



SUMMARY RECORD OF THE 8th MEETING

Chairman: Mr. CALLE Y CALLE (Peru)

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AGENDA ITEM 116: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

ORGANIZATION OF WORK

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The meeting was called to order at 10.50 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, 388, 415, 446, 526)

1. Mr. DE PAIVA (Brazil) said that his delegation, having taken part as a member of the Special Committee in its 1981 session, was well aware of the efforts of its Chairman, Mr. Elaraby, to break the deadlock that had existed in the Committee ever since it had been set up. Nevertheless, the Committee's report was not encouraging.

2. Section I of the report indicated that there was still disagreement on whether the mandate of the Committee should be renewed. According to some, the subject should be dropped altogether, while in the view of others it was still worth making another try, and neither side seemed to be prepared to make concessions. Section II recorded the statements in the general debate and failed to reveal any real changes in substantive positions.

3. In view of the meagre results obtained from the Committee's last session, one might suppose that representatives in the Sixth Committee would simply reaffirm the views of their Governments on the subject. His own delegation still believed in the validity of the suggestions it had made on previous occasions, which were summarized in the comments sent to the Secretariat in response to the invitation contained in General Assembly resolution 35/50 (document A/36/415). However, instead of reiterating its views, his delegation preferred, in the interest of effectiveness, to draw attention to some particular points.

4. First, although there had been no formal agreement, most members of the Special Committee seemed to have supported the idea that the decision on the nature of the instrument to be prepared should be left to a future stage if the Committee was to engage in real work.

5. A second point which deserved mention was the spirit of conciliation and flexibility demonstrated by the group of non-aligned countries which had submitted a working paper and then revised it on the basis of the comments made by other members of the Committee. Although the revised version of the working paper had not been discussed owing to lack of time, it was clear from the Special Committee's report that the introduction of that revised text was the only substantial result achieved at its last session. To the extent that the revised draft embodied the main elements of all other working papers previously presented to the Special Committee and that it listed Articles of the Charter, principles of international law and provisions of General Assembly and Security Council relations related to the non-use of force, his delegation felt that the opinion it had expressed in the Sixth Committee in 1980, namely, that the paper could probably better than any other make different positions converge into the area of agreement on substance that was essential for the work on the subject, had been fully justified.

(Mr. De Paiva, Brazil)

6. His delegation also noted the statement in paragraph 258 of the report that "The question of preparing a comparative table or a topical compilation for the Committee was also discussed in the Working Group and elsewhere". Even though official reports were not exhaustive and did not reproduce what was said "elsewhere", he believed that it would be useful to prepare a comparative table, which should include not only all the working papers submitted to the Committee, but also written comments presented by Governments in response to the various resolutions of the General Assembly on the matter. There would be practical difficulties in including the opinions expressed during the debates of the Sixth Committee, but delegations could refer to the summary records.

7. As stated several times before, his delegation believed that the absence of a treaty on the non-use of force did not lessen the obligation to which all States Members of the United Nations were committed under Article 2, paragraph 4, of the Charter; nor did the existence of that provision mean that any attempt to improve international law on the matter was fruitless. The three main documents presented to the Special Committee and the proposals advanced in the Sixth Committee made such an exercise possible.

8. As to how the Special Committee should proceed with its work, it was clear from the Committee's latest report that no progress would be possible if the extreme positions remained unchanged, despite the positive spirit shown and the efforts made by non-aligned and developing countries. In the absence of agreement in the Special Committee, the General Assembly should give clearer and more specific instructions for its future work, and pragmatism and conciliation must prevail in the preparation of the draft resolution to be submitted by the Sixth Committee under agenda item 116.

9. Mr. MEISSNER (German Democratic Republic) said that the majority of the members of the Special Committee had made every effort to achieve the goal of drafting, at the earliest possible date, a world treaty on the non-use of force in international relations, as requested by the General Assembly in its resolution 34/50 of 4 December 1980. In so doing, they had manifested the desire of the majority of the Members of the United Nations for an effective contribution by the Organization to the safeguarding of peace. At the same time, unfortunately, those who were responsible for the current exacerbation in international affairs had further stepped up their opposition.

