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Chairman: Mr. CALLE y CALLE (Peru)

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ORGANIZATION OF WORK

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The meeting was called to order at 10.45 a.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, 383, 415, 446, 526 and 556)

- 1. Mr. BUBEN (Byelorussian Soviet Socialist Republic) said the the Special Committee had examined the question of enhancing the effectiveness of the principle of non-use of force in international relations at four sessions, without being able to complete its work. Nevertheless, one positive result of its efforts had been the greater awareness of the need for further measures to enhance the effectiveness of the principle. The majority of States Members of the United Nations, coming from virtually all corners of the earth, were currently in favour of the elaboration, as soon as possible, of a draft world treaty; they also agreed that such a binding international instrument would strengthen the relevant provisions of the Charter.
- 2. The question was of particular importance at present, in view of the critical international situation. Since the beginning of the decade, the reactionary elements had sought to aggravate the situation, build up forces and develop new and ever more dangerous weapons. The decision to produce the neutron bomb on a large scale had caused justified alarm among all peace-loving people. Moreover, there was open talk in some imperialist circles about plans to devise even more monstrous weapons of destruction; that would make arms control and limitation an extremely complex and even impossible question. The concepts of nuclear supremacy and limited nuclear warfare had re-emerged.
- 3. Given those conditions, it was clearly necessary to take steps to half the international offensive against the interests of mankind and to put an end to the arms race. Recent events showed only too well how difficult it was to limit the scope of military conflicts once they had begun and how essential it therefore was to concentrate on preventing conflicts.
- 4. His delegation attached the greatest importance to the elaboration and conclusion of a world treaty on the non-use of force in international relations. Although the corresponding principle was embodied in general terms in the Charter, it would be extremely useful to incorporate it in a specific instrument that was binding on all States, so as to rule out any possibility of misinterpretation or of anything less than strict compliance.
- 5. The Special Committee's report showed that there had been a constructive exchange of views in the debate on the item at the 1981 session. The draft submitted by the Soviet Union had met with the general approval of members, who had taken the view that the draft afforded a sound basis for the elaboration of a future treaty. Those who had been opposed, from the outset, to the idea of a treaty had been unable to present cogent arguments against it.
- 6. There was clearly a relationship between the principle of non-use of force in international relations and the principle of peaceful settlement of disputes,

(Mr. Buben, Byelorussian SSR)

an item also on the agenda of the Sixth Committee. The former principle could not possibly be inconsistent with the latter; his delegation was convinced that strict compliance by all States with the prohibition against the use of force would create the necessary conditions for the peaceful settlement of disputes.

- 7. As to the question of the format of the document to be prepared by the Special Committee, his delegation did not consider a declaration to be appropriate. Many resolutions on non-use of force in international relations had already been adopted in the United Nations, but it was a well-known fact that resolutions had their own characteristics and limitations. The most effective form, in his view, would be a binding international instrument, in other words a treaty.
- 8. The Special Committee had made considerable progress at its 1981 session, when useful consultations had taken place concerning new working methods, and it should henceforth concentrate on seeking possible areas of agreement and take practical steps to define the various elements involved in non-use of force. The draft treaty submitted by the Soviet Union constituted a good working basis for that purpose. Many of the provisions of the paper prepared by the non-aligned countries might also be included in a world treaty, in particular those relating to the right of individual or collective self-defense in accordance with Article 51 of the Charter, and to the legitimate right of peoples living under colonial and racist régimes to fight for their freedom and independence.
- 9. Concerning paragraph 12 of the paper submitted by the non-aligned countries and reproduced in the report of the Special Committee, the Soviet Union, as long ago as 1978, had made a declaration to the effect that it would never use nuclear weapons against States which had renounced the production or acquisition of such weapons and had proposed that international agreements to that effect should be concluded and that all nuclear-weapon States should issue solemn declarations concerning non-use of nuclear weapons against non-nuclear States. Given the alarming nature of the current situation and with a view to averting the threat of a nuclear war, the Soviet Union had submitted a draft declaration to the General Assembly at its current session by virtue of which the first use of nuclear weapons would be regarded as a crime against humanity. The adoption of that draft would help to avert the possibility of a nuclear war and to strengthen the peace and security of all nations.
- 10. His delegation considered that the preparation of the proposed comparative table would be of valuable assistance in future work, and it was also in favour of extending the mandate of the Special Committee, so that it might continue its work and carry out its mandate faithfully.
- 11. Mr. HAYASHI (Japan) said that another year had elapsed since the Sixth Committee had last emphasized the vital relevance of the principle of non-use of force in international relations. During that period, the Soviet Union's military intervention in Afghanistan had continued, foreign military intervention in Kampuchea had not ceased and no solution had been found to the armed conflicts between Iran and Iraq. Moreover, fresh uses of force had occurred in the form of

