, which went far beyond the requirements of self-defence

(Mr. Gharbi, Morocco)

and jeopardized the national, regional and global economic balance, constituted a threat to international security and a rejection of the foundations of peace. The principle of peaceful settlement of disputes and the principle of non-use of force were two sides of the same coin. "Peace under arms", not to mention peace in a state of "over-armament", would not afford a lasting basis for an international order of genuine peaceful coexistence.

38. In the light of the pointless blood-baths the twentieth century had witnessed, the use of force had to be regarded as the recourse of the impotent, costing more than it was worth. Conflicts were inevitable. It was, however, the role of diplomacy to keep conflicts within a rational framework and afford the first mechanism for their peaceful settlement. That function of diplomacy had to be carefully preserved from any distortion. Regional agencies or arrangements for the peaceful settlement of disputes, referred to in Article 33 of the United Nations Charter, should also be promoted and strengthened. In that connexion, Morocco welcomed the decision by the Organization of African Unity to establish a conciliation commission to deal with land and sea frontiers. A working group of the League of Arab States had drafted, under Morocco's chairmanship, a new charter for the League that would provide for an inter-Arab court of justice. The Organization of the Islamic Conference, for its part, had placed high on its agenda the question of establishing such a court.

39. Although warfare was an easy way out, there were dangers too in angelic pacifism. The Koran had warned both against over-aggressiveness and against vulnerability. The representative of Jamaica had aptly pointed to the paradoxes of the institutional system of the United Nations, as well as to the interrelationship between enhancing the effectiveness of the principle of non-use of force and aspiring to a reasonable degree of general and controlled disarmament, so that the instruments of life might prevail over the instruments of death. The international community must continue to strive towards the ideal of beating swords into ploughshares and must refrain from following the course of evil even as it paid lip-service to the course of good.

40. Mr. RAKOTONDRAMBOA (Madagascar) said that the inclusion of item 116 in the agenda reflected the importance attached by the international community to the principle of non-use of force embodied in Article 2, paragraph 4, of the United Nations Charter. While not a member of the Special Committee, Madagascar had followed its work with interest, had already made known its position with regard to the drafting of a world treaty on the non-use of force in international relations and had been one of the sponsors of General Assembly resolution 35/50. The welcome consensus that was emerging within the Special Committee was due to the fact that its members had moved beyond purely political considerations to examine the legal implications of the item. Madagascar wished to commend the Special Committee on the considerable progress achieved at its 1981 session.

41. The international situation was continuing to create a widespread feeling of insecurity. With the production of nuclear weapons capable of destroying the world several times over, the very survival of mankind was at stake. The new

(Mr. Rakotondramboa, Madagascar)

doctrine of limited nuclear war was an attempt to prepare world opinion for the possibility of permanent military confrontation. Madagascar was deeply concerned by the frantic arms race and the unilateral designation of areas of so-called "vital interest". It was even further concerned by the installation of military bases and the maintenance of various naval fleets in the Indian Ocean (despite General Assembly resolution 2832 (XXVI), declaring that Ocean to be a zone of peace), by the acts of aggression committed by Israel, its so-called "preventive reprisals" against neighbouring countries and its raid against Iraq's nuclear installations, and by the acts of aggression against Angola by the racist régime of Pretoria. Those acts were clearly contrary to the purposes and principles of the United Nations Charter and had been unanimously condemned by the international community.

42. The Special Committee was seeking to follow the United Nations practice of developing general Charter principles in international conventions. The United Nations had successfully developed such principles in the field of human rights; no one could claim that the International Covenants on Human Rights diminished or distorted the general Charter principles they had developed. The adoption of well-defined peremptory norms that could not easily be manipulated to suit certain Powers was still the most effective way to strengthen those general principles.

