

**REPORT
OF THE SPECIAL COMMITTEE
ON ENHANCING
THE EFFECTIVENESS OF THE PRINCIPLE
OF NON-USE OF FORCE
IN INTERNATIONAL RELATIONS**

GENERAL ASSEMBLY

OFFICIAL RECORDS: THIRTY-SIXTH SESSION

SUPPLEMENT No. 41 (A/36/41)



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New York, 1981

NOTE

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I. INTRODUCTION

1. At its 81st plenary meeting, on 4 December 1980, the General Assembly, on the recommendation of the Sixth Committee, 1/ adopted resolution 35/50 entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations", which read as follows:

"The General Assembly,

"Recalling its resolution 31/9 of 8 November 1976, in which it invited Member States to examine further the draft World Treaty on the Non-Use of Force in International Relations submitted by the Union of Soviet Socialist Republics, 2/ as well as other proposals made during the consideration of this item,

"Recalling also its resolution 32/150 of 19 December 1977, whereby it established the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations,

"Recalling, in particular, its resolutions 33/96 of 16 December 1978 and 34/13 of 9 November 1979, in which it decided that the Special Committee should continue its work,

"Having considered the report of the Special Committee, 3/

"Taking note of the fact that, owing to lack of time, the Special Committee was not able to consider in depth the new proposals submitted to it during its last session,

"Taking into account that the Special Committee has not completed the mandate entrusted to it,

"Reaffirming the need for universal and effective application of the principle of the non-use of force in international relations and for assistance by the United Nations in this endeavour,

"Expressing the hope that the Special Committee will, on the basis of all the proposals before it, complete the mandate entrusted to it as soon as possible,

"1. Takes note of the report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations;

1/ Official Records of the General Assembly, Thirty-fifth Session, Annexes, agenda item 105, document A/35/623.

2/ Ibid., Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1), annex.

3/ Ibid., Thirty-fifth Session, Supplement No. 41 (A/35/41).

"2. Decides that the Special Committee shall continue its work with the goal of drafting, at the earliest possible date, a world treaty on the non-use of force in international relations as well as the peaceful settlement of disputes or such other recommendations as the Committee deems appropriate;

"3. Requests the Special Committee to consider thoroughly, and to take duly into account, all the proposals submitted to it with a view to ensuring a successful completion of its mandate;

"4. Invites the Governments which have not yet done so to communicate their comments or suggestions or to bring them up to date, in accordance with General Assembly resolution 31/9;

"5. Requests the Secretary-General to provide the Special Committee with the necessary facilities and services;

"6. Invites the Special Committee to submit a report on its work to the General Assembly at its thirty-sixth session;

"7. Decides to include in the provisional agenda of its thirty-sixth session the item entitled 'Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations'."

2. The membership of the Special Committee as appointed by the President of the General Assembly is as follows:

Argentina	Italy
Belgium	Japan
Benin	Mexico*
Brazil	Mongolia
Bulgaria	Morocco
Chile	Nepal
Cuba*	Poland
Cyprus	Romania
Ecuador*	Senegal
Egypt	Somalia
Finland	Spain
France	Togo
Germany, Federal Republic of	Turkey
Greece	Uganda
Guinea	Union of Soviet Socialist Republics
Hungary	United Kingdom of Great Britain and
India	Northern Ireland
Iraq	United States of America

* In accordance with General Assembly decision 35/324 of 17 December 1981, Cuba, Ecuador and Mexico replaced Nicaragua, Panama and Peru, which were members in 1980 (see also A/32/500, annex III, and A/35/762).

3. The Special Committee met at United Nations Headquarters from 23 March to 17 April 1981. 4/

4. The session was opened on behalf of the Secretary-General by Mr. Erik Suy, Under-Secretary-General, the Legal Counsel, who represented the Secretary-General at the session.

5. Mr. Valentin A. Romanov, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Special Committee. Miss Jacqueline Dauchy, Deputy-Director for Research and Studies (Codification Division, Office of Legal Affairs), acted as Deputy Secretary to the Special Committee. Mr. Lucjan Lukasik and Mr. Manuel Rama-Montaldo, Legal Officers, and Mr. Sergei Shestakov and Mr. Andrew Sinjela, Associate Legal Officers (Codification Division, Office of Legal Affairs), acted as Assistant Secretaries to the Special Committee.

6. At its 48th and 50th meetings, on 24 and 26 March 1981, the Special Committee elected the following officers:

Chairman: Mr. Nabil A. Elaraby (Egypt)

Vice-Chairmen: Mr. Jargalsaikhany Enkhasaikhan (Mongolia)
Mr. Oscar González (Mexico)
Mr. Ryszard Krystosik (Poland)

Rapporteur: Mr. Eric Duchêne (Belgium)

7. At its 48th meeting, on 24 March, the Special Committee adopted the following agenda:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, paragraph 2 of resolution 33/96, paragraph 2 of resolution 34/13 and paragraphs 2 and 3 of resolution 35/50, of proposals and suggestions submitted by States.
6. Adoption of the report.

8. At the 49th meeting, on 25 March, the attention of the Special Committee was drawn to requests for observer status which had been received from the Permanent Missions to the United Nations of Peru, Viet Nam and Yugoslavia. The Committee agreed at that meeting to grant those requests in accordance with the practice so

4/ For the membership of the Special Committee at its 1981 session, see A/AC.193/INF.4 and Add.1 and 2.

far followed by it, whereby representatives of States not members of the Committee who so requested, might participate in the Committee's work and attend meetings of the Working Group but not participate in the work of the Working Group. It took similar decisions at its 51st and 56th meetings, held on 27 March and 6 April, in relation to requests for observer status which had been received from the Permanent Missions to the United Nations of Nicaragua and Algeria.

9. Also at its 49th meeting, the Committee agreed, with respect to the organization of its work, that, notwithstanding the fact that general debates had been held at the previous sessions, there was a need for a brief general debate, in which observers would have an opportunity to express their views and to which three days would be devoted, subject to some flexibility. The Committee further agreed that one working group would be established, with the same officers as the Special Committee itself, and that, bearing in mind General Assembly resolution 35/50 which noted in the preamble that, owing to lack of time, the Special Committee had not been able to consider in depth the new proposals submitted to it during its previous session, the Working Group would start with the consideration of the working paper submitted at that session by 10 non-aligned countries (Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda) 5/ with the hope of bringing it within eight meetings to the level reached in relation to the other papers submitted previously. Finally, the Committee agreed to devote at least two days to the adoption of its report.

10. At its 59th meeting, on 10 April, the Special Committee considered the question of the organization of its work for the remainder of the session. Owing to a clear difference of opinion, no conclusion was reached.

11. The Special Committee devoted its 50th to 58th meetings, between 26 March and 8 April, to a general debate in which the representatives of the following States took part: United States of America, Spain, Chile, Egypt, Mongolia, Federal Republic of Germany, Romania, Japan, Hungary, Bulgaria, Finland, Brazil, Italy, Greece, Argentina, Mexico, Ecuador, Poland, Cuba, United Kingdom of Great Britain and Northern Ireland, Belgium, France, Union of Soviet Socialist Republics and Turkey. In accordance with the decisions reflected in paragraph 8 above, the observers for Nicaragua, Peru, Viet Nam and Yugoslavia made statements with the consent of the Committee.

12. The Special Committee had before it the draft World Treaty on the Non-Use of Force in International Relations introduced by the Union of Soviet Socialist Republics. 6/ It also had before it the comments and suggestions of Governments received in accordance with General Assembly resolution 35/50 (A/AC.193/3 and Add.1-3). In addition, the Working Group had before it the working paper submitted at the 1979 session of the Committee by Belgium, France, Germany, Federal Republic of Italy and the United Kingdom of Great Britain and Northern Ireland 7/ and the working paper referred to in paragraph 9 above, a revised version of which was tabled during the session by the same sponsors and is reproduced in paragraph 259 of the present report.

5/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 41 (A/35/41), para. 172.

6/ Ibid., Thirty-fourth Session, Supplement No. 41 (A/34/41), annex.

7/ Ibid., para. 129.

13. Since the Committee had not completed its work, it generally recognized the desirability of further consideration of the questions before it. While the majority were in favour of renewing the mandate of the Committee, some delegations took the position that the mandate should not be renewed and others considered that the mandate should be reviewed.

14. At its 62nd meeting, on 17 April, the Special Committee considered and approved the report of the Working Group (see sect. III below). The report of the Special Committee was adopted at the same meeting.

II. GENERAL DEBATE

15. The first speaker at the 50th meeting, the representative of the United States of America, said that, in view of the current global situation, which was not one to stimulate confidence concerning the state of the world with regard to the use of force, and in view of the warfare witnessed in Asia, Africa and Latin America within the last 12 months, his delegation was pleased that General Assembly resolution 35/50 was such that it was rational for his country to participate in the work of the Committee. His country had participated in the 1978 and 1979 sessions on account of the retention of a balanced mandate giving the Committee the necessary latitude to fulfil its task by making whatever recommendations it deemed appropriate. Since it regarded the notion of a new treaty on the non-use of force as pernicious, it could not rationally participate in the 1980 session in the light of certain language in the preambular part of resolution 34/13 which implicitly urged the Committee to proceed with such a task. Since that language had been removed from resolution 35/50, the Committee's mandate was now more realistic in recognizing that a treaty or other normative instrument was not the only answer to the question of how to enhance the effectiveness of the principle of non-use of force.

16. His delegation remained convinced that a treaty was both unnecessary and dangerous in its potential threat to the principles of the Charter of the United Nations, and that the elaboration of a treaty on the non-use of force would weaken the obligation provided for in Article 2, paragraph 4, of the Charter: if the new treaty merely repeated the Charter, it would make a farce of the act of treaty-making and if the new treaty were to differ from the Charter in any respect - and it need not deviate in essence or substance to create problems, it need only differ in its terms - there would be endless confusion over the governing legal régime in that most critical of areas. The serious and dangerous nature of the confusion would not be limited to Article 2, paragraph 4, of the Charter. It would affect the inherent right of self-defence described in Article 51 and the entire collective security mechanism. It was therefore surprising that even though the title of the item had been altered to replace any reference to a treaty by a generalized call to enhance the effectiveness of the existing principle, the idea of a treaty should continue to be pressed. Shortly after stating that a treaty on the non-use of force would create an atmosphere in relations among States in which the use or threat of force would be outlawed and that the time had come to ban the use of force in international relations, the Soviet Union had invaded Afghanistan. The question arose whether it was the absence of a new treaty on the non-use of force or some lack of clarity in its understanding of Article 2, paragraph 4 of the Charter which had prompted the Soviet Union to pour troops into Afghanistan, eliminating the head of Government and suppressing the people of that country, actions which had been preceded by comparable ones on the part of the Soviet Union, notably in 1968 and 1956. The Brezhnev doctrine of limited sovereignty, which asserted that military intervention to deprive a nation of the right to choose its own social, political and economic system was permissible, had first been openly invoked to justify suppressing the will of the people in 1968 and had since, unfortunately, been reiterated on several occasions, including one earlier in the current month. Account should also be taken of the numerous cases of indirect uses

of force such as the situation in El Salvador, which represented a classic case of clandestine military support to overthrow a Government committed to reform and the return to a democratic system of government. The intention behind the idea of drafting a treaty was apparently to divert attention from the Soviet Union's clear disrespect of international law - as shown so clearly in the invasion and military occupation of Afghanistan - as well as to confuse the law in an attempt to narrow the gap between attempts at rationalizing an aberrant conduct and the universally accepted and understood law.

17. Rather than allow itself to be distracted with treaties pledging not to do what was already legally prohibited, the Committee should concentrate on the real problems, namely, the lack of will of certain States to obey very clear laws, human privation, denial of human rights, and the inability of the international system, as embodied in the United Nations, to establish machinery to provide a sufficiently satisfactory or, at least, a sufficiently utilized alternative to the use of force through the peaceful settlement of disputes and collective security. The Charter of the United Nations treated the prohibition of the threat or use of force in the context of a comprehensive collective security system. All aspects of that system were interrelated and vital. The lesson of the period before the Second World War reflected in the Charter was that prohibiting the use of force alone was not enough and that a security system could not be strengthened by mere repetition of existing obligations but had to be accompanied by functioning machinery for the maintenance of international peace and security: to concentrate narrowly on the prohibition of the use of force and not on the functioning of the system as a whole would therefore mark a stunning and tragic step backward into the retrogressive development of law and institutions. While those who contributed so little to alleviating the economic plight of developing countries might wish to distract attention from poverty and want, while those who did not accord basic human rights to their own nationals might wish to distract attention from human rights concerns, while those who feared third-party dispute settlement might want to distract attention from dispute settlement machinery as a viable alternative to the use of force, while those who violated the principles of collective responsibility for peace keeping by, inter alia, refusing to pay even for forces duly approved by the Security Council might wish to distract attention from that breach of the Charter, while those who elaborated obnoxious doctrines seeking to justify invasion of a country to prevent that country from freely choosing its own social and economic system might wish to make the international community forget what they had done or, worse yet, to trap it into an instrument which could be used to justify such an invasion or such a doctrine, the Special Committee for its part should not let itself be so distracted.

18. His delegation was prepared to examine specific instances of the use of force since 1945 in an effort to understand better why States resorted to force: if such an examination were to reveal that there was genuine doubt as to the legally binding nature of the Charter's prohibition of the threat or use of force, then his delegation might be prepared to reconsider its opposition to further elaboration of legal principles as a response to contemporary uses of force. It maintained, however, that there were many ways of enhancing the effectiveness of the principle of the non-use of force, such as improving the recourse to methods of peaceful settlement of disputes and improving the functioning of the collective security system of the United Nations, for, so long as States lacked confidence in the functioning of the collective security system, they would resort to force when they felt threatened and those with aggressive desires to acquire territory or

enforce the subjugation of their neighbour's political will would dare to flout the law. It was possible that there were malfunctions in the collective security system which either deprived States of a viable alternative to the use of force to settle disputes or, at least, did not encourage them to use the alternatives. An in-depth study might lead to recommendations aimed, for instance, at making the system less slow or at enhancing the fact-finding capacity of the Secretary-General. The paper submitted by the five Western European countries deserved careful study in an attempt to determine and understand what led States to resort to the threat or use of force.

19. Since even those who used force recognized the validity of the principle of non-use of force in international relations and its legally binding character, it would be profoundly irresponsible for the Committee to satisfy itself with glib responses merely restating existing well-known rules and thereby encouraging the continued worsening of the situation by demonstrating the United Nations inability to respond seriously to a serious global situation. What was needed was not yet another statement of principles but an effort to make the system responsible to needs and a reflection on past ineffectiveness and on ways of improving matters.

20. The second speaker at the 50th meeting, the representative of the Union of Soviet Socialist Republics, speaking in exercise of the right of reply, rejected the assertions made by the previous speaker with respect to the Soviet Union's foreign policy, assertions which, he went on to say, were entirely unfounded and false. The representative of the United States had explained his country's reasons for boycotting the previous session of the Committee. Given the positive stand of the overwhelming majority of States towards the conclusion of a world treaty on the non-use of force in international relations, the attitude of the United States was arrogant, scornful and unconstructive and was aimed at undermining efforts towards the drafting of such a treaty and at distracting the attention of the Committee from the fulfilment of its mandate provided for by resolution 35/50 of the General Assembly.

21. As to the worn-out argument that if the treaty repeated the Charter it would make a mockery of treaty-making and if it contained new or progressive elements, it would lead to confusion, it could convince only naïve people having no knowledge of international politics and international law. It also reflected a lack of respect for the members of the Committee.

22. There was no need to investigate the reasons behind the use of force because those reasons were universally known: they included, for example, the policy of Israeli authorities in occupied territories and the policy followed by South Africa.

23. It became quite clear, after listening to the statement of the representative of the United States, who was trying to divert the Committee's attention from the discharge of its mandate. That task was of direct interest to all States without exception for it aimed at preventing the world from slipping into the abyss of thermonuclear catastrophe. He therefore appealed to all delegations to take a realistic approach and work towards the elaboration of fundamental provisions for a world treaty on the principle of non-use of force in international relations.

24. The speaker at the 51st meeting, the representative of Spain, observed that, as pointed out by Juan Antonio Carrillo Salcedo, two societies coexisted in the contemporary international world: a relational society, in which national sovereignty predominated, and an institutional society, in which international

co-operation predominated. That coexistence generated tension between the lawfulness of the use of force as a discretionary power of the State in the legal order of the relational international society and the prohibition of the use of force in the legal system of the institutional international society. In addition to the direct tension which had resulted from the violation of the norms governing the use of force, there had been another indirect kind of tension resulting from the gradual and progressive extension of certain situations in which States could lawfully use force.

25. Article 2, paragraph 4, of the Charter was a peremptory norm of general international law as defined in articles 53 and 64 of the Vienna Convention on the Law of Treaties. ^{8/} Nevertheless, some States resorted to the unlawful use of force, intervening directly or indirectly in the internal affairs of other States; they used force or the threat of force against the national unity, territorial integrity and political independence of other States, and used direct or indirect military aggression as a means of settling international disputes with other States. The legal obligation contained in Article 2, paragraph 4, of the Charter had thus on many occasions been transformed into a simple moral obligation, subordinated to the power politics in which those States engaged. That showed that the progress made toward the attainment of the primary objective of the Charter, i.e., the establishment and maintenance of a distinction between the lawful use and the unlawful use of force, had not yet fulfilled the hopes awakened in San Francisco.