(Mr. Hayashi, Japan)

the Israeli attack on Iraqi nuclear facilities and the invasion of Angola by South Africa, as well as other conflicts in the Middle East, Africa and Latin America. The situation consequently required the United Nations to renew its efforts to find a satisfactory answer to the question, which it had been trying to resolve for the past 35 years; simply appealing for the strengthening of the principle was not enough.

- 12. As to the proposals which had been submitted in the Special Committee, his Government was not prepared to accept as a starting-point the proposal to draft a world treaty on the subject, since it did not consider it advisable to restate the principle of non-use of force in the form of new binding treaty provisions when relevant provisions already existed in a world treaty, namely, the United Nations Charter, which all Member States had solemnly pledged to fulfil.
- 13. A world treaty on the principle of non-use of force would either contain the same rights and obligations as the Charter, which would be futile, or establish rights and obligations which differed from those in the Charter, which would imply a weakening, if not a modification involving a violation, of Charter obligations. Moreover, since it was virtually impossible that all Member States would become parties to such a treaty, discrepancies would arise with respect to the rights and obligations relating to the principle, thus creating a confusing legal situation which would lead to conflicts.
- 14. For the foregoing reasons, his delegation considered that if the General Assembly wished the Special Committee to continue its work it was essential that the work should not involve the drafting of a treaty. The working papers submitted by five European countries and by 10 non-aligned countries examined the substantive elements of the question without dwelling on the form of the final instrument. Even though they were not entirely satisfactory on certain points, both proposals could be taken as bases for discussion. His delegation therefore urged that the mandate of the Special Committee should be changed by deleting the reference to "the goal of drafting a world treaty", limiting it, for example, to the formulation of appropriate recommendations.
- 15. Finally, he stressed the close link between the principle of non-use of force and the principle of peaceful settlement of disputes. It was gratifying that the revised text submitted by the non-aligned countries had taken some account of that point.
- 16. Mr. JOVANIC (Yugoslavia) said that the current conditions of crisis in international relations highlighted the importance of the principle of non-use of force. The bloc system rivalry between the big Powers, the arms race and the struggle for spheres of influence were based essentially on force and could only be maintained by force. The principle of non-use of force was beyond discussion from a strictly legal point of view. Account should also be taken of the political aspects of the problem.
- 17. At the current juncture, when most of mankind was calling for the reaffirmation of the principles of the Charter, some States claimed that they had

(Mr. Jovanić, Yugoslavia)

used force in the name of non-use of force, while the principle of peaceful settlement of disputes was frequently used to sanction faits accomplis. Many peoples thus became victims of the wrath of the powerful simply because they wished to choose their own course freely. In paragraph 258 of the report of the Special Committee $(\Lambda/36/41)$ it was stated that agreement had been reached on how the different proposals made on the world treaty on the non-use of force in international relations should be submitted. Care should be taken not to enter a blind alley. The Special Committee should prepare a joint document covering in an appropriate manner, the proposals made by the non-aligned countries in their revised working paper and all the other initiatives. Similarly, the door should be left open for any other proposals on the question.