10. The German Democratic Republic had repeatedly declared its belief that a world treaty on the non-use of force would, more than ever before, be a significant step towards an improvement of the universal political climate. His country was convinced that the safeguarding of peace was the most important international challenge, as had been underlined by the People's Chamber of the German Democratic Republic in its declaration of 25 June 1981 on the appeal of the Supreme Soviet of the Union of Soviet Socialist Republics to the parliaments and peoples of the world, which stated, inter alia, that the change of direction in the policy of aggressive military forces to a course of confrontation, super-armament, interference and fomentation of conflicts was fraught with the risk of not only

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(Mr. Meissner, German Democratic Republic)

destroying the hard-won fruits of détente, but also plunging mankind into the abyss of an atomic disaster.

11. Political developments in 1981 had shown how pressing was the need to implement the United Nations Charter principle of non-use of force and to develop to the widest extent possible the international legal instruments for the prevention of the use of force. When some States resorted to various means of diverting the Special Committee from its primary task of preparing world treaty, that showed their intent not to undertake additional obligations on the non-use of force. That was the reason why some members of the Committee were trying again and again to obstruct its work by launching unfounded charges against other members.

12. His delegation held that the draft treaty submitted by the USSR, and a number of provisions contained in the revised working paper submitted by a group of non-aligned countries (A/AC.193/WG/R.2/Rev.1), provided a sufficient basis for preparing in a foreseeable time a document that would be in accordance with the will of the great majority of the States Members of the United Nations and that must be legally binding on the parties.

13. With regard to the details of the working paper of the non-aligned countries, his delegation considered that paragraphs 9 and 10 of that paper, dealing respectively with the legitimacy of the right of all peoples under colonial or racist régimes or other forms of foreign domination to resort to armed struggle, and with self defence, could appropriately be included in a world treaty. The same was true of paragraph 4, embodying the principle of the non-recognition ab initio of the consequences ensuing from the use or threat of force, and of paragraph 5, concerning international responsibility. The definition of the use of force would, however, be more complex. There were, of course, other forms of the use of the force besides military force, but his delegation considered that the world treaty should concentrate on the use of armed force, and that the other forms of the use of force, such as economic pressure, should be dealt with in other documents.

14. His delegation hoped a constructive atmosphere would prevail in the Special Committee, allowing that body to prepare as soon as possible a world treaty on non-use of force, an urgent task that corresponded to the will of the overwhelming majority of Members of the United Nations. It was for that reason that his delegation emphatically advocated that the Special Committee's mandate be prolonged.

15. Mrs. OLIVEROS (Argentina) recalled that renunciation of the use of force had been mentioned in the Covenant of the League of Nations and covered in a more detailed way in Article 2, paragraph 4, of the United Nations Charter. However, international relations during the past 36 years showed that that prohibition would remain a dead letter unless the States concerned were willing to comply with it. In practice, the provisions of the Charter had not succeeded in eliminating the threat or use of force and establishing the system of peace and security that was the basic objective of the United Nations.

(Mrs. Oliveros, Argentina)

16. Since the legal instruments currently in force had not succeeded in preventing interference in the internal affairs of other States, there had been a growing feeling that steps must be taken to prevent and punish the use of force. She wondered, however, whether a treaty such as that proposed would succeed in ensuring the implementation of Security Council decisions and was in fact a realistic objective in the current state of international relations, or whether the preparation of a treaty that proved to be ineffective and inapplicable might not, on the contrary, diminish the Organization's credibility.

17. Furthermore, it would be a waste of time for lawyers to discuss the question of preparing a treaty when the Charter covered the subject in a much more comprehensive manner. She had once again been disappointed by the report of the Special Committee: it contained a draft which that Committee had not yet been able to consider and whose very submission had given rise to objections.