26. With regard to the tension resulting from the gradual and progressive extension of the specific situations in which States could lawfully use force, he observed that the Charter provided for the lawful use of force in specific circumstances. First, it provided for such use within the framework of the collective security system, which was composed of the collective measures that the Security Council could adopt in accordance with the provisions of Chapter VII, particularly Article 42, of the collective measures that the General Assembly could recommend in accordance with the provisions of Chapter IV; particularly Articles 10 and 11, and of the collective measures that regional agencies could adopt in the light of the provisions of Chapter VIII, particularly Article 52. Secondly, the Charter provided for the lawful use of force in the case of self-defence, which had given rise to many interpretations and reinterpretations of Article 2, paragraph 4, and Article 51 of the Charter, it being asserted in some cases that the content of the right of self-defence was limited to that which transpired from Article 51 and in others, that Article 2, paragraph 4, neither replaced nor rendered inapplicable the pre-existing international law relating to self-defence. Thirdly, the fact that the Charter prohibited the threat or use of force against "the territorial integrity or political independence of any State" might be construed as meaning that the threat or use of force was permitted in other cases. That interpretation had, in fact, enabled some States to evade, indirectly, the obligation contained in Article 2, paragraph 4.

27. His delegation considered that the principle of refraining from the threat or use of force in international relations could and should be the subject of a more specific formulation and systematization that would help to define the content of Article 2, paragraph 4, and rule out the possibility of States interpreting that provision to suit their political and ideological interests. To that end, and with

^{8/} See Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.

a view to the progressive development of that principle, it would be necessary, as Verdross had said, to rely, not only on a logical and grammatical interpretation of the Charter, but also on the guiding ideas on which it was based, in other words, the animating concepts which informed the activity of the Organization but were not necessarily expressly set forth in the Charter, although they might be deduced from the interplay of all its rules. With regard to the way in which the principle should be defined, he said that any effort to draft a treaty on the non-use of force at a time when that principle had been and continued to be violated would obviously be pointless. Any attempt to develop or supplement the principle of prohibition of the threat or use of force in international relations would be meaningless if that principle was not respected, if the idea of international jus cogens implicit in its formulation was violated and if the omnipotence of the will of the State prevailed over objective barriers based on humanitarianism, justice and solidarity. The political will of States to comply strictly with its content was a prerequisite for the development or supplementation of that principle, as of any other principle of the Charter. It would serve no purpose to create, as some had wished to do, a kind of functional dichotomy by proposing, on the one hand, a draft world treaty on the non-use of force in international relations and, on the other hand, violating the principle which it was proposed to codify.

28. That being so, his delegation considered that special attention should be paid, first, to the interrelation and interdependence which existed between the principle of non-use of force, the principle of peaceful settlement of disputes and the collective security system. Secondly, the normative elements contained in each of those principles should be considered very carefully. He noted, on the one hand, that merely paraphrasing or reaffirming the Charter would add nothing new to the existing principles, and on the other, that proclaiming as lex lata principles de lege ferenda might create serious drafting problems. Those risks should therefore be weighed carefully before an attempt was made to formulate and systematize those principles more precisely. It should also be borne in mind that the mere multiplication of statements of principles of conduct might also reduce the impact of the formulation of the aforementioned principles. Lastly, in the course of the analysis, emphasis should be placed on the institutional elements of the three major topics he had mentioned, particularly the procedures, instruments and machinery used in international relations to implement, or ensure the implementation of, the rules deriving from or based on the principle of non-use of force, the principle of peaceful settlement of disputes and the collective security system, because the normative effectiveness of a rule often depended on the institutional measures adopted for the purpose of implementing it.

29. His delegation considered that the dialogue should be based on the assumption that the United Nations was the symbol of a more just international order and the reflection of an equipoise on which international relations at each moment in time were based.

30. The first speaker at the 52nd meeting, the representative of Chile, said that there was a close link between the non-use of force or threat of force and the effective will and commitment of States to peace as a form of international conduct, which in all their interrelated aspects formed an indissociable whole. The will for peace, as reflected in the Charter, meant that threats or any other type of coercion of one country to another were precluded. It also prevented any progression from threats to the use of force, resulting in an unlawful situation that could well lead to aggression or an act of war. His delegation therefore attached importance to means for the peaceful settlement of disputes, in their

two-fold role of preventing a conflict or ending it once it had begun. In all those matters there must exist a will for peace, which should be reflected in the general attitude of a country towards a dispute and towards its legal and moral responsibility to the community of nations. It should be displayed both to its citizens and to its allies, and also to the region of which the country formed a part. Otherwise, any means for the peaceful settlement of disputes or any machinery established by the Committee to ensure the non-use of force might prove illusory when a Government incited its people to war or sought support for such purposes abroad.

31. If a conflict was avoided and the machinery for the peaceful settlement of disputes envisaged in international law came into operation, the same principle would also find expression in the good faith and trust displayed by countries in the agreed machinery for peaceful settlement, both during the proceedings and when it came to implementing the results. If that were not the case, the threat or use of force would subsist despite the existence of a procedure for peaceful settlement, and that procedure would be seriously impeded because it was not based on an effective will for peace.

32. It should also be borne in mind that some very delicate international situations involving the use or threat of force had arisen since the establishment of the Committee. Even now, clear and unequivocal examples of the use of force were still to be seen, as in the case of the military aggression in Afghanistan, despite the majority expression of international condemnation adopted by the General Assembly on two occasions. New threats of the use of force, strongly reminiscent of the tragic beginnings of the Second World War, were also emerging in the heart of Europe. His country most vigorously deplored and condemned such acts. Chile complied in good faith and most resolutely with the principles of the Charter and considered it its duty to draw the Special Committee's attention to the delicate situation prevailing in certain parts of the world.

33. The Committee had before it several international documents containing basic elements for enhancing the effectiveness of the principle of non-use of force in international relations. A thorough review and analysis of those documents would enable the Committee to complement its study with a view to preparing an appropriate and generally acceptable international instrument that would establish effective machinery for preventing such acts or effecting a prompt settlement of their consequences.

34. His delegation wished to point out that terrorism was the most blatant expression of the lack of the will for peace and was directly related to the threat and use of force in international relations, even though it followed a different methodology that was far more cruel, inhuman and unnatural. The rise of terrorism, particularly in some parts of Latin America, had been watched with concern. The ideologies that inspired it were known, and in the final analysis they coincided with recent practice in the flagrant cases of use of force.

35. The second speaker at the 52nd meeting, the representative of Egypt, stressed the importance of convening the Special Committee at a time when the world faced a situation in which many problems were seriously endangering international peace and security, and gravely jeopardizing the survival of mankind.

36. Since the foundation of the United Nations, many efforts had been extended and many endeavours had been carried out aiming at developing and enhancing the effectiveness of the principle of non-use of force and the other principles that were related to it, such as the draft declaration on rights and duties of States, which was prepared by the International Law Commission in June 1949, (General Assembly resolution 375 (IV) of 6 December 1949, annex) the declarations on essentials of peace (resolution 290 (IV) of 1 December 1949), and on peace through deeds (resolution 380 (V) of 17 November 1950) and the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty (resolution 2131 (XX) of 21 December 1965).

37. The principle was clearly enshrined in the Charter of the United Nations and was part of contemporary international law as one of its imperative rules, jus cogens. Egypt, like most peace-loving States, opposed all forms of the threat or the use of force in international relations. That stance was severely challenged by many violations that occurred in Africa, Asia and South America. States of the third world, the non-aligned countries, were inspired by the initiative of drafting a treaty to achieve valuable and important results for the peace and security of the whole world. Such a treaty would cover all forms of the threat or the use of force; moreover, it would include terms and limits of the exceptions to the principle and different ways and means to be applied, in each case. In general, it could be said that that instrument was to seek the removal of all impediments that stood against the effective application of the principle and to ensure the imperative adherence to it in all cases. He believed that developing and elaborating all these elements in a legally binding instrument was a must. The support for the treaty was made clear by the sixth summit conference of the non-aligned countries in 1979. It was also explicitly articulated in paragraph 2 of General Assembly resolution 35/50 of 4 December 1980, as well as in previous resolutions of the General Assembly.

38. Furthermore, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV) of 24 October 1970) should be considered, as a point of departure. That Declaration, as well as other resolutions and declarations that had been adopted and that had a bearing on the non-use of force, should be taken into account. A genuine effort should be made to clarify all the dimensions of the principle under consideration.

39. The representative of Egypt further recalled that his delegation, along with nine other non-aligned countries members of the Committee, had submitted a working paper during the last session, 9/ to enable the Committee, through its Working Group, to engage in a substantive discussion and avoid sterile debate on the question of the nature of the treaty, its scope and relationship with the Charter. All the principles contained in that working paper were already part of contemporary international law and were articulated on the basis of documents agreed upon by the General Assembly. They were principles relevant to the principle of the non-use of force whose aim was to ensure that the international legal order

9/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 41 (A/35/41), para. 172.

should not have any gaps. Those principles were not exhaustive and therefore could be subject to detailed discussion. The Committee could elaborate upon them, add other principles, and could also suggest ways and means for applying them effectively and comprehensively. Since the Special Committee had not been able to consider those proposals in depth owing to lack of time, priority should be given, during the current session, to those proposals, as was clearly indicated in resolution 35/50.

40. He pointed out that the elaborate plan for an effective international collective security system, which was enshrined in the Charter 35 years ago, had failed to materialize. The expectations and aspirations of many States that had been subjected to the use of force had never been fulfilled. The Organization, vested with the responsibility for the maintenance of international peace and security, had never been able to put into effect its wide powers as contained in Chapter VII of the Charter.

41. The collective security system should be revitalized and attention should be focused on the measures open to the competent organs of the United Nations. It was his delegation's belief that the principle of non-use of force could not be effectively enhanced without substantive changes in the collective security system, which would provide States with a practical, feasible and, above all, credible alternative to the traditional resort to force in order to resolve inter-State disputes.

42. The third speaker at the 52nd meeting, the representative of Mongolia, associated himself with the previous speakers who had voiced deep concern over the current deteriorating international situation. He noted that some countries had embarked upon a course of unprecedented escalation of the arms race, undermining the very foundation of international détente and frustrating painstaking efforts and cherished hopes in concrete fields of international co-operation of paramount importance, and warned against the revival of the cold-war spirit. In those circumstances, the task of the Special Committee was of particular significance: enhancing the effectiveness of the principle of non-use of force in international relations was a question of paramount importance to all States, big and small, since it was directly linked to the vital question of maintaining and strengthening international peace and security, and solving it by making it incumbent on States to assume a concrete, legally binding obligation to refrain from the use or threat of force and to settle their disputes peacefully would markedly contribute to achieving the main aim of the United Nations, as reflected in Article 1, paragraph 1, of the Charter, as well as consolidating and deepening the process of international détente.

43. Mongolia's keen interest in searching for ways and means of enhancing the effectiveness of that principle and of outlawing the use or threat of force stemmed from the fact that there still existed forces that would not hesitate to use force in order to realize their imperialistic and hegemonistic designs and territorial claims. The need and urgency to concretize the principle of non-use of force had become more apparent in the wake of recent attempts to undermine the legitimate right of peoples to self-determination and to individual or collective self-defence, both recognized by contemporary international law and reflected in the Charter, as well as attempts to confuse the inherent right of peoples to struggle for their national liberation and independence with the abhorrent acts of terrorism. He emphasized that the legitimacy of the struggle of peoples for national liberation and independence was still as valid and true as it had been 20 or 200 years ago and had been time and again reaffirmed by the United Nations.

44. Since adoption of clear-cut binding norms had always been the most effective legal barrier to law infringement, it was only natural that the overwhelming majority of Member States should have come to the conclusion that the best practical way of enhancing the principle of non-use of force in international relations would be to conclude a treaty to that effect, clearly and concretely defining the obligation of States not to use force in their international relations. The worn-out argument that the drawing up of a treaty or any other legally binding instrument on the non-use of force would either repeat a Charter obligation or, in case of divergence, result in an amendment of the Charter was unconvincing and irrelevant, since it was widely understood that Article 2, paragraph 4, of the Charter should be concretized and developed in strict conformity with its spirit and with the provisions of other important international documents adopted on the basis and in pursuance of the Charter. It was up to the Committee to see to it that the instrument did not merely restate general obligations nor de facto amend Charter provisions. Furthermore, as exemplified by the area of human rights, it was a traditional United Nations practice to embody general principles of the Charter in multilateral conventions, i.e., to further develop and concretize international law. The elaboration of a legally binding, detailed document could take place against the legal background of various important documents already elaborated by the international community and on the basis of the Soviet draft.

45. The mere fact that, since its last session, the Committee had received several additional replies from Governments, and that it now had several documents to work on demonstrated that the majority of the members of the Committee, like the overwhelming majority of the Members of the Organization, were genuinely interested in negotiating and elaborating an international instrument that would truly enhance the effectiveness of the jus cogens principle. The Committee should, in accordance with the mandate contained in resolution 35/50, "consider thoroughly" those documents "with a view to ensuring a successful completion of its mandate", To that effect, it should have before it a comparative table indicating provisions common to all above-mentioned documents, provisions having a different content, and provisions having no counterpart in the other documents.

46. The first speaker at the 53rd meeting, the representative of the Federal Republic of Germany said that the renewal of the Committee's mandate was not warranted by the accomplishments of the three previous sessions of the Special Committee. Much discontent, uneasiness and criticism had been expressed in the Sixth Committee about the lack of progress. Eventually, however, the sentiment prevailed that, in matters of use of force, of peace and security, the dialogue should go on and not even a very slim prospect of progress should be left unexplored.

47. The renewal of the mandate had to be seen against the background of a series of instances of flagrant violations of the Charter of the United Nations and especially of the prohibition of the use of force. The alarming developments in that respect could not be ignored. There was an increasing and spreading disposition of Governments to resort to force for the settlement of political issues. Apart from outright war, the international community witnessed the continuous presence of foreign troops of occupation in certain countries in defiance of urgent calls to withdraw. He pointed out in particular the situation of Afghanistan and Kampuchea, flagrant aggressions against which were overwhelmingly condemned. He referred also to the frequent abuse of the plea of self-defence by the aggressor itself, thus justifying its resort to force. Such illegal acts against the territorial integrity and political independence of a State or intervention in its internal affairs were a very dangerous threat to international peace.

48. The Federal Republic of Germany was sincerely and faithfully committed to the Charter and to its purposes and principles. It had made the renunciation of the use of force a corner-stone of its foreign policy and supported all efforts aimed at obtaining world-wide application of the principle of non-use of force. It had concluded a series of bilateral treaties and has subscribed to the Final Act of Helsinki, 10/ both stipulating the interdiction of the use of force.

49. In the opinion of the representative of the Federal Republic of Germany, the goal of making the prohibition of force in international relations more effective could only be achieved by means, measures and deeds founded on broad agreement and consensus. In order to bring about that unity of purpose there had to be a genuinely open dialogue. Any approach to the task before the Committee which only sought to pursue selfish political interests disguised in lofty principles might endanger meaningful work towards the fulfilment of the Committee's mandate.

50. In his view, there were a few indispensable conditions which would be essential for the conduct of a fruitful debate.

51. The general framework had to be the Charter of the United Nations. It meant, first of all, strict faithfulness to the purposes and principles of the United Nations. The principle of non-use of force had a prominent place among the Charter principles but it had to be looked at in the context of all the others. That interrelationship had to be taken carefully into consideration. An elaboration of the principle of non-use of force that would lead to an erosion of its broad content would be definitely contrary to the mandate of the Committee.

52. In exploring possible ways and means towards the enhancement of the effectiveness of the prohibition of the use of force, it would also seem useful to build on such other instruments as were related to that issue and which had been negotiated and formulated on a broad basis of agreement, such as, for example, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations or the Definition of Aggression (General Assembly resolution 3314 (XXIX), annex). It seemed, furthermore, appropriate to give attention also to the principles of the Final Act of Helsinki. A large group of States of different political and social backgrounds, some of which were members of the Committee, had achieved consensus on that document after discussing thoroughly principles and questions relating to peace and security in Europe.

53. The mandate of the Committee recognized that the principle of non-use of force was intimately and logically interrelated with the principle of the peaceful settlement of disputes. Certainly, there were more issues in the fabric of international relations pertaining more or less directly to the interdiction of the use of force. The Committee should not lose sight of such important topics as disarmament, peace-keeping, the right to self-determination or human rights. He referred to the working paper submitted by a group of non-aligned countries. Owing to lack of time, there had been only a preliminary discussion of the 17 principles embodied in that paper. Nevertheless, he recognized that they constituted an interesting and useful contribution. The principal merit of the working paper was that it tended to broaden and to deepen the scope of the debate

10/ Final Act of the Conference on Security and Co-operation in Europe, Cmnd. 6198 (London, H.M. Stationery Office, 1975).

and to inject new momentum into the work of the Committee. It was to be hoped that that and other new proposals would lead the Committee away from concepts which did not offer any prospect of agreement. The delegation of the Federal Republic of Germany for its part intended to co-operate constructively in such a debate in the hope of achieving progress towards the enhancement of the principle of non-use of force in international relations.