- 18. His delegation wished to see incorporated in the document a reaffirmation of the original principles of the non-aligned movement. It would also be appropriate to include a comprehensive definition of the non-use of force in all its manifestations, in accordance with paragraph 1 of the revised working paper of the non-aligned countries. Such a definition should encompass various aspects of direct and indirect intervention and interference, and all forms of pressure, whether political, military or cultural, in bilateral and international relations. Yugoslavia, a non-aligned, socialist country, would continue to support all measures, suggestions and initiatives aimed at strengthening the principle of non-use of force in international relations.
- 19. Mr. GYAWALI (Nepal) said that violation of the principle of non-use of force in international relations had dangerous consequences in a world crammed with sophisticated armaments. The frequent violations of that principle had highlighted the responsibility of the international community to adopt immediately specific measures to enhance its effectiveness. Since the Special Committee had not discharged its mandate, his delegation was in favour of extending that mandate. The report of the Special Committee, which revealed some progress, contained a revised working paper submitted by the non-aligned countries. Together with the other two texts before the Special Committee, that proposal could provide a broad framework for reconciling the differences that existed.
- 20. Mr. RAHMAN (Bangladesh) said that his country's firm support of the principle of non-use of force in international relations was reflected in article 25 of its Constitution and in other constitutional provisions, which contained a series of principles on the promotion of international peace, security and solidarity, in accordance with Article 1 and other relevant provisions of the United Nations Charter.
- 21. Revent events in international relations had revealed the need to devise machinery to apply the principles contained in Articles 1 and 2 of the Charter. It was necessary to draft a legal instrument with binding provisions which specified clear obligations for all States. The existence of such an instrument would not, in any way, be contrary to United Nations practice or imply derogation from the Charter. In that respect the revised working paper submitted by the group of non-aligned countries provided a suitable foundation for the preparation

(Mr. Rahman, Bangladesh)

of such an instrument. Similarly, the definition of the use of force or threat of force, contained in paragraph 1 of that document, offered a sound basis for the work of the Special Committee.

- 22. It should, moreover, be pointed out that none of the provisions of the document prohibited the use of force in self-defence, as provided for in Article 51 of the Charter, or in the legitimate struggle of peoples under colonial domination. The draft World Treaty on the Non-Use of Force in International Relations should in no way modify or amend the provisions contained in that or any other Article of the Charter. Such a treaty would strengthen rather than weaken the Charter. Together with the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights, the draft World Treaty on the Non-Use of Force in International Relations would make an important contribution to international law.
- 23. Mr. NIZIGAMA (Burundi) said that the hopes originally placed in the Special Committee contrasted with the current concern over the lack of progress in its work. The dangers inherent in the arms race, emphasized by the Secretary-General in his report on the work of the Organization (A/36/1), and the tendency of certain countries to create law through violence and aggression, justified such sentiments. His delegation regretted the polarization of views reflected in the Committee's deliberations, and trusted that it would be possible to adopt a consensus approach.
- 24. The existence of a world treaty on the non-use of force in international relations was of fundamental importance to those States which had no defence other than the rule of law. Any such treaty should therefore be as detailed and substantive as possible and should not merely set out general principles. The benefits and short-comings of the draft submitted should be carefully assessed to make good any deficiencies and avert potential conflict. Similarly, the Special Committee should not be turned into an arena for the settlement of socio-political differences.
- 25. His delegation therefore wished to support the proposals of the non-aligned countries, which had the merit of averting the possibility of lapsing into a series of sterile debates. The proposals should be given the time and attention they deserve. The treaty which emerged from the work would then constitute an international legal instrument of great worth. If, on the other hand, the work amounted to nothing more than an exercise in codification, with no perceptible influence on the conduct of States, time and energy would have been squandered.
- 26. Mr. AZAZY (Yemen) said that the gravity of the international situation called for intensified efforts to complete a world treaty on the principle of non-use of force in international relations. The conclusion of such a treaty was in the interest of all States, and the instrument should be binding on all parties.
- 27. After carefully studying the report of the Special Committee, his delegation supported the renewal of its mandate so that it could fulfil the expectations

(Mr. Azazy, Yemen)

regarding its work. As a developing country and an active member of the non-aligned movement, Yemen wanted the principle of non-use of force in international relations to be converted into a tangible reality. To that end, the Special Committee should carefully study the proposal of the non-aligned countries, so that ultimately, through contined efforts, it would be possible to conclude a world treaty with binding provisions that would provide the framework necessary to enable mankind to live in a climate of peace, justice and security.