43. In elaborating an instrument on the non-use of force, the international community should be guided by a number of major legal documents already available. The central principle of the instrument would have to be the one embodied in Article 2, paragraph 4, of the Charter. It was essential, however, not to disregard the contribution of the non-aligned countries, which had produced over the years a corpus of norms and rules of conduct in international relations on the basis of the concept of peaceful coexistence. According to that concept, the threat or use of force was prohibited not only in terms of military force, but also in terms of all uses of coercion, such as economic or political coercion or hostile propaganda, as well as the resort to activities such as subversion, pressure, intimidation, support of terrorism, covert attempts to destabilize Governments, the use of mercenaries or financing or encouraging them. The effectiveness of a rule depended both on the political will of States to abide by it and on the institutional measures for its enforcement.

44. In that connexion, the revised version of the working paper submitted by 10 non-aligned countries afforded a sound basis for discussion in that it contained concrete proposals and reflected the will to reach a consensus. The international community should build on that spirit of consensus by enabling the Special Committee fully to discharge its mandate.

45. Mr. GÜNEY (Turkey) recalled that the discussions on enhancing the effectiveness of the principle of non-use of force in international relations had been going on for five years; during that time the use of force in international relations had increased at an alarming rate, but the United Nations had been unable to do anything about the aggravation of the world situation. He wondered

(Mr. Güney, Turkey)

to what extent the preparation of a generally accepted draft treaty or similar instrument would have helped to create the conditions required to prevent the use of force in international relations. The use of force was already categorically prohibited by the United Nations Charter, and it was quite clear that a legal instrument supplementing the Charter would have been ignored by those who opted for the use of force as the most effective way of ensuring that their interests prevailed in certain regions or in connexion with specific disputes.

46. His delegation had repeatedly stated its flexible and open position on the work of the Special Committee, of which it was a member. Since the problem facing that Committee affected the very basis of society, it could not be considered solely from a legal angle, but a technical problem arose in that connexion, for many issues which were organically related to the substance of the Special Committee's work were dealt with by different organs of the United Nations system. His delegation believed, however, that it was useful to have a thorough discussion of the reasons for the frequent use of force in international relations with a view to providing a basis for the subsequent elaboration of a set of practical measures that would encourage States to seek peaceful ways of settling their disputes. For that reason, and in order to permit a thorough consideration of the working paper of the non-aligned countries (even though it did not share some of the opinions expressed therein), his delegation would agree to the extension of the Special Committee's mandate.

47. Mr. KOROMA (Sierra Leone) said that at a time when the world was beset with dangers as a result of the escalating arms race, the possibility of a nuclear war and the constant violation of the principle of the non-use of force as embodied in the United Nations Charter, his delegation welcomed the opportunity to examine the item under consideration. Unintentional confusion might have been created by the title of the item; it would be helpful if the name of the Special Committee were amended to include a reference to "the threat of force", which was prohibited by Article 2, paragraph 4, of the Charter in the same way as the use of force. The report of the Special Committee (A/36/41) was very instructive; the enlightening debate on the item, both in the Special Committee and in the Sixth Committee, should continue as long as States used force in violation of the Charter. The annual debate afforded an opportunity to observe how the principle of non-use of force had served to maintain international peace and security or where and when it had been violated or whittled away and enabled Member States to express their indignation vis-à-vis those who used force to occupy a whole nation or against those fighting for self-determination and independence. The debate on the item was based on the presumption that the use of force was illegal and hence compelled those who had used force to justify their action; it also gave Member States an opportunity to reaffirm their commitment to the principle of non-use of force.

48. Customary international law, the Briand-Kellog Pact, the Pact of Paris and the United Nations Charter had imposed legal limitations on the use of force in international relations, but those limitations were in some cases vague, uncertain or ill-defined. Some States had found it to be in their national interest to exploit such vagueness or uncertainty for selfish ends. Therefore, any instrument that would further regulate, prohibit and rationalize the use of

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(Mr. Koroma, Sierra Leone)

force in international relations should and would enhance the maintenance of international peace and security. A treaty was not an end in itself; it was the conventional method of assuming international obligations and one of the methods of judging the conduct of States. Apart from the general controversy surrounding Article 2, paragraph 4, Article 51 and Chapter VII of the Charter, various fallacious concepts had been advanced as a pretext for armed aggression or the use of force. It was for the Special Committee to examine those "concepts" in the light of contemporary international law as embodied in the Charter and repudiate such unilateral proclamations, especially when they were found to be retrogressive and injurious to the rest of the international community. Article 2, paragraph 4, would thus be further strengthened and the alleged uncertainty surrounding the principle itself would be eliminated. In his delegation's view, that paragraph contained an absolute prohibition, the violation of which should activate the sanctions provisions of the Charter. The Charter was not bereft of such provisions; unfortunately, because of the misuse of the veto in the Security Council, international culprits such as the racist régime of South Africa, which had recently invaded the Republic of Angola, were allowed to go unpunished. If any instrument prohibiting the use of force in international relations was to be meaningful, effective and respected, it must of necessity include provisions for sanctions.