54. The second speaker at the 53rd meeting, the representative of Romania, said that enhancing the effectiveness of the principle of non-use of force or threat of force, was especially important in existing circumstances in view of the deterioration of the international climate caused by the accumulation of a series of complex unsolved problems and by the emergence of new disputes. The growing tendency to resort to force, to interfere in the internal affairs of States and to divide or redivide the world into spheres of influence, the resort to the policy of force and domination in international relations, the intensification of the arms race in quality and in quantity and the building-up of increasingly destructive arsenals were endangering the very existence of human civilization and emphasized that resolute action in favour of disarmament and of strengthening the principle of not resorting to the threat or use of force in international relations should be taken as a matter of urgency and that the entire international community should participate in it because, given the interdependence of the contemporary world, any military conflict affected the peace and security of all peoples.

55. Romania was firmly committed to a policy of peace and co-operation with all countries of the world and considered that respect for the principle of non-use of force in all spheres without exception was essential. In view of its opposition to the use of force and its desire to promote the settlement of disputes solely by peaceful means, Romania supported the adoption of universal treaties and other mandatory instruments designed to prescribe and strengthen the obligations of States in those spheres and favoured the conclusion of a universal treaty on the non-use of force and threat of force which would necessarily be of great significance as part of the efforts to eliminate and prevent any act of force and would discourage States from resorting to military action, make attempts to justify such action much more difficult and create a political climate of disapproval of such behaviour. At the Madrid meeting on security and co-operation in Europe, Romania had again advocated the idea of having the participating States conclude a treaty on non-use of force and threat of force.

56. In the opinion of his delegation, the Soviet draft contained a number of important elements. The document of the non-aligned countries was a very useful contribution to defining the use of force and hence to a more comprehensive ban on the use and threat of force in relations among States: his delegation understood and shared the concern of non-aligned countries, as manifested at the ministerial meeting at New Delhi, about the growing tendency towards the use of force, which was particularly damaging to small and medium-sized countries. The document of the five European countries dealt with both the non-use of force and the peaceful settlement of disputes.

57. Under General Assembly resolution 35/50, the Committee was to continue its work with the goal of drafting a world treaty or other recommendations on the subject. In his delegation's view and as indicated in the reply of the Romanian Government (A/32/181/Add.1) and subsequent interventions, an international instrument on the subject should take into account what the current requirements of safeguarding peace and security were and should reflect the achievements of

international law: it should, therefore, reaffirm the imperative nature of the principle of non-use of force or threat of force which, inasmuch as it partook of jus cogens, could not be derogated from in relations among States, whether by treaty or custom or otherwise; such an instrument should also contain, inter alia, the following elements:

(a) A provision to the effect that no political, military or other consideration could justify the use or threat of force against another State;

(b) The obligation of all States not to use armed force or other forms of coercion in any circumstances;

(c) A list, not exhaustive in character, of the material elements constituting the threat or use of force to be prohibited by the instrument: occupation of foreign territory by force; acts directed against the unity and territorial integrity of a State; use of any type of weapons or armed forces against the territory of a State or attacks by the armed forces of a State against the land, naval or air armed forces of another State;

(d) An undertaking by all States not to intervene in any way in the domestic affairs of other States;

(e) The obligation of States possessing nuclear weapons to refrain from using or threatening to use them against States not possessing such weapons;

(f) Denial of international recognition of any territorial acquisition or special advantages deriving from the threat or use of force or from political, economic and cultural coercion;

(g) The right of every State to individual and collective self-defence against armed attack in accordance with Article 51 of the Charter and the right of peoples still under colonial domination or foreign occupation to resort to armed struggle for national liberation.

58. The document should also contain a general provision reaffirming the obligation of States to settle their disputes by peaceful means and to refrain from any act likely to exacerbate the dispute and lead to armed conflict. His delegation pointed out that some progress had been made within the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization towards drafting a declaration on the peaceful settlement of disputes; it was convinced that the progress reflected a clearer awareness of the danger inherent in the trend towards the use of force and a better understanding of the interests of international peace and security - which should also be conducive to progress in the framework of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations.

59. The third speaker at the 53rd meeting, the representative of Japan, after recalling that the Constitution of his country explicitly renounced the use or threat of force as a means of solving any international conflict or dispute, stressed that the principle of non-use of force was one of the most basic principles of conduct between States, and that it was incumbent on the international community to explore measures to strengthen it.

60. The work of the Special Committee had been largely unproductive and there were well-founded doubts as to whether the drafting of a treaty was the best way of strengthening the principle. Few constructive results could be expected as long as the Special Committee conducted its deliberations under a mandate that was unbalanced as a result of the retention in paragraph 2 of resolution 35/50 of the clause "the goal of drafting, at the earliest possible date, a world treaty on the non-use of force in international relations". Past experience showed that chances of success in bilateral or multilateral negotiations largely depended on how serious the parties concerned were; thus, when the proponent of a world treaty flagrantly violated the very rule of international law the effectiveness of which the treaty was supposed to enhance - and the representative of Japan had in mind the actions of the Soviet Union in Afghanistan since 1979 - the seriousness of the exercise had to be questioned. One of the reasons why Member States were cautious in negotiations on that subject stemmed directly from such inconsistency between words and deeds. Regretfully, the international community had witnessed in the past year in different parts of the world further breaches of the principle of non-use of force.

61. His Government had, on various occasions, stressed the need and the usefulness of strengthening the role of the United Nations in the peaceful settlement of disputes, on the ground that the principle of non-use of force would automatically be respected if parties to a dispute were determined to settle it by peaceful means, without resorting to the use of force. It was essential, therefore, that the deliberations of the Special Committee be devoted to the questions of the peaceful settlement of disputes and the strengthening of the peace-keeping role of the United Nations through the Security Council, the General Assembly and the Secretary-General.

62. With reference to the three working papers before the Committee, his Government could not support the draft treaty for a number of reasons, some of which he had just explained. The working paper of the five European Community members reflected a reasonable approach and provided a good basis for the deliberations of the Committee. As for the working paper of the non-aligned States, it contained a number of important ideas and was presented in a fairly comprehensive manner but also raised some serious questions.

63. The Japanese delegation supported the organization of work whereby the working paper of the non-aligned States would be examined by the Working Group after the general debate in the plenary. In deciding on further work, particularly within the Working Group, account should be taken of the suggestions and ideas which would be made during the general debate.

64. The fourth speaker at the 53rd meeting, the representative of Hungary, reaffirmed his delegation's conviction that the successful fulfilment of its task by the Special Committee could have a most positive impact on the further development of international relations.

65. He welcomed and supported the initiative of the Soviet Union to elaborate a world treaty on the prohibition of the use of force in international relations, the conclusion of which would be in the best interest of all States regardless of the size of their territory or population, regardless of whether or not they possessed nuclear weapons and other weapons of mass destruction. The significance of and the necessity for such a new international legal instrument had been

especially underlined by recent developments in the international situation, when the policy of détente had been put to a serious test due to the increased activity of the extremist circles of imperialism.

66. He believed that it was high time indeed to act in a purposeful and businesslike manner to accomplish the challenging task entrusted to the Special Committee. His delegation maintained its position that the draft treaty submitted by the USSR constituted a sound basis for working out a legal instrument on the subject-matter. In addition to the world treaty, there were now a number of other documents and working papers before the Committee which also contained useful elements from the point of view of furthering its work. The Hungarian delegation highly appreciated, in particular, the contribution made during the last session by a group of non-aligned countries. Their most valuable working paper made it clear that the Committee should concentrate on the elaboration of an international legal instrument. The fact that the paper contained numerous elements common to those of the Soviet draft treaty should not be overlooked.

67. In the course of the current general debate, the arguments against the idea of a world treaty had once again been heard. It could only be pointed out that such arguments, however well-orchestrated, totally disregarded the practice of 35 years followed by the United Nations and its numerous organs under Article 13 of the Charter in the field of the progressive development and codification of international law.

68. It was especially a matter for regret when those arguments were accompanied by allegations in order to divert the attention of the Committee from the course of constructive discussions. The irrelevant references made to certain years in order to label events, belonged to the obsolete rhetorical arsenal of the cold war resorted to by those who had never hesitated to exert pressure and use force on others whenever their selfish interests required it.

69. The first speaker at the 54th meeting, the representative of Bulgaria, reaffirmed his delegation's firm support for the idea of drafting a world treaty on the non-use of force in international relations as submitted by the USSR, which was in complete accordance with both the theory and practice of Bulgarian foreign policy.

70. Twenty-five years ago Bulgaria had adopted special legislation to safeguard peace and ban the activities of individuals, groups and organizations aimed at propagating or provoking war. The Bulgarian Government had exerted systematic efforts designed to enhance further the principle of non-use of force in its bilateral relations, particularly through the conclusion of treaties and other international instruments. Together with other socialist countries - States Parties to the Warsaw Treaty - Bulgaria had been striving to reaffirm, in the context of multilateral relations, that and other norms of jus cogens in modern international law. In the view of his delegation, the efforts exerted by the socialist countries in a multilateral context had never run counter to or interfered with the supremacy of the norms enshrined in the Charter. On the contrary, they had further strengthened it without modifying its concepts of a global collective security system.

71. His delegation reiterated also its conviction that the objections raised against the idea of drafting a world treaty on the non-use of force in international

relations were both futile and prejudicial in nature. With reference to the remarks about the deterioration of the political climate in the world, he held the view that one could hardly conceive a better and more compelling argument in favour of the conclusion of a world treaty on the non-use of force. Recent attempts to undermine and deny the inalienable right of peoples to self-determination by pinning the label of "international terrorism" on their legitimate struggle for national liberation, independence and social progress, to intensify the arms race and to hinder international co-operation in fields of vital importance, were indicative of the efforts undertaken by the opponents of détente to achieve a turn-about in the foreign policy of certain Governments in order to bring about a tilt toward the so-called "policy from a position of strength" and a revival of the cold-war spirit.

72. In the view of the Bulgarian delegation, the main positive trends in the deliberations of the Committee had already been amply substantiated in the proposals submitted thus far. The Committee had reached the stage where it could look for common ground in order to start a more concrete phase in its work. A comparative table of a technical nature comprising the components of proposals submitted would be very helpful. Although fully aware of the heterogeneous nature of the proposals put forward, his delegation was of the opinion that such a comparative table would be of great help in the process of identifying the points and issues of common interest. It would, no doubt, facilitate discussion in the Committee and consideration of the pending proposals, especially the Soviet Union's draft which would be the best basis for the fulfilment of the Committee's mandate. The representative of Bulgaria emphasized his delegation's appreciation of the highly commendable initiative undertaken by a group of non-aligned countries outlining certain outstanding aspects of the task facing the Committee.

73. The second speaker at the 54th meeting, the observer for Viet Nam, after drawing attention to the provisions of General Assembly resolution 35/50, paragraph 2, emphasized that the establishment of the Special Committee responded to the legitimate and pressing aspirations of the international community and that the drafting of the proposed world treaty met an urgent need of the peoples of the world, as was borne out by the enthusiastic welcome given to the initiative of the Soviet Union by the overwhelming majority of the members of the international community, particularly at the fifth and sixth summit conferences of the movement of non-aligned countries. His delegation had repeatedly expressed its support for that initiative, since it considered that the conclusion of an international treaty on the non-use of force in international relations would help improve the international climate and consolidate peace and international security.

74. Although clearly enunciated in the Charter, the principle of the non-use of force had been violated on several occasions, particularly on the part of the founder countries of the Organization and permanent members of the Security Council, which had waged wars of aggression against Viet Nam and other Indo-Chinese countries and dozens of others against the peoples of Asia, Africa and Latin America. In the light of that situation, the delegation of Viet Nam could not but approve of the views of the overwhelming majority of the international community in favour of measures to strengthen the effectiveness of the principle of the non-use of force in international relations and to draft a treaty at the earliest opportunity.

75. It was regrettable that certain delegations were opposed at all costs to such a treaty, on the grounds that such an instrument would be useless and dangerous. No doubt they would find it so, since they hoped to remain free to work, in concert with their allies, towards stepping up the arms race, deploying a new weapons system in Europe, constructing and expanding bases in the regions of the Indian Ocean, the Persian Gulf and the Middle East, increasing military assistance to reactionary régimes which opposed the struggle of peoples, sabotaging détente, creating a cold-war climate and reaching an understanding with reactionary circles in Peking at a time when the latter were continuing to threaten to "teach Viet Nam a second lesson". The specious arguments invoked against the proposed treaty did little to hide the dark designs of those who advanced them.

76. In the view of the delegation of Viet Nam, the main cause for the illegal use of force lay in the policy of the warlike forces of colonialism, imperialism and international reaction, and the problem at hand was to determine what action was needed in order to strengthen effective respect for the principle of non-use of force in international relations. The Vietnamese people, who had fallen victim during the past 35 years to a series of protracted wars of aggression, felt themselves well-qualified to bear witness to the non-observance of the principle of non-use of force, as enunciated in the Charter, and to the urgent need for the community of States to strengthen their effectiveness through the establishment of legal machinery which might effectively support the struggle of peoples for self-determination against the bellicose forces of colonialism, imperialism and international reaction and against the policy of aggression, domination and exploitation of the peoples of Asia, Africa and Latin America. The Socialist Republic of Viet Nam practised a foreign policy of peace, friendship and international co-operation. It considered that, should the proposed world treaty on the non-use of force take effect, it would provide a favourable framework for the promotion of friendly relations and good neighbourliness and for the maintenance of international peace and security.

77. The third speaker at the 54th meeting, the representative of Finland, pointed out that the position of his Government on the question of non-use of force in international relations had been expressed in several interventions in the previous debates in the Special Committee as well as in the Sixth Committee, most recently during the thirty-fifth session of the General Assembly. He did not therefore feel it necessary to explain it in any greater detail.

78. Finland had a fundamental interest in the creation of a more rational world order which would exclude, in accordance with the Charter, the threat or use of force as a means of policy of any country and it had consistently supported all efforts to eliminate the threat or use of force in international relations and promoted the peaceful settlement of disputes.

79. He held the view that the current global situation was precarious. Patterns of peaceful co-operation had eroded. The use of force between nations as well as within them had been on the increase. Recent events could not but heighten world apprehension in that regard. Developments during recent years had, in fact, amply demonstrated the need to do everything that could be done in order to strengthen respect for the principle of non-use of force and its application in practice.

80. In the opinion of the Finnish delegation, the debate in the Committee had so far been a dialogue between two basic approaches, one aiming at the strengthening

of the principle by means of a treaty, the other emphasizing the elaboration of various peaceful ways of settling international disputes without recourse to the use of force.

81. The United Nations was the principal instrument available to the international community for the maintenance of international peace and security. It was the only universal forum where the nations of the world could unite their efforts for that purpose. The Charter of the United Nations was not only the expression of the aspirations of the international community, it was a legally accepted, binding document through which nations - big and small - had accepted a code of conduct for relations among themselves.

82. The hard realities of the current international situation showed, however, that new efforts had to be made in order to enhance the principle of non-use of force. The debates in the Committee had shown the complexity of the task embodied in its mandate.

83. It was the view of his delegation that differences concerning the form of an acceptable international instrument should not block the substantive work in the Committee, which should pursue its task, keeping in mind its very purpose. The various working papers submitted to it constituted a good basis for further consideration.

84. There were various ways and means towards a more peaceful world order. The emergence of disputes which might endanger the peaceful conduct of international relations should be prevented. While promoting development and strengthening of the mechanisms of peaceful settlement of disputes, no effort should be spared to deal with the underlying causes of such disputes.

85. The fourth speaker at the 54th meeting, the representative of Brazil, pointed out that Kelsen's assertion that what became binding in a norm of international law was not the logical truth contained in that norm but its politically preferable meaning offered much food for thought when examined in relation to Article 2, paragraph 4, of the Charter.

86. If the political interpretation of the rule on the non-use of force could be so flexible as to make some States feel authorized to resort to armed force in their relations, it could be asked what the meaning of that rule was. The matter was still more complicated if account was taken of the fact that the Charter itself permitted the use of force in specific situations such as those referred to in Article 51, which dealt with individual or collective self-defence, and in Chapter VII, according to which the use of force was conditional upon a decision taken by the Security Council.

87. General Assembly resolution 290 (IV), entitled "Essentials of peace", adopted on 1 December 1949, seemed to have been the first attempt after San Francisco to tackle the subject of the non-use of force. According to its provisions, the Members of the United Nations were not only called upon to refrain from the use of force but also to refrain from any acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State or at fomenting civil strife and subverting the will of the people in any State. The subsequent adoption of the Definition of Aggression (resolution 3314 (XXIX), annex), in 1974, and of 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 (resolution 2625 (XXV)) in 1970, were, among others, good examples of the work of the Assembly on the matter.

88. However, compliance with the principle of the non-use of force still seemed to be subject to what Kelsen called the politically preferable meaning.

89. His delegation thought that the absence of a specific treaty on the non-use of force did not in any way weaken the clear and strong obligation to which all Member States of the United Nations were committed under Article 2, paragraph 4, of the Charter. On the other hand, the existence of a specific rule on the non-use of force did not necessarily mean that any attempt to improve and develop international law in relation to that rule was unwise or useless.

90. His country believed that the Special Committee should make an in-depth examination of all existing legal instruments which referred to the non-use of force. It might also study the relationship between the various principles embodied in 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.