- 28. Mrs. GROSS GALEANO (Nicaragua) recalled that the previous year her delegation had taken a firm stand in favour of the immediate elaboration of a treaty on the non-use of force in international relations. As a full member of the non-aligned movement, it wished to reaffirm the position of that movement, namely that the proposed treaty would in no way undermine the inherent right of individual or collective self-defence. The treaty should also safeguard the rights explicitly enumerated in paragraph 9 of the working paper of the non-aligned countries, reproduced in the report of the Special Committee. That body should not allow its efforts to be sabotaged by the actions of certain sectors that were prompted by selfish motives.
- 29. Nicaragua had only recently liberated itself from a dark despotism. Being a small country, it had been the victim of armed aggressions and occupations and, like all third world countries, it needed a universally applicable international instrument to maintain its sovereignty and independence. In the explosive situation prevailing in the Caribbean region, there was an ever-present threat of the use of force by a great Power in the region which would like to preserve elements of subordination in the political and economic spheres and was giving support to genocidal régimes. That Power was not only intervening in countries such as El Salvador but was also threatening to use force against countries such as Nicaragua. Her delegation therefore appealed to the international community to support the Special Committee and adopt the recommendations of the group of non-aligned countries. Economic and political pressure, hostile propaganda, support for terrorist organizations and overt attempts to destabilize other Governments all constituted violations of the most elementary rules of peaceful international coexistence and deserved to be resolutely condemned by the international community.
- 30. Mr. FERRARI-BRAVO (Italy) said that his Government had repeatedly stated its position on the problem under discussion and had serious doubts about the initiative taken some years earlier by the Soviet Union.
- 31. In article 11 of its Constitution, Italy had solemnly pledged not to resort to war as an instrument for the settlement of international disputes, and was therefore always prepared to explore all possible means of reinforcing the effectiveness of the principle of non-use of force. It attached the greatest importance to reaching an agreement on concrete measures to be enacted with a view to reaching that goal, but at the same time it did not believe that a treaty would serve that purpose, since the prohibition of the use of force already figured in a clear-cut and unequivocal way in Article 2, paragraph 4, of the United Nations Charter as the basic principle on which the Charter rested. What

(Mr. Ferrari-Bravo, Italy)

was needed was not any normative additions to that principle, especially when they were expressed in an equivocal way as in articles I and III of the Soviet draft, but rather a careful review of the effective implementation of the principle of non-use of force and an exploration of measures that might be taken in order to ensure that States, without exception, respected that principle.

- 32. That task was becoming all the more urgent in the fact of the growing tendency to disregard the prohibition of the use of force. In that respect, it could be seen that, one year after the previous debate, old violations still persisted and others had occurred, notable among them being the continuing presence of Soviet troops in Afghanistan notwithstanding the request for their withdrawal formulated by the overwhelming majority of the General Assembly, the continuing occupation of Kampuchea by Vietnamese forces, and the recent military aggression against Angola by South African forces. Italy had always condemned recourse to force and supported efforts to restore peace. That was the reason why it had supported the diplomatic efforts which had culminated in the truce and cessation of hostilities in southern Lebanon, while, on the contrary, condemning the Israeli military action against Iraq.
- 33. The regrettable deadlock which seemed to have developed within the Special Committee had been created essentially by the insistence on the idea of elaborating a new treaty, which would not only be useless but would entail the risk of impairing the credibility of the basic principles of the United Nations Charter. The General Assembly and the Special Committee, should it be reconvened, must therefore explore avenues leading towards the common goal, bearing clearly in mind the indissoluble relationship between the principle of non-use of force and that of the peaceful settlement of international disputes. That link already existed in the Special Committee's mandate, but seemed to have been overlooked in the text of the proposed new treaty, which merely contained an almost meaningless reference to the question of the peaceful settlement of disputes.
- 34. There was a more promising approach in the paper introduced by a group of non-aligned countries, and in the subsequent revised version, but it too failed to balance the two principles just mentioned. In 1979 a group of European countries had submitted some suggestions on the question to the Special Committee, but regrettably the suggestions had not been carefully explored thus far.
- 35. His delegation was ready to study all possible approaches, but could not accept the idea that only one of them should be accorded priority, and therefore found it disturbing that in the resolutions adopted on the current agenda item in previous years emphasis had been placed on the idea of drafting a treaty, an idea that had been rejected by a considerable number of delegations, including his own. Bearing in mind how sensitive and difficult the issue was, it seemed more to the purpose to eliminate the priority thus far accorded to the Soviet approach. Indeed, given the current stage of the Special Committee's deliberations, it was undoubtedly premature to decide what format the final instrument should take, and it was instead necessary first to determine the relevant issues and elaborate a text which could be adapted to any kind of document. Only then could

(Mr. Ferrari-Bravo, Italy)

a decision be taken on the format, with full knowledge of all its consequences and on the basis of consensus.