49. His delegation welcomed the initiative taken by the members of the non-aligned group with a view to facilitating the work of the Special Committee. His delegation proposed that all instruments regulating the use of force in international relations since 1929 should be compiled and examined thoroughly in the light of contemporary international relations and that an attempt should be made to specify the exceptions to Article 2, paragraph 4. It was time for the Special Committee to set to work and fulfil its mandate; the collective wisdom of all the members of that Committee should ensure that its mandate was used in the best interests of all States.

AGENDA ITEM 125: DRAFT BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT (A/34/146, A/35/401 and Add.1 and 2; A/C.3/35/14 and Corr.1)

50. Mr. VAN BOVEN (Director, Division of Human Rights) said that the draft body of principles for the protection of all persons under any form of detention or imprisonment had been referred to the Sixth Committee by the Third Committee because it had been felt that the issues under consideration would benefit from expert legal consideration by the latter Committee. The question had to be seen in the human rights context. For several years, the General Assembly and other United Nations organs such as the Commission on Human Rights had been very concerned about certain human rights problems. As part of that wider concern, the General Assembly, in 1975, had adopted the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Commission on Human Rights was currently engaged in drafting a convention against torture. A subsidiary organ of the Commission, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, was currently engaged in a study on human rights during emergencies

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(Mr. Van Boven)

or states of siege. It had been found that the question of the human rights of prisoners and detainees was a key area in so far as the promotion and protection of human rights were concerned; serious violations of human rights were often likely to occur whenever persons were detained or imprisoned without adequate legal and procedural safeguards for the protection of their human rights. In 1955, the Economic and Social Council had recognized the need for the protection of the rights of prisoners when it promulgated the Standard Minimum Rules for the Treatment of Prisoners. While those Standard Minimum Rules were very valuable they did not cover a number of problems. Recognition of that fact, coupled with continuing violations of the human rights of prisoners and detainees, had led United Nations organs to examine the need for further legal standards in that field.

51. In 1974, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, with the endorsement of the General Assembly, had decided to carry out an annual review of the human rights of prisoners and detainees, based on information supplied annually by Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council. In 1975, the General Assembly had requested the Commission on Human Rights, to prepare a draft body of principles for the protection of all persons under any form of detention or imprisonment; the Commission had subsequently referred that task to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Sub-Commission had appointed a working group on the matter and then designated a special rapporteur, the Austrian Ambassador to the United Nations in Geneva, Mr. Erik Nettel. On the basis of reports submitted by Mr. Nettel, the Sub-Commission had prepared a draft body of principles. The draft had been sent to the Commission on Human Rights, which had considered it and sent it to the General Assembly, through the Economic and Social Council, for consideration and adoption. At the same time, the Commission and the Council had requested the Secretariat to invite the comments of Governments, which were currently before the Sixth Committee. In the previous year, the draft body of principles had been considered by the Third Committee, which had established a working group to examine it. The report of the Working Group was contained in document A/C.3/35/14.

52. The early completion of the draft body of principles was a matter of the highest priority. The problem of violations of the human rights of prisoners and detainees continued to be a serious and urgent one. However, further progress in dealing with those problems was heavily dependent upon the adoption by the General Assembly, as soon as possible, of a set of basic norms on the human rights of prisoners and detainees which could be used as a basis for the work of human rights bodies in that field and which could also clear the way for further examination of that grave and pressing problem. He hoped that the Sixth Committee would be able to give the matter its urgent attention and would be able to conclude its consideration of the draft body of principles at the current session.

The meeting rose at 6 p.m.