91. His delegation was of the view that, in the course of the last few years valuable working papers had been circulated on the matter, and it attached particular importance to the working paper sponsored by a number of non-aligned countries; the Committee had taken a positive decision at the beginning of the current session to begin discussions in its Working Group by an analysis of that paper (see para. 9 above). One of the merits of that paper was its intermediary level between the position of those who proposed the drafting of a treaty on the non-use of force and those who did not accept any instrument at all on the matter, regardless of its nature. Moreover, it touched on a fundamental question which could not be disregarded, namely, the definition of "force". The Charter of the United Nations referred, in different Articles, to concepts closely interlinked, the study of which could significantly contribute to the development of international law. The concept of force and its relationship with other concepts, such as, for instance, armed force, aggression, acts of aggression and threats to peace, required further study.

92. With reference to the method of work of the Committee, his delegation fully supported the Iraqi proposal that the question of whether or not to have a treaty on the non-use of force should be left for a future stage. 11/

93. His delegation did not intend to touch on all aspects and implications of the subject, but it was convinced that until a substantive study of the matter was carried out by the Committee no decision on the nature of the instrument to be prepared should be taken. The Secretariat could provide the Committee with a comprehensive paper on all existing instruments that embodied accepted principles on the non-use of force in order to facilitate its work.

94. The fifth speaker at the 54th meeting, the representative of Italy, said that the Special Committee had, at its three previous sessions, encountered a great

11/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 41 (A/35/41), para. 122.

number of difficulties which still had to be overcome and was still far from the completion of its work, since basic differences persisted about the goals to be attained. That the discussion of the issues at stake was being pursued, however, testified to the general awareness of the importance of those issues and to the willingness of States to explore all possible ways to achieve progress.

95. The general debate which the Committee had decided to hold had to be carried out against the background of the world situation in relation to the observance of the principle of non-use of force, and that situation was far from satisfactory: events in the past year showed that States resorted too often to force in a way contrary to the purposes and principles of the Charter of the United Nations, a state of affairs which was a source of deep concern to all those who aimed at preserving peace and strictly abided by the principles of the Charter. Italy, whose Constitution had repudiated, once and for all, resort to aggression, could not but voice its alarm at violations of the prohibition of resorting to force, which were particularly deplorable when committed by a big Power having special responsibilities for the maintenance of international peace and security and persevered in, notwithstanding a clear condemnation by the international community represented in the United Nations. Italy was gravely concerned at the continued presence of Soviet troops in Afghanistan, which had been clearly and repeatedly condemned by the overwhelming majority of the Members of the United Nations represented in the General Assembly. The same applied to the continued presence of foreign troops in Kampuchea, again in disregard of urgent withdrawal appeals. It was particularly disquieting to note that the country involved in illegal resort to force in Afghanistan was the very sponsor of the initiative which had resulted in the creation of the Special Committee. The Italian Government maintained that the search for a political solution of the Afghanistan crisis demanded, on a priority basis, the withdrawal of the Soviet troops.

96. Italy remained firmly committed to the cause of friendly relations among nations as well as to strict compliance with the principle of the prohibition of the threat or use of force against the territorial integrity or political independence of any State and with the principle of peaceful settlement of international disputes. Those principles were enshrined in the Charter, and there was no need to rephrase, restate, elaborate or adapt them within the framework of a new treaty which would either be redundant or, if different from the Charter, would result in confusion and doubts about the persistent validity of the principles in question. In the light of the above, Italy remained of the view that a treaty such as that proposed by the Soviet Union would be inopportune and highly dangerous.

97. The Italian delegation was gratified at the efforts of many countries, especially the non-aligned, to find a method of work which would enable the Committee to accomplish a useful task. It recognized that resolution 35/50 had, in comparison with previous resolutions on the same subject, the merit of broadening the mandate of the Special Committee and attempting to avoid excessive emphasis on the drafting of a treaty. It regretted, however, that the draft resolution should have been pushed to an early vote in the Sixth Committee, which had prevented further negotiations and resulted in many delegations being forced to cast a negative vote.

98. In order to arrive at a method of work which would produce worth-while and practical results, the Committee should take as a point of departure the fact that

no State challenged the validity of the principles of non-use of force and peaceful settlement of international disputes as spelled out in Article 2, paragraphs 3 and 4, of the Charter, nor the validity of the Charter provisions relating to collective security, including, in particular, Article 51, nor the responsibilities of United Nations organs - specifically the Security Council - in that context. Moreover, those States which violated those principles or other rules of the Charter always tried to justify their conduct by referring to exceptions contained in the Charter itself. It was therefore out of the question to alter the Charter provisions on the crucial issues of non-use of force and peaceful settlement of disputes. In the light, however, of the growing tendency to view the existing machinery as too often ineffective - a tendency which had manifested itself during the last two sessions of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization - there was a need to gather together all the ideas on the subject relevant to the mandate expressed both in that Committee and in the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations and see what concrete steps might be taken to enhance the principle of non-use of force in international relations. Italy had co-sponsored one of the documents before the Committee and considered it as one possible basis for undertaking useful work. Interesting proposals had also been put forward by the delegations of Egypt and Mexico, 12/ as well as by a group of 10 non-aligned members of the Committee. The Egyptian-Mexican proposal, in particular, drew attention to the usefulness of studying the interrelations of the various principles analysed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, an avenue which deserved to be explored together with others such as those implicit in the document of the non-aligned countries. Furthermore, instances of resort to force should be examined seriously, together with the causes behind them.

99. A list of issues should be drafted by the Committee itself (possibly in the Working Group), and each issue should then be discussed in a sequence respecting the equal importance of the two main aspects of the Committee's mandate - namely, the principle of non-use of force and that of peaceful settlement of international disputes - and the interrelatedness of different issues. That, in his delegation's view, was the only wise course of action if the Committee was not to continue wasting its time in a useless confrontation between the supporters of a treaty and those opposed to it and in an exercise of more propaganda.

100. The sixth speaker at the 54th meeting, the representative of Greece, said that the question of the non-use of force was particularly dear to his country, which followed a foreign policy entirely founded on the principles of the Charter of the United Nations that banned the threat or use of force, and which had demonstrated that it was firmly wedded to what constituted the basis for international peace and justice by proposing recently - an example that all other countries should follow - that a dispute with a neighbouring country should be placed before the International Court of Justice, whose competence and impartiality were the best guarantee of an equitable solution.

101. No doubt all countries proclaimed their support for the principles of the Charter, which, in the case of the European countries, had been solemnly reaffirmed

12/ Ibid., Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1), para. 150.

in the Final Act of Helsinki, but the use of force had none the less become increasingly frequent. The history of the past 35 years was full of examples of armed intervention; the territory of certain States continued to be fully or largely occupied by foreign troops, despite the repeated resolutions of the competent United Nations bodies calling for the withdrawal of those troops. The most recent example was that of Afghanistan, whose very existence as a truly independent and non-aligned country was threatened, while other threats occurred elsewhere, contributing to the creation of a climate of growing distrust and insecurity.

102. It was therefore more urgent and indispensable than ever to reiterate as vigorously as possible the obligation of all States to respect unreservedly the principle of the non-use of force, and Greece was therefore open to any constructive proposal to that end. The working paper submitted by the non-aligned countries contained several constructive elements, particularly principles 7 and 11, which might serve as a basis for discussion. It was also indispensable to provide effective procedures for the peaceful settlement of disputes and, to that end, his delegation had proposed 13/ that States should be required to settle through arbitration or judicial means any dispute which they were unable to settle by mutual agreement within a reasonable period, which would represent considerable progress, since leaving States free to refuse to submit their disputes to judicial procedure obviously favoured the most powerful to the detriment of the weakest and led to a hidden but very effective form of abuse of force in international relations. Lastly, with regard to the form that such a solemn reaffirmation of the principle of the non-use of force should take, it would doubtless be premature to decide that matter at the current stage.

103. The seventh speaker at the 5⁴th meeting, the representative of Argentina, pointed out that the Covenant of the League of Nations had embodied an earlier prohibition of resort to war and that prohibition had been reiterated in a much more elaborate form in Article 2, paragraph 4, of the Charter of the United Nations, with its logical corollary, paragraph 3 of the same Article. It had to be pointed out, however, that no prohibition was self-executing unless it was backed up by the will of the States to which it was directed. The member States of the international community understood the letter and spirit of the basic postulates, which were generally accepted but which had not been effective enough in practice to bring about the elimination of the threat or use of force and their replacement by the system of international peace and security enunciated as one of the paramount purposes of the United Nations in Article 1 of the Charter.

104. Her delegation was deeply disappointed to realize that the Special Committee was beginning its fourth session with no hope of achieving results of any kind. It would be an illusion, moreover, to believe that an international instrument, whatever its nature, could produce any worth-while result without sincere co-operation from the great Powers. She emphasized the fact that earlier resolutions - General Assembly resolutions 2131 (XX) of 21 December 1965, containing the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty; 2160 (XXI) of 30 November 1966 on strict observance of the prohibition of the threat or use of force in international relations; 2627 (XXV) and 2734 (XXV), of 24 October and

13/ Ibid., Thirty-fifth Session, Supplement No. 33 (A/35/33), para. 155.

16 December 1970 respectively, the former concerning the twenty-fifth anniversary of the Organization and the latter the Declaration on the Strengthening of International Security; 2936 (XXVII) of 29 November 1972, by which States Members renounced the use or threat of force in all its forms and manifestations in international relations, the use of nuclear weapons was permanently prohibited and the Security Council was recommended to take appropriate measures for the full implementation of the declaration; 3314 (XXIX) of 14 December 1974, containing the Definition of Aggression; and 33/74 of 15 December 1978 on non-interference in the internal affairs of States - had had no practical effect at all. None of those resolutions had produced the desired result. Her delegation was greatly disquieted by the erosion in the Organization's credibility, which could result from the drafting of abortive decisions. Moreover, the terminology used in the resolutions she had mentioned was becoming gradually weaker.

105. Her delegation believed that it was essential not to be cowed by difficulties and that the peaceful settlement of problems was a categorical imperative to which States should solemnly pledge themselves. The Committee could provide the opportunity to analyse aspects covered by the legislation in the Charter but not fully applied. Nevertheless, without political will, the road was going to be a difficult one.

106. The first speaker at the 55th meeting, the representative of Mexico, said that there was not yet even a minimum agreement of general understanding in the Committee which might serve as a basis and guideline for the deliberations. The Committee had before it three specific proposals and various diverse and contradictory opinions on what to do with them.

107. Apart from the individual positions of each State, virtually all seemed to agree that the recent deterioration in the international political situation was tending to become even worse.

108. The principle of non-use of force was one of the corner-stones on which the entire United Nations system rested. However, that principle was not only a limitation on the activity of the State or on sovereignty, as had been affirmed by some; it also conferred on certain competent organs of the United Nations powers of evaluation and decision-making and at the same time the necessary coercive authority.

109. The community of nations was experiencing situations in which there was open aggression, the use of military force and violation of the rights of peoples, which varied in character and intensity for a multiplicity of social, economic and political reasons. All that was owing not to the lack of an international legal norm but to its violation and the lack of political will on the part of States to ensure respect for the integrity and rights of peoples, the peaceful settlement of disputes and the other purposes and principles proclaimed in the Charter.

110. He underscored the need to define the methods of work of the Committee. The limits of the effectiveness of the United Nations to oppose the use of force had been determined by the progress made on fundamental issues such as disarmament and security. Mexico was in favour of the formulation of a convention on the non-use of force in international relations provided that it covered the various modalities concerning the use of force, represented a progressive development of international law and did not weaken, far less conflict with, the provisions of the Charter of the United Nations.

111. Neither the draft treaty proposed by the Soviet Union, nor the draft submitted by a group of Western countries, nor the document submitted by the non-aligned countries was acceptable to his country in its present form, even though all contained valuable elements and constituted a preliminary basis for carrying out the Committee's mandate.

112. With respect to the Committee's mandate, his delegation believed that at the current session the Committee could draw up two draft documents: one for a political declaration and the other for a legal codification.

113. To avoid the pitfall of sterile discussions on what was political and what was legal, it could take the practical course of establishing two subsidiary working groups of five members each, representing the five standard groupings, namely, Asia, the West, Africa, Eastern Europe and Latin America. One subsidiary group would work on the preparation of a document that, using the statements in the general debate as a basis, would reflect the main points of convergence and divergence in an updated account of the international situation. The other subsidiary group would prepare a comparative table of the three drafts submitted so far, together with other elements provided by delegations that might be useful in the formulation of a joint draft. Both documents, in their first draft, could be submitted towards the middle of the session for discussion and, if needed, for reformulation. His delegation believed that, in any event, such a move might help to open up and eliminate the impasse in the work of the Committee. Those legal and political documents would be incorporated in the report of the Committee to the General Assembly.

114. The second speaker at the 55th meeting, the representative of Ecuador, said that the principle of non-use of force in international relations was not only the reason for the existence of the Committee and the United Nations, but also proof of the importance of international law itself and of the civilized attitude of mankind towards the peaceful and institutional coexistence of peoples.

115. However, the deterioration in the world situation and the growing scepticism of individuals who viewed that situation with anxiety required something more than mere declarations or reiterations from the international bodies which mankind had established to solve problems and not to ponder, tolerate or ignore them.

116. The best way of improving the effectiveness of the principle was, therefore, not a simple declaration but the establishment of effective, suitable, universal and inviolable machinery for the peaceful settlement of international disputes. Failing that, it would be impossible to prevent aggression instigated by territorial expansionist greed or other motives.

117. To commit aggression was not only to be guilty of a crime but was to turn back the clock of history, and was an absurdity in terms of squandering the resources which, by right, should be used to promote social justice and the well-being of the masses.

118. Recalling the provisions of the Kellogg-Briand Peace Pact of 1928 (Pact of Paris), 14/ the Anti-War Treaty of Non-Aggression and Conciliation, signed at

14/ Treaties and Other International Agreements of the United States of America, 1776-1949, vol. 2, pp. 732-735.

Rio de Janeiro in 1933, 15/ the Declaration of Principles of Inter-American Solidarity and Co-operation, adopted by the Inter-American Conference for the Maintenance of Peace at Buenos Aires in 1936, 16/ and the instrument adopted by the Eighth International Conference of American States at Lima in December 1938, 17/ he concluded that from the time of the Pact of Paris until the Charter of the United Nations, through the macabre years of major and minor wars, which had also hampered fulfilment of the universal duty of promoting development and coexistence, progress had been made in the matter of concepts and declarations if not also in the machinery of enforcement and implementation. Citing Article 2, paragraphs 3 and 4, of the Charter of the United Nations and chapter VI and articles 20 and 21 of the Charter of the Organization of American States, he emphasized that the use of force was the factor radically vitiating consent in the drafting of treaties, which, because they were imposed, lacked the support of popular opinion which was vital for their effectiveness.

119. The representative of Ecuador added that General Assembly resolution 3314 (XXIX) in which aggression was defined, had very clearly established that the non-use of force implied the prohibition of all forms of intervention and aggression therein defined, including concepts such as the maxim that aggression gives rise to international responsibility and that no territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful. It also implied compliance with the principles and the resolutions based thereon, namely, General Assembly resolutions 2625 (XXV) and 2734 (XXV) containing 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 Declaration on the Strengthening of International Security.

120. It was incumbent on the Committee to respond to the human aspiration that the use of force in international relations should be effectively prohibited under international law, without duplicating actions 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. The prohibition of the use of force was correlative with the peaceful settlement of disputes; hence the urgency of establishing real machinery for the peaceful settlement of disputes.

121. His delegation advocated that progress should be made in the work of studying and consolidating the documents prepared by various groups of countries, with a view to arriving at a joint formulation, always bearing in mind the need for machinery for the peaceful settlement of disputes which constituted the real solution to the problem.

122. His delegation agreed that, as a matter of urgency, the legal obligation set forth in Article 2, paragraph 4, of the Charter should effectively contribute to furthering the expectations raised at San Francisco and the close relationship between the principle of non-use of force, the peaceful settlement of disputes and the system of collective security, and that the political will of States to honour the obligations of the Charter was necessary.

15/ League of Nations, Treaty Series, vol. CLXIII, No. 3781, p. 393.

16/ International Conferences of American States, First Supplement 1933-1940 (Washington, Carnegie Endowment for International Peace, 1940), p. 160.

17/ Ibid., p. 309.

123. What distressed the countries victims of aggression or of violations of the Charter was the lack of a system for, and the failure to implement, the peaceful settlement of disputes and collective security. The international system must provide those countries with guarantees for their peaceful development and for ensuring the maintenance of their territorial integrity under a de jure system.

124. The third speaker at the 55th meeting, the representative of Poland, expressed his delegation's strong belief that in the contemporary world there was no conflict that could not and should not be resolved through peaceful means. The consistent position of Poland in that respect had been reflected in the declaration of the States Parties to the Warsaw Treaty adopted at the meeting of the Political Consultative Committee at Warsaw in May 1980 (A/35/237-S/13948, annex II), which, inter alia, emphasized that those States consistently favoured the just and lasting peaceful settlement of conflicts, in whatever part of the world they might arise. There were no problems, global or regional, that they would consider impossible to solve by political methods. Such a solution required strict respect for the sovereign rights and independence of all States and total renunciation of interference in their internal affairs, of the use of force or the threat of force against them.