- 36. At the latest session of the Special Committee, its Chairman had exerted all possible efforts to structure the Committee's work and to help delegations to reach an agreed solution. The Italian delegation, for its part, was still ready to accept the proposals of the Chairman of the Special Committee and hoped that those delegations which had declined to endorse the proposed compromise solution would change their minds, thereby allowing the Special Committee to begin some useful work, setting aside sterile discussions of principle. Should the Special Committee's mandate be renewed, it would be necessary to establish an appropriate structure for its work, possibly with the help of a document prepared by the Secretariat reflecting all the relevant proposals in an appropriate sequence under headings agreed upon by consensus.
- 37. Mr. GRONWALL (Sweden) observed that his Government's attitude with regard to the mandate given to the Special Committee since 1977 had been rather sceptical, and had been reflected in his delegation's abstention from voting on the relevant resolutions. The reason for its scepticism was its belief that the draft treaty in question threatened to dilute or make ambiguous the clear rules on the non-use of force set forth in the United Nations Charter. There could be no question that the proposed drafting of a world treaty had been divisive and had resulted in sterile squabbles within the Special Committee.
- 38. Compared with the previous reports, the current one contained certain encouraging elements, chief among them the fact that in their working paper the non-aligned countries had stressed that the issue of the format of any agreed principles should be set aside so that the Special Committee could concentrate, for the time being, on the definition and content of those principles.
- 39. His Government would have no difficulty in supporting a properly worded text regarding ways of improving collective security and promoting the principle of the peaceful settlement of disputes between States, but it could not accept any principle that would legalize the use of armed struggle as a means of achieving certain objectives. It also had doubts about the advisability of including in that context the principle of general and complete disarmament, because the question was too broad to be dealt with superficially in one or two sentences of the proposed treaty.
- 40. Ms. KASHUMBA (Zambia) said that enhancing the effectiveness of the principle of non-use of force was particularly important in view of the deteriorating international situation caused by the accumulation of complex unsolved problems and the emergence of new disputes which endangered the very existence of human civilization. The entire international community should participate in resolute action in favour of disarmament and of strengthening the principle of non-use of force, especially because, given the interdependence of the contemporary world, any military conflict would affect the peace and security of all peoples. Her delegation welcomed the initiative to elaborate a universal treaty to solve that problem, which concerned all States, big and small.

(Ms. Kashumba, Zambia)