18. She recalled the successive General Assembly resolutions adopted on the question: resolution 2131 (XX), entitled "Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty", which had had no effect; resolution 2160 (XXI), concerning strict observance of the prohibition of the threat or use of force in international relations; resolution 2627 (XXV), adopted on the occasion of the twenty-fifth anniversary of the United Nations, and resolution 2734 (XXV), ambitiously entitled "Declaration on the Strengthening of International Security"; resolution 2936 (XXVII), in which States renounced the use or threat of force in all its forms and manifestations in international relations and proclaimed the permanent prohibition of the use of nuclear weapons, and in paragraph 2 of which it was recommended that the Security Council should take appropriate measures for the full implementation of that declaration; resolution 3314 (XXIX), to which was annexed a magnificently abstract text entitled "Definition of Aggression"; and lastly, resolution 33/74 on "Non-interference in the internal affairs of states", adopted in 1978. She wondered if even one of those resolutions had achieved its objective.

19. Her delegation was nevertheless deeply convinced that the difficulties must be tackled, for the peaceful settlement of disputes was an absolute imperative, and considered that since dialogue among States was necessary for the maintenance of peace, the Special Committee offered an opportunity to analyse the reasons why certain provisions of the Charter had not been fully implemented.

20. While not wishing to be pessimistic, she observed that most countries used force in one way or another in their international relations, and then came to the United Nations with subtle explanations aimed at convincing other States that they had been right to do so. There was no point in engaging in mutual recrimination. However, it was necessary to be more realistic and less ambitious and to ponder whether it was really necessary to prepare a text condemning the use of force in international relations in order to allay the concern of certain States. If such a text was required, her delegation felt that it would be a simple matter to prepare an acceptable declaration based on the draft contained in document

(Mrs. Oliveros, Argentina)

A/AC.193/WG/R.2/Rev 1. It would, however, be surprising if that draft were to be accepted by many States, for the members of the Special Committee lacked the political will to accept a text which they themselves had not sponsored. Although thus far no State possessing a certain amount of power had proven convincingly that it would be willing to renounce the use of that power, her delegation was willing to pursue the theoretical debate on the question, and was therefore not opposed to the extension of the Special Committee's mandate.

#### ORGANIZATION OF WORK

21. The CHAIRMAN said that consultations were proceeding with a view to reaching agreement on the choice of the Vice-Chairmen of the Committee and the Chairmen of the two Working Groups which had been established. He therefore suggested that the meeting should be suspended for 15 minutes to enable the members of the Committee to reach final agreement.

22. Mr. CALERO RODRIGUES (Brazil) supported the Chairman's suggestion. He considered, however, that in future it would be advisable to avoid scheduling two meetings a day when it was known that there would not be enough speakers to utilize the time available to the Committee to the full. Furthermore, the two Working Groups which it had been decided to establish, and particularly the Working Group on the peaceful settlement of disputes, whose work was particularly easy, could have profited from the time thus made available to begin their work, but they had not yet been constituted and had no Chairmen. He therefore proposed that if the consultations did not produce results while the meeting was suspended, the Chairman should formally request delegations to nominate their candidates for the Working Groups and their candidates for the office of Chairman of each Group. The Sixth Committee should take those decisions forthwith in order to avoid further loss of time.

23. Mr. ROSENSTOCK (United States of America) said that he agreed with the comments made by the representative of Brazil, but felt that if agreement had not been reached during the past it would not be reached in the next 15 minutes. He therefore proposed that the meeting should be adjourned and that the question should be resolved definitively at the next meeting in the manner proposed by the representative of Brazil.

24. The CHAIRMAN said that indeed it would probably not be possible to reach a solution in 15 minutes and that it would therefore be preferable to postpone until the next meeting the election of the Vice-Chairmen of the Committee and of the Chairmen of the Working Groups.

The meeting rose at 11.30 a.m.