125. Referring specifically to the subject before the Committee, the representative of Poland emphasized that the initiative of the Soviet Union concerning the conclusion of a world treaty on the non-use of force in international relations would be an important instrument strengthening the very backbone of the United Nations - the principles provided for in the Charter, shaping international relations, facilitating solutions to conflicts and bettering the international atmosphere. Drafting and concluding a world treaty on the non-use of force would be a further milestone reached in the process of building a peaceful structure of world relations and in the progressive development of international law.

126. His delegation's position derived from the basic principles of the foreign policy of Poland, a country that was a faithful friend and ally of the Soviet Union, a strong component of the commonwealth of socialist States and a staunch member of their defensive alliance - the Warsaw Treaty; a country unfailingly committed to peace and co-operation, engaged actively in the strengthening of international security and vigorously contributing to the policy of détente.

127. A consideration of the international situation in regard to the relations between States showed the timeliness of the mandate given to the Special Committee by the General Assembly and emphasized the importance of the principle under consideration to future international relations.

128. He pointed out that the principle of non-use of force was a well-established and universally recognized principle of international law. Its history could be traced to the Covenant of the League of Nations, which prohibited the use of force, and the Kellogg-Briand Pact of 1928. The principle was finally enshrined in Article 2, paragraph 4, of the Charter of the United Nations in 1945, by which time it had become a peremptory norm of international law. Since that time, the principle has been reaffirmed in many international instruments adopted by the United Nations. In that connexion, mention might be made of the Declaration on principles of international law concerning friendly relations adopted in 1970 (General Assembly resolution 2625 (XXV)). The principle was also embodied in the Declaration on the Strengthening of International Security (resolution 2734 (XXV)),

also adopted in 1970, and in resolution 3314 (XXIX) containing the Definition of Aggression. Mention might further be made of resolution 2936 (XXVII), adopted in 1972, on the non-use of force in international relations. European States had repeatedly advocated strict observance of the principle of non-use of force in their mutual relations, thus the States participating in the Conference on Security and Co-operation in Europe declared in the Final Act of Helsinki their intention to conduct their relations with all States, inter alia, in accordance with that principle.

129. He observed that, in accordance with the mandatory provision as contained in Article 2, paragraph 3, of the Charter, all Members should settle their international disputes by peaceful means in such a manner that international peace and security, and justice were not endangered. It was also the prohibitory injunction as contained in Article 2, paragraph 4, of the Charter that all Members should refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Therefore, there was no doubt that within the system of the Charter and contemporary international law the principle of non-use of force in international relations occupied a central place. Unfortunately, history past and present had witnessed many instances of aggression and resort to force.

130. He went on to say that, although the principle was universally accepted and constituted a principle of jus cogens, it had not been sufficiently effective in practice to remove the threat or use of force or to replace them by the system of international peace and security which was the primary objective of the United Nations. It had been violated time and again with impunity despite the prohibitory injunction against the use of force. That is why the urgent need emerged to establish effective measures aiming at the universal application of the prohibition of the resort to force as well as to strengthen, harmonize and codify international law in that area.

131. He expressed the belief of his delegation that the best way to enhance the effectiveness of the principle was to adopt a legal instrument which was binding upon all States. Therefore, he supported the drafting of a world treaty on the non-use of force in international relations. Such a treaty would be an effective juridical instrument which would encourage States to co-operate more closely in maintaining peace. It would also contribute significantly to the process of détente and would build up confidence in the international community.

132. The drafting of a world treaty on the non-use of force served to highlight in a more pronounced and defined way the inherent obligation contained in the Charter for the strict observance of that fundamental principle and to enhance its effectiveness.

133. With respect to the argument that there was no need for such a treaty and that its elaboration would be a futile and meaningless exercise since the principle of non-use of force was already set out in Article 2, paragraph 4, of the Charter, his delegation asked why, since 1945, it had been felt necessary to reiterate and reaffirm the principle in several legal global as well as regional instruments and why it had been felt necessary for the European States participating in the Helsinki Conference to declare in the Final Act their determination to conduct their relations with all States in accordance with the principle of non-use of force.

134. His delegation believed that the elaboration of the treaty would be useful since its objective was not only to reaffirm and reiterate the principle of non-use of force but also to ensure its universal and effective application.

135. The fourth speaker at the 55th meeting, the representative of Cuba, said that no session of the Committee had been held in such a difficult international situation as the current one. Tensions had become so acute that it was possible to fear a new international conflagration with the horrifying prospect of a thermonuclear conflict.

136. The international scene offered many cases of the use or threat of force, both directly and indirectly, in international relations, such as the support given to totally unpopular régimes which daily murdered hundreds of men, women and children in a stubborn desire to stay in power, the assistance provided to terrorist groups and the financing of mercenaries who attacked Governments elected by the will of their peoples, and the efforts to destabilize small countries desperately fighting to overcome under-development.

137. In that international context, the principle of the non-use of force in international relations must be made more effective, and that could only be done by means of a mandatory legal instrument. That would be the only effective deterrent to violations of a principle accepted by the international community but constantly breached in practice in Latin America, Africa and the Middle East.

138. In her opinion, although the Special Committee had made little headway in its work in previous years, it was now in a position to move ahead. At the same time, various documents had been submitted, some of which - or possibly the consolidation of two or more - could form the basis for drafting an international treaty on the subject.

139. At the last session, a group of non-aligned countries had submitted a document which had not yet been fully discussed and, in her opinion, was highly important. She supported the organization of work that had been adopted (see para. 9 above) which would enable that document to be taken up immediately so that it could be enhanced by various contributions, especially the USSR draft with which it had much in common.

140. Her delegation wished to stress that the legal instrument to be drawn up should include economic and political coercion among the cases of the use of force. The document should also clearly specify the cases, such as self-defence, in which it was lawful to use force; the document could not prejudice the right of peoples to struggle for their national liberation.

141. The fifth speaker at the 55th meeting, the representative of Belgium, after having expressed the view that the Special Committee did not seem to have a promising future, observed that the increased use of force in international life cast doubts on the sincerity of those who advocated the preparation of a treaty or legal instrument on the subject. He noted that Libyan armed forces using heavy equipment had invaded and continued to occupy Chad, that Cuba, with the help of the Soviet Union and East Germany in particular, was involved both directly and indirectly in internal struggles in Angola and was intervening to Ethiopia's advantage in local conflicts in the Horn of Africa, that Viet Nam was deploying its troops on a large scale in South-East Asia in a vain effort to stamp out the Khmers and had no hesitation about making armed incursions into Thai territory, that 85,000 Soviets in Afghanistan were attempting without success to subdue a country where repression and carnage were continuing apace while the number of refugees was increasing in tragic proportions, and that the military manoeuvres which were being drawn out in Poland confronted that country with the threat of force. Such developments showed a disturbing trend on the part of the Soviet Union to extend its empire in disregard for aspirations to freedom and self-determination, which was particularly evident in its relations with the so-called socialist States, as revealed by events over the years from Budapest to Kabul.

142. The question therefore arose as to whether the treaty proposed by the Soviet Union would eliminate such blatant uses of force. The conduct of the main advocate of such a treaty did nothing to inspire confidence in the success of such an endeavour since the Soviet Union was guilty of flagrant violations of the very spirit of the treaty it advocated. Moreover, Belgium had serious reservations about specific aspects of the proposed text, in particular article III, which seemed to suggest that the principles embodied in the treaty might admit of one exception that would serve the hegemonist policy of the Soviet Union. The idea of a treaty should be discarded from the legal standpoint too, since the principle of non-use of force was set forth in Article 2, paragraph 4, of the Charter, its scope was spelt out in 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 it was reaffirmed in the Declaration on the Strengthening of International Security, in resolution 3314 (XXIX) containing the Definition of Aggression and in the Final Act of the Conference on Security and Co-operation in Europe. Moreover, those instruments all went beyond the principle itself and dealt with the broader aspects of relations between States. The proposed treaty was therefore superfluous and, what was more serious, dangerous since, even if it was to be identical to the Charter, uncertainties would arise should some Members of the United Nations accede to it and others not; if it was to differ from the Charter, there would be even greater confusion since no time would be lost in taking advantage of the contradictions. The preparation of any binding instrument on the subject would entail the same danger and it was plain that the real problem did not stem from any lack of texts defining what the law was but rather from the disregard of such texts. It would be for the Working Group to take a decision on the Committee's further work during the remainder of the session.

143. Despite his delegation's scepticism with regard to the exercise which the Committee had been carrying out for several years, it recognized that the problem of the use and threat of force remained a major concern in current international relations and viewed any proposal aimed at solving the problem to be worthy of attention. It was prepared to co-operate constructively in any initiative aimed at throwing light on the subject and had co-sponsored a working paper which it

considered to remain fully valid. His delegation believed that the Working Group should take particularly into account the recent deliberations of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

144. The sixth speaker at the 55th meeting, the representative of France, said that his delegation had objections to the orientation which some delegations were seeking to give to the work of the Committee, which had led it to vote against resolution 35/50. But France was extremely concerned by the fact that the primary purpose of the United Nations, namely, the maintenance of international peace and security, continued to be unattained and that its fundamental principle, namely, the prohibition of the use of force in international relations, continued not to be respected. The problem of respect for the principle of non-use of force in relations between States was particularly acute for the peoples of many States in Asia, Africa and Latin America, as well as in other parts of the world. In Afghanistan, in particular, the country which was responsible for the establishment of the Special Committee was persisting in a military intervention which constituted an unacceptable violation of international law and was recognized as such by the great majority of Member States, which had adopted two General Assembly resolutions calling for the withdrawal of foreign forces from Afghanistan. In view of the seriousness of the matter, his delegation considered it inappropriate, and even dangerous, to deal with it in a sham instrument, which might, moreover, cast doubt on existing fundamental rules.

145. Article 2, paragraph 4, of the Charter represented what could be called a "veritable legal revolution". It was the culmination of a movement which had begun following the First World War, initially with the Covenant of the League of Nations in 1919 and later with the Kellogg-Briand Pact in 1928, and which, with the unanimous support of international public opinion, had led to the adoption in 1945 of two general and complementary norms, the prohibition of the use of force in international relations and the obligation to settle international disputes by peaceful means. It should be noted, in that connexion, that the Charter of the United Nations went further than the 1919 Covenant and the 1928 Pact in that it prohibited not only war but any use of force and even any threat to use force which would be incompatible with Charter provisions. The prohibition was therefore total and indissolubly linked to the principle of the peaceful settlement of disputes and the system of collective security established by the Charter. Moreover, the universality of the United Nations and the primacy of Charter obligations over those embodied in any other international agreement gave the prohibition absolute scope.

146. With regard to the Soviet proposal, the French delegation considered that a new text with binding force, far from strengthening the authority, scope and effectiveness of the principle embodied in the Charter, would have the opposite result: if it attempted to spell out the cases covered by Article 2, paragraph 4, it would restrict the scope of the principle, which was currently general, and could therefore encourage some States to circumvent the fundamental rule contained in the Charter. In addition, by singling out one Charter principle from other elements linked to it - the principle of the peaceful settlement of disputes, collective security arrangements, the right of self-defence - a future treaty on the non-use of force would upset the balance struck in the Charter. Lastly, such a treaty would be of dubious value since it would be subordinate to the Charter, in accordance with Article 103, and would certainly not have the universal character of the Charter.

147. Such considerations notwithstanding, the French delegation hoped that the Committee would find a way out of the current impasse and get down to serious work. Once the Working Group completed its preliminary consideration of the working paper submitted by a group of 10 States which were members of the non-aligned movement, it would be necessary, in accordance with the Committee's terms of reference, to consider all proposals that had been put before the Committee, whether procedural or substantive. It would be useful to begin by seeking to establish why, in spite of the clear prohibition laid down in Article 2, paragraph 4, of the Charter, some States sometimes violated that cardinal rule of international law, and to identify ways of inducing such States to comply more strictly with the principle laid down in the Charter, taking as a basis of discussion the proposals submitted both in the Special Committee and in the Sixth Committee, namely, the document of the group of non-aligned States, the proposal submitted by China at the thirty-fifth session of the General Assembly (see A/C.6/35/SR.27), the proposal made by the representative of Brazil at the thirty-fourth session of the Assembly (see A/C.6/34/SR.18), the proposal of Egypt and Mexico 18/ and, in particular, the proposal submitted by five European countries at the 1979 session of the Committee. 19/ His delegation believed that a comprehensive review should be carried out of those proposals relating to the non-use of force and the peaceful settlement of disputes that was the necessary corollary of the former and was part of the mandate of the Committee. After that, and on the basis of the one or two documents thus established, an effort should be made to identify from among the proposals before it those which seemed worthy of consideration and likely to command general agreement. His delegation would not be able to support any proposal which might establish, whether directly or indirectly, any exception to the principle of non-use of force that was not explicitly provided for under the Charter, nor could it agree to isolating that principle from the other principles embodied in the Charter.

148. The seventh speaker at the 55th meeting, the representative of the Union of Soviet Socialist Republics, said that there was no need for a general debate at the current session of the Special Committee since all its members had had the opportunity to state their positions and the majority felt that the Committee should immediately continue work on the draft world treaty on the non-use of force in international relations within the framework of the Working Group and with account taken of all proposals made in that regard. That approach would be the beginning of meaningful negotiations on the drafting of the treaty and should be conducted with the participation of States representing all geographic regions and legal systems.

149. Nevertheless, certain delegations still took a negative unconstructive position on that question and even resorted to making slanderous attacks against the foreign policy of the Soviet Union. His delegation firmly repudiated such malicious insinuations designed to denigrate Soviet foreign policy. The world was witnessing the intense struggle of two tendencies: there was the policy of halting the arms race, strengthening peace and détente and protecting the sovereign rights and freedom of peoples, and there was the policy of undermining détente, expanding the arms race, interfering in the internal affairs of sovereign States and suppressing the struggle of peoples for liberation. The General Secretary of the Central Committee of the Communist Party of the Soviet Union (CPSU) and Chairman of the Supreme Soviet of the USSR, L. I. Brezhnev, had said at the Twenty-sixth Congress of CPSU:

18/ Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1), para. 150.

19/ Ibid., para. 129.

"Adventurism and readiness to gamble with the vital interests of humanity for narrow and selfish ends - this is what has emerged in particularly barefaced form in the policy of the more aggressive imperialist circles. With utter contempt for the rights and aspirations of nations, they are trying to portray the liberation struggle of the masses as 'terrorism'. Indeed, they have set out to achieve the unachievable - to set up a barrier to the progressive changes in the world, and to again become the rulers of the peoples' destiny."

150. Imperialistic circles increased hot-beds of tension in various regions of the world: in the Persian Gulf, in the Middle East, in the south of Africa, in the region of the Indian Ocean, in Central America. Demonstrating their imperialistic policy of force in Latin America, the United States was trying to suppress by bloodshed the just struggle of the Salvadorian people for liberation from a dictatorial régime which was kept in power only with the help of American imperialists. Furthermore, the undeclared war unleashed by the forces of imperialism against the Afghan revolution continued unabated and created a direct threat to the security of the southern border of the Soviet Union. Imperialism pursued a policy aiming at suppression of the struggle of colonial people for their national liberation. Because of the support of the Western countries, particularly the United States, the economic and military potential of South Africa was increasing. With their help, the South African racists were attempting to perpetuate their colonial rule over Namibia and carry out aggressive acts against Angola, Mozambique and other "front-line States". The Soviet Union firmly condemned all acts of interference by the imperialist States in the internal affairs of sovereign States and was opposed to any attempts to thwart national revolutions either by inciting counter-revolutions or by direct aggression from abroad. The Soviet Union was against an export of revolution, it did not accept the export of counter-revolution. Having lost any realistic perspective of the contemporary world situation, official representatives of the new United States administration had made a series of absurd statements to the effect that States wishing to have friendly relations with the Reagan administration should follow a new code of conduct "acceptable" to the United States; that the United States considered as "unacceptable" both the activities of national liberation movements and of those who supported those movements; that in order "to protect its interests in the whole world" the United States "should be ready to start the war now". One representative of the new administration summarized the essence of the United States foreign policy by saying that "there is no alternative to war with the Soviet Union if the Soviet Union does not change its political system".

151. Such a position constituted violation of all basic principles of the Charter of the United Nations and international law and, first of all, of the principle of non-use of force and the threat thereof. As L. I. Brezhnev declared at the Twenty-Sixth Congress of CPSU: "We have not sought, and do not now seek, military superiority over the other side. That is not our policy. But neither will we permit the building-up of any such superiority over us. Attempts of that kind and talking to us from positions of strength are absolutely futile".

152. The Soviet delegation favoured the speedy drafting of the world treaty on the non-use of force in international relations. The conclusion of that treaty would provide an effective guarantee for reducing the threat of war and halting the arms race and would create a serious obstacle in the way of the increasing military preparations and augmentation of tension pursued by certain States. Entry into

force of such a treaty would serve the creation of a system of stable peace and security, without infringing upon anybody's rights, obligations and interests if, of course, such interests coincided with the goals of ensuring universal peace. A world treaty on the non-use of force, developing and specifying the obligation not to use force, including nuclear weapons, embodied in the Charter, would serve the interests of all States, irrespective of size and irrespective of whether they possessed nuclear weapons. By prohibiting the use of both nuclear and conventional weapons, the world treaty would put all States on the same footing. The speediest possible elaboration of the proposed treaty was especially urgent during the current period of aggravation of the international situation. An increasing number of States recognized the fact that the conclusion of the treaty, along with the adoption of effective measures in the field of disarmament, could create a true foundation for stable peace.