- 41. The working paper submitted by the non-aligned countries, together with the other documents which the Special Committee had before it, should serve as a basis for working out an appropriate international instrument that would establish effective machinery for preventing the use of force in international relations or for promptly settling the consequences thereof. In view of the situation in Namibia and South Africa, the treaty must include a provision on armed struggle as a means of achieving self-determination.
- 42. Special attention should be paid to the interrelation between the principles of non-use of force, peaceful settlement of disputes and the collective security system, and the normative elements of each of those principles should be considered carefully. The problem of what form the instrument should take should not block the substantive work of the Special Committee.
- 43. Mr. KUMI (Ghana) said the United Nations Charter had expressly prohibited the use of force in international relations and that later, in its resolutions 290 (IV) of 1949 and 216 (XXI) of 1966 on strict observance of the prohibition of the threat or use of force in international relations, inter alia, the General Assembly had again addressed itself explicitly to the non-use of force. Similarly, the General Assembly had subsequently adopted the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations [resolution 2625 (XXV)] and the Definition of Aggression [(resolution 3314 (XXIX)].
- 44. The current international situation, marked by South Africa's recent invasion of Angola and other disturbing and unaccepable acts, demonstrated the need for concerted efforts to strengthen respect for the principle of non-use of force in international relations. His delegation therefore welcomed the report of the Special Committee. As to the form which the projected instrument should take, some representatives would obviously prefer a mere declaration, while others leaned toward a treaty. His delegation supported the latter position, because it believed that although a treaty might not solve all the problems relating to the use of force, the international community would benefit considerably from the entry into force of a good treaty on the matter. Its provisions would complement those of Article 2, paragraph 4, of the Charter, which prohibited the use of force, and those of Article 51, relating to the lawful use of force.
- 45. In his delegation's view, the treaty on the non-use of force in international relations should consist, inter alia, of the following elements: prohibition of the use or threat of force, affirmation of the sovereignty, independence and integrity of States, non-recognition of gains resulting from the use of force, liability of States consequent to the illegal use of force, obligation of States to support United Nations peace-keeping operations, duty of the Secretary-General to discharge his responsibilities under Articles 98 and 99 of the Charter, reaffirmation of the legitimacy of the right to use armed struggle to achieve self-determination and independence and to eliminate racism, colonialism and apartheid, reaffirmation of the right of self-defence, peaceful settlement of disputes and comprehensive definition of force to include economic as well as military coercion. The working paper submitted by 10 non-aligned countries should serve as the basis and guidelines for the Committee's future deliberations.

OPGANIZATION OF WORK (continued) (A/C.6/36/1: A/C.6/36/L.1 and L.2)

- 46. Mr. DIACONU (Romania) said that he understood the restrictions which had caused one meeting less be devoted to agenda item 122 than in 1980, but in view of the importance of the topic he requested that all delegations wishing to speak on the item should be given the opportunity to do so.
- 47. Mr. GÜNEY (Turkey) said he hoped that at least five meetings would be allocated to item 124.
- 48. Mr. CALERO RODRIGUES (Brazil) supported the statements of the previous speakers. With regard to item 121, on the report of the International Law Commission, his delegation thought that 14 meetings would be insufficient and hoped that one or two more could be devoted to it. Supported by the representative of Israel, he also suggested that the report should be considered by chapters or topics, as had been done the year before.
- 49. The CHAIRMAN, referring to the consideration of the report of the International Law Commission, said that projections regarding the number of meetings and their approximate dates should be applied flexibly. With respect to the question of dividing the report by chapters or topics that was for each delegation to decide. To the extent possible, it would be useful to continue using the method employed at the previous session.
- 50. Mr. FERRARI-BRAVO (Italy) said he had no difficulty in accepting the organization of work suggested in document A/C.6/36/L.2, especially if it was applied flexibly. With respect to the activities of the Working Group on the question of the protection of all persons under any form of detention or imprisonment, which was chaired by Italy, he noted that the four meetings allocated to the item could be used for a general debate.
- 51. He said that his delegation wished to associate itself with the remarks made by the Romanian delegation and that the decision taken at the start of the session to give the same treatment to both Working Groups should also be interpreted somewhat flexibly. It was important that both groups should begin their activities as soon as possible and that they meet alternately, taking advantage of the time available.
- 52. Mr. MAKAREVICH (Ukrainian Soviet Socialist Republic) said that, generally speaking, his delegation could accept the organization of work proposed in the note by the Chairman. He agreed with other delegations that a general debate must be held on item 125 because it was an entirely new one for the Committee. That procedure would be of great help in the Working Group's efforts relating to the substance of the relevant principles. In view of the item's nature, he did not think it prudent to accelerate the activities of the Working Group, which must not begin before the start of the general debate.
- 53. Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics) said that no restrictions should be imposed on statements by speakers, and recalled that the rules of procedure of the General Assembly granted the right to speak several times on the same item.

- 54. The CHAIRMAN said that the general debate on item 125 would begin on 16 Movember, but the item would be introduced at the Committee's next meeting, because the Director of the Division of Human Rights, who was to introduce it, would have to leave New York because of his duties in Geneva.
- 55. If he heard no objection, he would take it that the Committee wished to adopt the proposed organization of work contained in document A/C.6/36/L.2.
- 56. It was so decided.

The meeting rose at 1.05 p.m.