153. Being guided by the programme of peace adopted at the Twenty-fourth and Twenty-fifth Congresses and further developed at the Twenty-sixth Congress of CPSU, the Soviet Union continued to struggle for the radical improvement of the international situation, the removal of the threat of war and the strengthening of international security. At the Twenty-sixth Congress, a number of sound proposals had been made by L. I. Brezhnev to stop the drift to a thermonuclear catastrophe. Those proposals included the application of confidence-building measures to the entire European part of the Soviet Union provided the Western States, too, extended the confidence zones accordingly. The USSR was prepared to continue negotiations with the United States on limiting and reducing strategic armaments and to reach an agreement preserving all the positive elements that had so far been achieved in that area. It was prepared to come to terms on limiting the deployment of new submarines and could also agree to banning modernization of existing ones and the development of new ballistic missiles for submarines. A moratorium should be set on the deployment in Europe of new medium-range nuclear-missile weapons of the countries of the North Atlantic Treaty Organization (NATO) and the Soviet Union, including the United States forward-based nuclear weapons. Furthermore, it would be useful to call a special session of the Security Council with the participation of the top leaders of its member States in order to look for keys to improving the international situation and preventing war. Evidently, if they so wished, leaders of other States could also take part in the session. The new measures proposed by the Soviet Union dealt with a wide range of questions, but served only one goal: to do everything possible to eliminate the threat of nuclear war and preserve peace. As emphasized by L. I. Brezhnev at the Twenty-sixth Congress of CPSU: "Not war preparations that doom the peoples to a senseless squandering of their material and spiritual wealth, but consolidation of peace - that is the clue to the future".

154. The debates in the Committee had shown that the overwhelming majority of States took a constructive approach aimed at strengthening universal peace and had recognized the Soviet draft as a solid basis for working out a generally acceptable world treaty on the non-use of force. The debate had shown that there was a real possibility of elaborating and adopting such a treaty. However, some delegations, in particular those of the United States, the United Kingdom and other Western countries, had sought to block the preparation of the treaty. When that attempt failed, they had sought to divert efforts from the preparation of the treaty towards problems of the peaceful settlement of disputes. Many delegations had rightly pointed out the unacceptable nature of such a position and had stated that the strict observation by all States of the prohibition of the use of force would

establish the necessary conditions for the peaceful settlement of disputes. To substitute the proposed treaty by any document on peaceful settlement of disputes would be absolutely wrong. Some delegations had attempted to disguise their negative position on the matter by maintaining that the Soviet Union should have submitted its text in the form of a draft declaration where it would be easier to adopt the provisions of the proposed draft treaty. That argument was groundless. The United Nations had already adopted many resolutions on the non-use of force but their effectiveness had been significantly diminished by the fact that they were in the nature of recommendations or statements of intention and were not legally binding. The Soviet proposal offered the most realistic and effective solution in the current situation, namely, the conclusion of a world treaty which was a multilateral international agreement open to the participation of all States.

155. Some delegations had claimed that the treaty might in some way weaken the principle of non-use of force and might even lead to a revision of the Charter of the United Nations. Such a view seemed quite absurd. The conclusion of the proposed treaty would confirm and make more specific the obligations that States had already assumed and would in no way reduce the effectiveness of the Charter. The overwhelming majority of the international conventions, treaties and agreements adopted in the past 35 years, including those concluded under Article 13 of the Charter, included key provisions of the Charter or were based on it in some way. Claiming now that such documents were a "farce" would therefore be tantamount to trying to nullify the work and the efforts of States Members of the United Nations over more than one third of a century. It would also be showing utter disrespect for the genuine efforts of the overwhelming majority of States Members to achieve constructive and fruitful co-operation and work out mutually acceptable compromise measures aimed at strengthening peace. Unfortunately, such a position was being taken by one delegation not only within the Special Committee but also regarding a number of other important problems facing the United Nations. The idea of elaborating a world treaty was in keeping with a long-standing practice of the United Nations. The principle of the non-use of force was expressed in the Charter in a general form, which had made it possible for some States, through various tricks, to by-pass it, to distort it and even, in some cases, to justify the illegal use of armed force. In order to prevent that, to make the prohibition of the use of force more effective and to eliminate the very possibility of settling international disputes by arms, the Soviet Union had proposed to conclude a world treaty on the non-use of force. The general provision of the Charter banning the use of force should be spelled out in the treaty in the form of concrete and binding norms of State conduct, excluding any vagueness and eliminating the possibility, under any pretext, of by-passing that key obligation and evading its strict observance. As it was stated in the Soviet memorandum concerning cessation of the arms race and disarmament, the aim of the Soviet initiative was to make "by the combined efforts of States, the principle of non-use of force embodied in the United Nations Charter an organic part of the practical policy of States, the real law of international life. The use of both of nuclear and conventional weapons should be entirely excluded from relations between States." Thus, the Soviet proposal aimed at achieving, through further concretization and development of the general principle of non-use of force, taking into account the realities of the current stage of development of international relations, the maximum possible degree of implementation of the principle in the conduct of such relations. The world treaty was to play an active role in strengthening international peace and ensuring security for all States and was to become an effective instrument in the restructuring of international relations on the basis of the principles of peaceful co-existence of States with different social systems.

156. In accordance with General Assembly resolution 35/50, the Special Committee was to continue its work with the goal of drafting, at the earliest possible date, a world treaty on the non-use of force in international relations and to study other documents submitted to the Committee. Currently, all the necessary conditions as well as the legal basis for agreement on the essential elements of the principle of non-use of force existed and the Committee could move forward towards the successful completion of its mandate. The views of States had been stated and three main official documents had been submitted to the Committee and the Committee should now focus on broadening the areas of agreement and developing generally acceptable formulations for the future treaty. It would be useful to prepare a comparative table of the three documents submitted to the Committee, which would make it possible to compare the points of view of States on the matter. It would thereby be possible to reach practical agreement on a text setting forth the principle of non-use of force in the form of a working document based on the Soviet draft and on other proposals submitted to the Committee. The Committee should therefore move forward in a businesslike and constructive framework and not deal with matters falling outside its mandate.

157. The Soviet delegation pledged its full support for the successful completion of the elaboration of the world treaty on the non-use of force in international relations which would correspond to the fundamental interests of all peoples.

158. The eighth speaker at the 55th meeting, the representative of the United Kingdom, after drawing attention to the title of the Committee and to its mandate as contained in paragraph 2 of resolution 35/50, said that his delegation remained opposed to the idea of concluding a treaty. He pointed out that throughout history, the international community had been bedevilled by the use of force and, referring to the past three and a half centuries, recalled that in the seventeenth century Grotius had tried to distinguish between just wars which were lawful and unjust wars which were unlawful, but had not succeeded in solving the problem raised by this distinction, namely, according to which criteria and by whom should the decision on the justness of a war be taken. As a result, by the nineteenth century, a view which had much support was that international law had no alternative but to accept war, independently of the justice of its origin; thus, resort to the use or threat of force was not prohibited by international law and States were not under an obligation to settle disputes by peaceful means. The period of the League of Nations had seen the first significant attempt to oblige States to settle disputes by peaceful means and to refrain from going to war without first exhausting peaceful means: in addition to creating rules of substantive law for the Members of the League (rules which subsequently came to be regarded as containing gaps with the result that a new instrument, the Kellogg-Briand Pact, was concluded in 1928 among a number of Members of the League in order to fill those gaps), the Covenant had also established organs - the Council of the League and the Permanent Court of International Justice (PCIJ) - with the task of monitoring the performance of their obligations by Member States. The provisions of the Covenant and of the Pact had, however, proved unable to prevent the war of 1939-1945. The mixed experience of the League had led to another attempt to improve matters, namely, the creation of the United Nations in an effort to save succeeding generations from "the scourge of war". The principal provisions of substantive law were contained in paragraphs 3 and 4 of Article 2 of the Charter which had to be read with Chapter VI, in particular its Articles 33 and 37, as well as with Article 51: in other words, the rules of substantive law went hand-in-hand with the machinery provided in the Charter for ensuring the peaceful settlement of disputes, including

the Security Council - which was authorized to take action to maintain or restore international peace and security - and the International Court of Justice which was singled out in Article 36, paragraph 3, for the hearing of legal disputes (a role which it had fulfilled, notably in the Corfu Channel case); mention should also be made of the Vienna Convention on the Law of Treaties, article 52 of which made void a treaty procured by the threat or use of force contrary to the Charter. 20/

159. In the view of the United Kingdom delegation, the rules of substantive law in the Charter were stronger and more explicit than those contained in the Covenant; moreover, the machinery for the monitoring of performance through the Security Council was stronger than the machinery created by the League Covenant. The current arrangements were the best which the international community had been able to create at any time in the world's history: whilst the Covenant had failed to prevent the Second World War, the world had been spared a third world war, and the United Nations could claim some credit for that. The international community in the 1980s should therefore remain faithful both to the rules of substantive law laid down by the Charter and to the machinery it had created and avoid tampering with the foundations. The vice in the proposal of having a treaty was that it would purport to prohibit what was already prohibited and would not create new arrangements or expand or enhance existing ones for the peaceful settlement of disputes. The United Kingdom, therefore, remained firmly opposed to the adoption of a new treaty or any international agreement of a like nature on the subject separate from the Charter, for such an instrument, existing side by side with the Charter, would run the risk of weakening what already existed by taking the rules on the non-use of force out of their total context and, what was more important, out of the Charter and its machinery, that is to say the Security Council, not to mention the fact that the parties to such a new instrument would inevitably be different, and fewer. Account should be taken of the dangers in what had been called the proliferation of unanchored and free-floating norms, a trend which posed a serious threat to the status of rules of international law, and to which the Special Committee should avoid contributing by creating soft or neutral principles where there existed some clear law. As to the assertion that the overwhelming majority of Member States were in favour of drafting a treaty, it was a questionable one; furthermore, a significant group of States was opposed to that idea, and a treaty adopted in the face of opposition of a significant group of States would be worthless and damaging to the United Nations and all its Members. The United Kingdom delegation was prepared to work on finding means of enhancing the principle of the non-use of force, but its opposition to the idea of a treaty remained as strong as it was in 1976 when the initiative had been launched.

160. Turning to the question of new exceptions to the law on the non-use of force which were being proposed, he first directed attention to the exception put forward by lawyers and statesmen in the Soviet Union and allowed for in the Soviet draft treaty on the basis of the alleged existence of a "higher type of international law", presumably higher than the Charter, called "socialist international law". As part of that doctrine, it was argued that the Soviet Union had, in effect, the right to intervene by force in the affairs of other countries which followed the same social system in order to protect "socialist gains". In that connexion, he referred to Professor Tunkin's work, entitled Theory of International Law, 21/

20/ See Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.

21/ G. I. Tunkin, Theory of International Law, trans. with an Introduction by William E. Butler (Cambridge, Massachusetts, Harvard University Press, 1974).

which had given the examples of Hungary in 1956 and Czechoslovakia in 1968, and to the following more recent statement made by the Deputy Head of the Chief Political Administration of the Soviet Army and Navy, Colonel-General Lizichev, in relation to the revolution of April 1978 in Afghanistan:

"A testimony to the fidelity of the Soviet Union and its valiant Armed Forces to the ideas of nationalism is the introduction on to the territory of Afghanistan at the request of the Afghan government, in accordance with the Soviet-Afghan treaty and Article 51 of the Charter, of a limited contingent of Soviet forces. Our troops are helping fraternal Afghan people to defend the gains of the April revolution ...". 22/

Bearing in mind the inherent unlikelihood for a request for assistance having been made by the Government of Mr. Amin a day or two before his execution, and bearing in mind also the lack of any evidence in Afghanistan in December 1979 of an armed attack or other circumstances justifying resort to collective self-defence under Article 51, it appeared that the doctrine of "limited sovereignty" was still being asserted under Professor Tunkin's so-called "higher international law". The United Kingdom delegation further referred to the extracts from Professor Tunkin's Theory of International Law quoted in the report of the Committee for 1980, 23/ and cited another passage, from the same work, which read as follows:

"Thus, the principle of peaceful coexistence is replaced in relations between States of the socialist camp by the higher, more profound, and qualitatively new principle of socialist internationalism, which is a fundamental and specific principle of a new type of international relations. Such principles of socialist internationalism as the principles of respect for sovereignty, equality and non-interference in internal affairs replace the corresponding principles of general international law in relations of the new type. The principle of non-aggression is not mentioned in the various documents concluded between socialist States, since it is overlapped in relations between socialist States by the more profound principle of socialist internationalism." 24/

161. In the view of the United Kingdom delegation, it was clear, contrary to the above arguments, that the law of the Charter applied between States which were ideological opponents as well as between States which were allies; between States of different social systems as well as between States of the same social system; between States of different religions or ideology as well as between States of the same religion or ideology, and it was a strange doctrine which asserted that the conclusion by two States of a treaty of friendship in effect gave one the right to invade the other. One way of enhancing the effectiveness of the principle of non-use of force would be to make it clear that the Charter was a higher form of international law than any other, by virtue of its Article 103; and that the Charter did not contain or allow for an exception such as the one postulated by Professor Tunkin. As to other suggested exceptions, he wished to state that it would be ironical and a retrogressive step for a Committee mandated to enhance the effectiveness of the principle of non-use of force to postulate the creation of new circumstances in which force might be used and to countenance or even encourage the use of force in any circumstances, thus putting the clock back to Grotius' times by creating exceptions for just wars.

22/ Agitator, No. 2, January 1981, p. 22.

23/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 41 (A/35/41), para. 125.

24/ Op. cit., p. 446.

162. With respect to the future work of the Committee, he stressed that efforts should be oriented towards making the existing arrangements more effective and bringing Governments to reaffirm their commitment to the law. His delegation had joined with those of Belgium, France, the Federal Republic of Germany and Italy in tabling a working paper in 1979 on the peaceful settlement of disputes and on the non-use of force, which was intended to show that what were needed were more effective means or procedures for ensuring respect for the principle of non-use of force and for the peaceful settlement of disputes. He pointed out that those who had come forward with the proposal of a treaty on the non-use of force were lukewarm in their support for United Nations peace-keeping and firmly opposed to settling disputes through procedures involving third parties, being thus among those whose policies prevented the full realization of the potential benefits of existing arrangements.

163. The United Kingdom delegation was well aware of the concerns of developing and non-aligned countries over the current international situation and of the fact that the Security Council in the past months had had occasion to consider all too many instances where respect for the principle of non-use of force had been lacking. In pointing to the unwisdom of writing new texts stating rules of substantive law, it did not wish to give an impression of complacency: it considered that the effectiveness of the principle of non-use of force could and should be enhanced by calling on Governments to respect their existing obligations, by seeking to improve the operation of existing institutions and by seeking to improve the procedures for the peaceful settlement of disputes.

164. The ninth speaker at the 55th meeting, the observer for Peru, stated that the goal towards which the Special Committee was working was an international instrument - whether it was a treaty, a declaration or some appropriate mechanism - which would serve to remove the threat or use of force in international relations. Nobody could deny, first, that the process of détente was being torn apart and, secondly, that the arms race was accelerating. The arms race was acquiring truly insane proportions in the case of the super-Powers. The calls by the international community for an end to that suicidal race had till now received no real positive response. The developing countries waited powerlessly on the sidelines of that political confrontation, whose consequences were incalculable, and watched perplexed as the hand of peace was proffered and as, simultaneously, such dangerous and reprehensible geopolitical theories as "defence of vital interests" and "limited nuclear war" and, no less shameful, "positive interference" and "international fraternal aid" were invented, recreated and applied. The naked reality behind all those euphemisms was an open and repudiable intervention in matters which were the sole and exclusive responsibility of the States concerned.

165. The countries of the third world, and particularly those which believed in real and genuine non-alignment, should not be discouraged by the unfortunate circumstance that the maintenance or definitive disbanding of the Special Committee should have been made a matter of political prestige. Those countries were in favour of strengthening the non-use of force in international relations for the sake of the principle itself, and not because of their alignment with one or another of the conflicting power blocs. The principle was far too serious to be subjected to temporary oscillations in the selfish policies of the power blocs. Support for the proposal by no means implied the endorsement of any mistaken policy or any of the countries sponsoring it.

166. The Charter was categorical in the terms in which it laid down the principle of the prohibition of the use or the threat of the use of force, which applied except in cases of self-defence or when a country was confronted with actions that affected its territorial sovereignty and unlawfully and recklessly disregarded solemnly concluded agreements concerning the settlement of disputes, thereby breaching principles that were fundamental to international coexistence, such as full compliance in good faith with obligations arising from treaties and respect for commitments contracted between States.

167. Political imagination was necessary in order to endeavour to maintain the idea of strengthening the principle of non-use of force. There existed a draft world treaty and three other working papers containing a broad range of suggestions and possibilities, which the Special Committee should study carefully. The task was not easy but must be tackled in a constructive spirit. His delegation supported the view that, because of the amplitude of the Committee's task, it would be positive to aim for, at least in the current stage of its work, some form of declaration containing the formulation arrived at so far and serving as a stimulus for further effort.

168. The tenth speaker at the 55th meeting, the observer for Nicaragua, was in favour of the speedy elaboration of a treaty on the non-use of force in international relations. As a member of the non-aligned movement, his country supported the affirmation of the non-aligned group that the proposed treaty should also expressly safeguard the right of States to defend themselves and to use force to free their occupied territories, and should recognize the right of peoples under foreign and colonial domination to fight for self-determination and against colonialism and apartheid.

169. His delegation considered that the work towards the elaboration of the treaty should not suffer because of the attempts in some quarters to bring the new cold war into the Special Committee. Those who would suffer from the absence of a treaty, the lethargical proceedings of the Special Committee and the cold war were the peoples of the third world. In history and in current times, it was the small countries which were most susceptible to the threat or use of force. Their peoples required a world instrument as a legal tool for supplementing their iron will to maintain or achieve independence.

170. Such as the case in the Central American and Caribbean region, where the process of democratic social change was threatened by a whole series of economic, political and military acts of aggression emanating from quarters in which it was thought that the peoples of the region lived in the "backyard" of a Power and should therefore subordinate themselves to it. Those who were perpetuating the intervention in El Salvador, for example, sought to justify their role by invoking the so-called Monroe Doctrine of the Americas for the Americans.

171. The peoples of Central America and the Caribbean were also Americans and also had a right to self-determination - a right which they were currently asserting and which should not be confused gratuitously with imaginary international terrorist conspiracies. Those who committed genocide against their own peoples were terrorists - and the accomplices of terrorism were those who supported them, or those who tolerated paramilitary training camps for the counter-revolutionaries of their country on its northern border and in the United States - counter-revolutionaries who were preparing terrorist attacks against their own nation.

172. His country advocated the adoption by the Committee of the recommendations prepared by the working group of non-aligned countries on the definition of the use of force or the threat to resort to force. Economic and political pressure, hostile propaganda, intimidation, support for terrorism and concealed attempts to undermine the stability of States were all forms of coercion to which his country and other States were currently being subjected. Such uses of force should be prohibited in a treaty, it being understood that they gave rise to international responsibility. The Special Committee should work towards giving concrete expression to and defining such responsibility.

173. The eleventh speaker at the 55th meeting, the representative of Cuba, speaking in exercise of the right of reply, said that characterizing as use of force the fraternal co-operation which her country was offering certain developing and non-aligned States at the request of the legitimately constituted Governments of those States could only arouse just indignation.

174. Her country, which pursued an internationalist policy, co-operated by sending personnel composed of technicians, advisers and teachers in addition to a very small military group and providing aid, without any strings attached, to small countries.

175. The attempt to impede the granting of any assistance requested by a legitimately constituted Government in the exercise of its sovereign rights constituted interference in the internal affairs of the State concerned. It was paradoxical that such a comment should be made by a State whose Minister for Foreign Affairs had asserted in 1978 that Cuban aid to Africa was a stabilizing factor in the area. Furthermore, the representative of Belgium had forgotten how undeniably the presence of his country in Zaire constituted a use of force in international relations. The reference made to Cuba was outrageous but also ironic because Cuba was a small country which had been colonized for a long time and which not only had never sought to obtain colonies, but had struggled for its own development in the face of an inhuman blockade, one that her delegation had not heard the representative of Belgium call an example of the use of force. Nevertheless, her country used part of its resources to aid other poor peoples long subjugated by powerful countries.

176. The twelfth speaker at the 55th meeting, the representative of the United States of America, speaking in exercise of the right of reply, stated that Soviet statements concerning the Persian Gulf rang hollow in the light of the continued presence of 85,000 Soviet combat troops in Afghanistan and the maintenance of many thousands of Soviet troops, tanks and war planes in areas of the Soviet Union bordering on the Persian Gulf and the littoral States. So far as the arms race was concerned, the record reflected clearly who had been embarked on a breath-taking arms build-up in recent years.

177. There was a crude logic to totalitarian systems which required foreign adventures or expansions, as witnessed in the 1930s and the 1940s, and by the peoples of Czechoslovakia, Hungary and Afghanistan, more recently. Regarding the reference made by the delegate of the Soviet Union to El Salvador, he stressed that the tale started with salutations between members of El Salvador's Communist Party and Cuba's Fidel Castro, and continued with requests made by guerrilla leaders in meetings held in Mexico City, Honduras, Guatemala, Costa Rica, Nicaragua, Cuba, the German Democratic Republic, the Soviet Union, Viet Nam, Czechoslovakia, Bulgaria, Hungary and Ethiopia; as a result, the Vietnamese had agreed to provide

60 tons of arms to El Salvador's guerrillas and the German Democratic Republic had sent 1.9 tons of supplies to Managua for transshipment to El Salvador, also providing military training, particularly in clandestine operations, while Czechoslovakia had agreed to provide Czech arms circulating in the world market, Bulgaria had promised to supply weapons of German origin and other supplies, and Hungary had offered radios and other supplies as well as a complex arrangement for Hungarian-Ethiopian arms exchanges that would provide laundered weapons to the Salvadoreans. In July 1980, 60 tons of arms had been delivered from Viet Nam to Cuba for transshipment to El Salvador, including 2 million rifle and machine-gun bullets, 15,000 mortar shells, over 1,620 rifles, over 200 machine-guns, 48 mortars, 12 rocket launchers and 192 pistols, and in October 1980, 120 tons of weapons, which were in Nicaragua, had begun to be transported by Cubans and Nicaraguans by air to El Salvador. That, he concluded, was the record of what had happened in El Salvador.

178. So far as the remarks of the Soviet Union on a treaty were concerned, he was still awaiting a legal argument in favour of a treaty.

179. The thirteenth speaker at the 55th meeting, the representative of Poland, speaking in exercise of the right of reply, noted that it had been insinuated in one of the statements that manoeuvres taking place around Poland were aimed at influencing current internal developments and that that was a threat to use force. He emphasized that such a statement itself bore all the signs of being influenced by a hysterical campaign conducted and orchestrated by Western mass media with obvious purposes. The manoeuvres in question, called "Alliance '81", were taking place under the Warsaw Treaty, to which Poland was a State Party and in which Polish forces participated. Their purpose was to further improve the defensive capabilities of the alliance of the socialist States and had been broadly covered in the Polish mass media. Statements of that type did not serve the purpose of the discussion and were difficult to reconcile with the principle of non-interference in the internal affairs of States.

180. The fourteenth speaker at the 55th meeting, the representative of Hungary, speaking in exercise of the right of reply, noted with great regret that some delegations had once again made reference to certain years and to capitals of Member States, in order to allude to specific events, concerning in particular his country. He underlined that such remarks were more suitable for "cold-war" times, led nowhere and did not contribute in any way to the Committee's work. They were clearly directed against the spirit of co-operation which should prevail in the Committee.

181. The fifteenth speaker at the 55th meeting, the observer for Viet Nam, speaking in exercise of the right of reply, stated that his delegation had no intention of engaging in a polarization of the debate but felt compelled to use its right of reply. In his view, United States imperialism was the common enemy of the progress of mankind, as evidenced by the case of Viet Nam and Kampuchea. His delegation categorically rejected all the slanderous allegations made by the United States delegation.

182. The sixteenth speaker at the 55th meeting, the observer for Nicaragua, speaking in exercise of the right of reply, stressed that the account given by one representative of certain events apparently did not convince even the people of the United States, judging from the reaction of that country to the policy of its Government in Central America, nor did it seem to convince its Western allies

which, like Nicaragua, advocated a political rather than a military solution in El Salvador. It was impossible that the revolutionary elements in El Salvador or Nicaragua should have left their private documents unguarded so that anyone could take them, and, as was well known, United States intelligence agencies had a long history of fabricating documents. Concerning arms shipments, it should be asked how many tons of weapons had been shipped to the junta in El Salvador by the United States, weapons which had killed thousands of peasants, thousands of innocent people, including nuns from the United States. The only thing that had been proved was the existence of military training camps in the United States, as documented in The New York Times of 16 March and indicated by various television companies and newspapers.

183. The seventeenth speaker at the 55th meeting, the representative of the Union of Soviet Socialist Republics, speaking in exercise of the right of reply, characterized as a "detective story" the statement by the representative of the United States. That story had been taken from the most implausible sources, and it showed that the United States, as in the past, was taking a stand on the use of force in the conduct of its external policy. The Soviet delegation rejected the totally false, unfounded and slanderous fabrications which had been heard against the foreign policy of the Soviet Government and were directed at distracting the attention of the Committee and preventing it from conducting in a constructive working atmosphere a serious discussion of the questions which were really on its agenda. The United States delegation had been forced to attend the meetings of the Committee again because the question of the non-use of force was not one which could be dismissed or ignored. Having resumed participation in the work of the Committee, that country continued to take a negative unconstructive stand. Previous attempts of that type had been made to divert attention from the consideration of important international problems to matters totally alien to a serious discussion of those problems. He urged the United States delegation to desist from methods involving slanderous attacks against the foreign policy of some countries, and to adopt at long last a constructive position of co-operation with all other delegations.

184. The eighteenth speaker at the 55th meeting, the representative of Bulgaria, speaking in exercise of the right of reply, stressed that the statement of the representative of the United States contained elements which did not contribute to the constructive advancement of the work of the Committee. As to his comments in regard to the internal situation in a Latin American country, he drew the attention of the Committee's members to an interview given by the leader of the Communist Party of El Salvador in the capital of Mexico which, he thought, had been covered by the American press. He associated himself with those who had expressed the view that such comments and such conduct were evidently part of a broader foreign political line aimed at blocking international co-operation in various fields.

185. The nineteenth speaker at the 55th meeting, the representative of Cuba, speaking in exercise of the right of reply, stated that some years ago the President of the United States himself had said that a large-scale war was about to begin in Viet Nam because of what was then referred to as "the Gulf of Tonkin incident". A number of years later, because of indiscretions on the part of certain people who possessed the necessary documents or had access to them, the so-called "Pentagon papers" had been published in all the newspapers, and it had then been learned that the Gulf of Tonkin incident had been fabricated by the United States Pentagon in order to enable it to carry out a large-scale

intervention in the war in Indo-China, which it had already planned and programmed in advance. Nor was that the first such occurrence in United States history. In the case of the Spanish-American War, the battleship Maine had been blown up so that the Spanish authorities could be accused of an act of aggression against the United States - which gave a pretext to that country to intervene in the war at a time when the forces of liberation in Cuba were about to win independence. In United States history, in short, it was deceit and what the press and other circles had recently come to call the "hard line" that determined the style and the manner in which certain problems were approached.

186. The twentieth speaker at the 55th meeting, the representative of the United States of America, speaking in exercise of the right of reply, said that his delegation had heard no very convincing denial of the truth of the facts he had related to the Committee. Those facts had been drawn from documents captured from the rebels when the so-called "final offensive" had failed. The magnitude of the weapons shipments was unarguable, as was the detail of the trips, travels and promises related. When assertions were being heard that all that was needed was a world treaty reasserting existing norms and that the world would be the better for it, some unpleasant realities had to be brought to light and the question had to be asked to what extent the very clear existing norms were being honoured by the various States who claimed that all that was needed was just one more treaty.

187. The speaker at the 56th meeting, the observer for Yugoslavia, stated that the Special Committee was involved in the consideration of a basic principle of international law without the application of which no stable international relations could be even imagined. On the other hand, it was obvious that the international community should consider that problem at a time when the use of force, in most varied covert and open forms, was becoming ever more frequent.

188. International relations currently clearly showed that the world was going through a difficult moment, held as critical by the recent Conference of Ministers for Foreign Affairs of Non-Aligned Countries, held at New Delhi from 9 to 13 February 1981. ^{25/} That was reflected in a crisis of the process of détente, the unabated arms race, nuclear arms in particular, stagnation in solving international problems and various onslaughts against the freedom and independence of peoples and countries.

189. There was a crisis of the whole system of international relations, which was in an impasse owing to bloc divisions and the struggle for spheres of interest. As the ministerial Conference of New Delhi had pointed out, that state of affairs was due to intensified great-Power rivalry in a struggle for spheres of interest and for expanding relations based on domination and exploitation. Forces hostile to the emancipation of peoples continued to infringe upon the independence, sovereignty and territorial integrity of countries and the right of peoples under alien and colonial domination to self-determination and independence. There had been increasing recourse to the use, or threat of use, of force, military intervention, occupation and interference, in violation of the Charter of the United Nations and international law. Thus, focal points of aggression and tension, particularly in the Middle East, Africa - southern Africa in particular - South-West Asia, South-East Asia, the Caribbean and Central America continued to exist, while new conflicts among States further aggravated the international situation.

^{25/} See A/36/116 and Corr.1, annex.

190. The Conference had particularly noted

"the need for strict adherence to the principle of non-intervention and non-interference in the internal and external affairs of States which is one of the basic principles of non-alignment. The violation of this principle by any country is totally unacceptable and unjustifiable under any circumstances." 26/

191. The forms of use of force were becoming ever more varied and sophisticated. Although force could not be restrained by documents, the latter should make the use of force or the threat thereof more difficult. The Committee should not limit itself to a compilation of existing principles, but should undertake their further elaboration and create conditions for their practical implementation. If the international community had ever reached consensus anywhere, then it had certainly achieved it with regard to the principle of the prohibition of the use of force, as the key principle of contemporary international relations. However, many peoples were still fighting for their elementary rights and independence. Progress had been achieved with regard to understanding the right of all nations, countries and people to live in freedom as human and national beings; nevertheless, that right was still threatened in various parts of the world. There had rarely existed such an imbalance between the social, economic and national needs of contemporary mankind and obsolete relations and structures based on force.

192. The principle of the prohibition of the use of force or the threat thereof was one of the fundamental tenets of the non-aligned movement - principles which had, as an expression of the needs and aspirations of an ever-growing number of countries and peoples of the world, assigned to the policy of non-alignment an irreplaceable role in promoting international peace, co-operation and progress. All the gatherings of non-aligned countries had reaffirmed those principles, calling upon all the peoples and countries of the world to join their forces in the suppression and rejection of all forms of subjugation, dependency, interference or intervention, direct or indirect, and of all pressures, whether political, economic, military or cultural, in bilateral and international relations.

193. The group of non-aligned countries members of the Committee had elaborated an extremely useful working paper, he stressed. The next decisive step should be the further elaboration of authentic norms and principles, so that they could be implemented in practice. It would be premature to adopt definitive stands regarding the legal character and form of the international document to issue from that process. For that reason, the Committee should primarily concentrate its attention in co-ordinating positions concerning the contents of the joint document and determination of its purposes.

194. The Working Group of the Committee had before it four documents which were legally relevant and equally significant for the work of the Group. At the moment, his delegation thought that the working paper of the group of non-aligned countries was the most acceptable, as its approach in the elaboration of the matter was sufficiently balanced and moderate, thus making it much easier to formulate a text likely to obtain the support of all the members of the Committee.

195. However, the working paper of the group of non-aligned countries was not final or complete; it required further elaboration. It should include a greater number

26/ Ibid., para. 17.

of political positions of the policy of non-alignment, especially in the part identifying the modalities and forms of use of force, intervention and interference in internal affairs as well as other forms of pressure, subversion, political coercion, hostile propaganda, intimidation, support of terrorism, covert attempts to destabilize Governments, the use of mercenaries or their financing or encouragement. There was an adequate basis for all that in the numerous documents adopted so far by gatherings of non-aligned countries which had devoted considerable time to the elaboration of the principles of the prohibition of the use of force in international relations.

196. The first speaker at the 57th meeting, the representative of Ecuador, stated that the work of the Special Committee consisted in strengthening the Charter of the United Nations.

197. The organized international community had rejected, condemned and proscribed the use of force in relations between peoples. Accordingly, the Charter, in Article 2, paragraphs 3 and 4, set forth the two provisions that were clearly and firmly correlative with the principle of non-use of force: settlement of international disputes by peaceful means in such a manner that international peace and security, and justice, were not endangered; and refraining from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

198. The only situations in which force could be resorted to under the terms of the Charter were extremely clearly defined and precise; they were, first, the situation provided for in Article 51 of the Charter concerning self-defence and, secondly, the functioning of the collective security system, which allowed for drastic measures in the event of threats to the peace, breaches of the peace and acts of aggression under Chapter VII of the Charter; such measures could take the form either of interrupting economic relations and communications and severing diplomatic relations, or of such use of the forces referred to in Article 42 as might be necessary to maintain or restore peace and security.

199. Apart from such situations, force could not be used or invoked in any international action. International law condemned armed intervention as a legitimate means of recovering public debts, as did the Drago doctrine which had been ratified in conventions on State responsibility at various pan-American conferences and at the second Hague Peace Conference in 1907.

200. Nor could force be invoked for the curious purpose of attempting to impose treaties, however equitable or balanced or viable they might be, and it certainly could not be used to demand their implementation. A treaty was a solemn expression of national consent and should have the backing and trust of the people concerned in order to be valid, respected and enduring, because the object of a treaty, contracted in freedom and sovereignty, was its observance.

201. Nor should there be any attempt to state even the possibility of justifying the use of force to impose the operation of treaties which had been concluded during the military occupation of a territory, and were therefore tainted from the outset by absence of consent and were documentary proof of aggression, or which were designed to perpetuate the plundering of vast territories because they embodied the negation of historical rights, or whose application was physically impossible because of geographical or other characteristics. The proper way to

eliminate the use of force in international relations was to establish an effective, appropriate, universal and inviolable mechanism for the peaceful settlement of international disputes.

202. He expressed his delegation's general support for the working paper submitted by the group of non-aligned countries. In particular, he approved of principles 1, 2, 7, 8, 9, 11 and 16.

203. Principle 7 was especially relevant to the mandate of the Special Committee, as were the examples it cited, which had been culled from the sufferings of peoples that had been the victims of abuse throughout history. If a treaty suffered from the defect of nullity from its inception, its ratification was without effect, in accordance with the immutable legal principle whereby that which was tainted in the beginning could not subsequently be repaired or, as the Latin axiom put it, "quod ab initio vitiosum est non potest tracto temporis convallescere".

204. Principle 16, on peaceful settlement of disputes, deserved greater emphasis and might be made more comprehensive through the incorporation of other elements, including such wording as: "it urgently requires an effective, appropriate, universal and inviolable mechanism for its full observance and applicability".

205. As far as the other texts being considered by the Special Committee were concerned, his delegation agreed with some points and disagreed with others. It would not be opposed to the drafting of a declaration, if such was the unanimous will of the Special Committee, provided that the only exceptions to the principle of non-use of force that were contemplated were those in the areas of self-defence and collective security, and provided that the Charter was not undermined in any way.

206. The second speaker at the 57th meeting, the representative of Turkey, said that the working paper submitted by the 10 non-aligned countries provided a framework for broadening and deepening exchanges of views in the Special Committee. He noted with appreciation that the sponsors considered that the document contained "ideas", rather than formal proposals to be retained or rejected, and were accordingly suggesting a flexible and constructive approach. Such an approach was a welcome innovation in the Special Committee and would enable it to concentrate on its mandate, namely, to find the most appropriate ways of enhancing the effectiveness of the principle of non-use of force, instead of engaging in acrimonious and sterile procedural debates.

207. The Turkish delegation had adopted a flexible and open position, although it had serious doubts as to whether it was advisable or useful to prepare a draft treaty of the type proposed. It considered that the principal merit of the working paper referred to above was to extend the basis and scope of the discussion for purposes of identifying and delimiting the main elements that could provide the guidelines for future work. It had had occasion to emphasize that, in international relations, the use of force was a consequence of a whole series of factors and that such factors could not be eliminated through purely normative measures. After studying the working paper, it wished to add that account should also be taken, even at the normative level, of the organic interdependence of certain principles which were universally recognized and had acquired a legal and binding character with the adoption of the Charter of the United Nations. It would be wrong to single out one of those principles and to discuss it without taking

into consideration the very nature of international relations, the current world order in all its manifestations and the complex society formed by sovereign and independent States. Even in national societies, which were far more coherent and unified entities than the community of States, "violence" was unfortunately part of the daily life of individuals, taking many forms. Prohibition of the use of force in that context was always accompanied by a set of legal and effective measures aimed at assuring enforcement, together with other practical arrangements for the protection of individuals from violence. Likewise, at the level of the community of States, measures to deal with a similar phenomenon should be considered as a whole; the system provided for in the Charter constituted a balanced ensemble, whose integrity must be scrupulously preserved, and that was why an approach which was designed to enhance the effectiveness of the principle of non-use of force without taking into account the corollaries of that principle provided for in the Charter, such as peaceful settlement of disputes, respect for international law and international treaties, and self-defence, was unacceptable. In that regard, mention should be made of the following provision of the Final Act of Helsinki:

"All the principles set forth above are of primary significance and, accordingly, they will be equally and unreservedly applied, each of them being interpreted taking into account the others." 27/

208. The document under consideration, although it embodied most of the essential aspects of the question, was embryonic and needed to be expanded and given greater depth in order to cover all the points which must be considered. The Special Committee should discuss the main ideas one by one and endeavour to highlight the functional link connecting them.

209. The speaker at the 58th meeting, the observer for Nicaragua, said that his delegation did not agree with the opinion expressed regarding the conceptual interdependence of the terms "pressure" and "intimidation" as instances of force. What the representative of Japan had stated was that it was very difficult to include in definitions subjective concepts, including the terms "pressure" and "intimidation" in the preambular paragraph of the working paper of the non-aligned countries entitled "Definition of the use of force or threat of force".

210. His delegation held that "pressure" and "intimidation" were not subjective concepts, since the consequences of their use could be measured in concrete terms, and the one who suffered and experienced them, the victim of the use of force, was in a better position to measure them. That did not mean that the one who used pressure could not measure the consequences that derived from the use of such pressure; whoever used pressure knew his reasons and objectives for doing so. The situation which Nicaragua was currently experiencing because of the use of pressure and intimidation against it was an example of the non-subjectivity of pressure.

211. The pressure inherent in the form of economic coercion consisting of withdrawing a loan approved earlier, one of great importance for the economic

27/ Final Act of the Conference on Security and Co-operation in Europe, Cmnd. 6198 (London, H.M. Stationery Office, 1975) Declaration on Principles Guiding Relations between Participating States, p. 6, principle X.

reconstruction of the country, was objective. Likewise, "intimidation" in order to destabilize the Government which supplied training in certain territories for mercenaries and Somozist counter-revolutionaries who intended to invade Nicaragua was objective. Again, hostile propaganda by means of statements which distorted the socio-political facts of Nicaragua was objective. The ultimate goal of such pressure and intimidation was to have the Government of Nicaragua stop doing certain things, following a given course, maintaining or not maintaining relations with given States, and so forth. All of the foregoing added up to practising "unarmed" force, which was indeed force of a different type and not difficult to interpret objectively. It was force which could be defined by the practical form taken by its consequences.

212. For those reasons, his delegation considered the preambular paragraph in the document of the non-aligned countries important and felt that all elements of that paragraph should be retained, although the wording might be amplified somewhat.

III. REPORT OF THE WORKING GROUP

213. As indicated in paragraph 9 above, the Special Committee, at its 49th meeting, decided to re-establish a working group which would have the same officers as the Committee itself. It further decided that the Working Group would devote its first eight meetings to the consideration of the working paper which had been submitted at the previous session by the delegations of Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda 28/ and had not had the benefit of a full discussion at that session owing to lack of time. The Working Group held 12 meetings between 1 and 13 April 1981. In accordance with the above decision, it devoted its 21st to 28th meetings to a consideration of the above-mentioned working paper.

214. At the outset of the discussion, it was pointed out that the sponsoring countries belonged to the third world, which had suffered a great deal from the unfettered use of force. Those countries, it was stated, were gratified that States which had the military, financial and political means to commit aggressions against other States or to threaten their security should be given an opportunity to reflect on the principle of non-use of force, and mention was made in that connexion of cases of aggression which reflected the policy of domination of the small by the strong, particularly in Africa. It was stressed that the paper under consideration, which took into account the content of other proposals before the Committee and made reference to relevant articles of the Charter, general principles of international law and relevant resolutions of the General Assembly and the Security Council, was designed to enable the Working Group to engage in a substantive discussion without getting embroiled in sterile squabbles on questions of format and peripheral matters, and to work towards reaching a consensus on a formal document. The objective of the sponsors, it was added, had been to bring up to date and articulate, on the basis of agreed-upon documents, a series of principles relevant to the principle of non-use of force in order to ensure that the international legal order would have no gaps or loopholes. It was added that the principles contained in the working paper under consideration should not be viewed as elements of a treaty or a declaration. They reflected ideas which should be elaborated upon and which, in the view of the sponsors, could enhance the effectiveness of the principle of non-use of force. The sponsors were open to any suggestion aimed at improving the text and broadening its scope.

215. All the representatives who commented on the working paper welcomed it as an important and valuable contribution to the work of the Special Committee.

216. Some delegations reaffirmed that the primary task of the Committee was to enhance the effectiveness of the principle of non-use of force. It was pointed out that the principle prohibiting the use of force in international relations

28/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 41 (A/35/41), para. 172.

was the cornerstone upon which the United Nations rested and that, despite the fact that that was a principle of jus cogens firmly entrenched in Article 2, paragraph 4, of the Charter, it had been repeatedly violated with impunity, so that a more drastic way had to be found to enhance its effectiveness and ensure its unfailing and scrupulous observance. The view was expressed that since the drafting of the Charter - which was indisputably a universally binding, valid and dynamic document - there had been an accumulation of wealth of jurisprudence in and outside the United Nations, and that if the essence of that wealth could be extracted, and the gaps and loopholes which had allowed for the violation of the principle could be filled through a legally binding document, that would be a most worthy achievement in the maintenance of international peace and security. The delegations in question, while remaining committed to their earlier position in favour of the drafting of a treaty, took the view that pending the achievement of a consensus within the Committee, preparatory work for the compilation of the necessary principles should continue. In that respect, they viewed the working paper under consideration as an important and valuable document, which was neither final nor perfect, but had the merit of including principles based on contemporary international law which were of special concern to all countries, and especially to the third world. The importance of the Committee's work to the international community was such that efforts towards the legal regulation of the use of force in international relations should not slacken or be diverted, but should be intensified.

217. Other representatives pointed out that the question of the drafting of a treaty was not before the Working Group and that the essential merit of the working paper under consideration was precisely that it aimed at moving the Committee away from a sterile confrontation and facilitating the proceedings, which had so far been paralysed because of the insistence of some delegations on the idea of preparing a treaty - an idea regarding which the representatives in question had strong reservations. Doubts were expressed on the potential contribution of any normative instrument to the enhancement of the principle of non-use of force because there was no lack of clarity as to the existence and the content of that principle. With reference to the view that it was essential to arrive at a binding and universal international instrument under which a firm commitment would be made not to use force, it was pointed out that the Charter was precisely such a binding and universal international instrument and that Member States had already made the commitment in question. Those same representatives paid tribute to the non-aligned countries for the efforts they had made at the thirty-fifth session of the General Assembly with a view to improving the draft resolution which had subsequently become resolution 35/50; they added that they shared the concern of the non-aligned countries as reflected in their useful contribution to the work of the Special Committee with the aim of enhancing the effectiveness of the principle of non-use of force, inasmuch as the contemporary world had witnessed all too many cases of resort to force directed against non-aligned countries either by non-aligned or "aligned" countries. In their opinion, the paper could help the Special Committee in its search for ways and means to enhance the effectiveness of the principle of non-use of force: it contained a more or less comprehensive survey of several important and interrelated elements and required thorough and careful examination in the light of the various documents referred to in it. Those documents, it was noted, included resolutions which had not been supported by the entire membership and on the basis of which it was therefore not possible to formulate generally acceptable principles.

218. Still other delegations recalled that, ever since an initiative to that effect had been taken in 1976 by the Soviet Union, they had supported the idea of elaborating a world treaty on the non-use of force in international relations which would be a natural extension of the efforts of the United Nations and its Members to consolidate international peace and security. In their opinion, the urgency of the task had only increased, for the situation in the world called for further efforts to eliminate the threat of war. Without underestimating the difficulties involved in the preparation of the document expected from the Committee, they stressed that such difficulties were normally encountered in United Nations practice in working out generally acceptable texts. It was recalled that initiatives taken for the elaboration of the Definition of Aggression (resolution 3314 (XXIX)) and of 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)) had met with a cold response, if not with outright opposition, on the part of those same delegations which were now taking a negative stand on the proposal to draft a world treaty on non-use of force and which, it should be noted, were now advocating an approach based on the above-mentioned documents. While being of the opinion that the Soviet draft world treaty offered the best basis for work, they viewed the working paper submitted by 10 non-aligned countries as an important contribution, which placed the appropriate emphasis, in view of the mandate and purpose of the Committee, on the points to be taken into account in drafting a legally-binding instrument on the principle of non-use of force and which, it was added, presented many points of convergence with the other proposals before the Committee, in particular with the Soviet draft world treaty. They pointed out that the non-aligned countries, as appeared from the position they had taken at the Conference of Heads of State or Government of Non-Aligned Countries, held at Havana in September 1979, with respect to the creation of the Special Committee, had considerable interest in furthering the progressive development of treaty norms aimed at the elimination of the threat of war and of the policy of force, blackmail, pressure and coercion in contravention of the Charter. In the view of the delegations in question, the paper under consideration was very relevant, particularly as an indication of the way in which the Committee should proceed to strengthen the principle of non-use of force and, furthermore, it rightly highlighted concrete aspects of the wrongful uses of force which threatened the independence of developing countries. That approach was, it was concluded, a positive one which should be concretized in treaty language.

219. A number of delegations commented on the structure of the working paper and the general approach reflected in it.

220. Some representatives held the view that the structure of the paper was somewhat unbalanced in that too much emphasis was placed therein on the principle of non-use of force and not enough on other relevant principles. It was recalled that the Declaration on principles of international law concerning friendly relations provided that, in their interpretation and application, the principles elaborated upon in the Declaration were interrelated and that each principle should be construed in the context of the other principles. Interest was expressed in the suggestion, made in the Sixth Committee at the thirty-fifth session of the General Assembly (A/C.6/35/SR.28, para. 51) to study the interdependence between the various relevant principles. The view was further expressed that while the principle of non-use of force played a central role, it could not be separated from the question of the peaceful settlement of disputes

which was the subject of Article 2, paragraph 3, and Chapter VI of the Charter, nor from the machinery provided for in Chapter VII, nor from the right of individual or collective self-defence referred to in Article 51. The working paper, it was mentioned, did not duly reflect the interdependence between those elements nor strike between them the appropriate balance, which the Charter had managed to achieve. Particular stress was placed on the need to give adequate treatment to the principle of peaceful settlement of disputes: the view was expressed that the principle of non-use of force would be ipso facto observed if the parties to a dispute were determined to settle it by peaceful means and to act accordingly, and that the question of the peaceful settlement of disputes should therefore be given prominence, which - it was maintained - the working paper did not do.

221. Other representatives, while agreeing that the relationship between the various relevant principles should be duly taken into account - a requirement which, in their opinion, the working paper fully met as evidenced by principles 14, 15 and 16 - pointed out that the basic and priority issue before the Committee was the enhancement of the effectiveness of the principle of non-use of force and that the balance established in the Committee's mandate would be upset if all the principles were placed on the same footing. Therefore, it was observed, the main thrust of the document to be formulated had to be the principle of non-use of force and the other principles should, from the legal standpoint, be subordinate to it: it was necessary to adhere to the value concepts of principal and accessory if the objective of the proposed instrument was not to be confused. An additional reason which was invoked for placing special emphasis in the paper on the principle of non-use of force was that that principle was being more and more frequently violated, so that priority ought to be given to enhancing its effectiveness. Disagreement was also expressed with the view that the paper did not strike a correct balance between the principle of peaceful settlement of disputes and the principle of non-use of force: it was observed that there existed in modern international law a large body of legal rules in respect of the former principle, while the latter principle was not as developed, and that the document to be prepared should in fact aim at correcting this imbalance by laying down legally binding rules of State conduct that would enhance the effectiveness of the prohibition of the use of force. It was also said that the question of peaceful settlement of disputes could be covered through co-ordination with the work being carried out in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

222. Comments were further made on what was termed the balance between the normative and the institutional aspects of the document.

223. Some representatives took the view that the working paper placed too much emphasis on the former aspects at the expense of the latter. The remark was made that, while tremendous progress had been achieved since 1945 in the development and codification of international law, such progress had been more in the area of substantive law than in the area of adjectival law. It was noted that the Charter was an exception in that it placed rules of substantive law within a system including, in particular, the Security Council, and that this approach should not be departed from. Furthermore, it was stressed, it was dangerous to attempt to draft a second set of substantive laws, for such a course would not only sow confusion but also give the impression that the first set of rules had fulfilled its purpose and become obsolete. The view was further expressed that no attempt at elaborating a new normative instrument should be embarked upon without first determining, through an examination of specific instances in which force had been

used, what the causes of such use of force were and whether a new normative instrument was needed. Such an examination was likely to lead, it was maintained, to the conclusion that what was required was institutional strengthening in the area of peaceful settlement of disputes through improvement of mechanisms and procedures and enhancement of third-party settlement, and in the area of collective security through strengthening of the role of the Security Council, including its involvement at a sufficiently early stage, encouraging the Secretary-General to use his authority to find facts and bring matters to the Council and strengthening the peace-keeping capabilities of the United Nations. The view was expressed that, considering the number of cases in which large-scale armed conflicts had been prevented by peace-keeping forces, the working paper did not seem to give proper recognition to that valuable aspect of United Nations activities, and it was suggested that the obligation of States to support peace-keeping operations and contribute to their financing should be provided for therein. Such an approach admittedly entailed some overlap with work being carried out in other forums, but that was inevitable in the case of any issue of sufficient scope and such issues could not be artificially truncated at the outset merely because some of their aspects were being dealt with elsewhere.

224. Disagreement was, on the other hand, expressed with the view that the working paper over-emphasized normative elements at the expense of institutional ones. Such a dichotomy was felt to be unclear and the view was held that if by institutional elements, one meant elements aimed at ensuring that the conduct of States would be in conformity with existing rules, then due account should be taken of article V of the Soviet draft world treaty 29/ and principle 17 of the working paper under consideration. Attention was also drawn to the fact that the document expected from the Committee was not intended to replace the Charter and need not, therefore, reiterate all the relevant provisions in the Charter and other instruments. With regard to peace-keeping operations, it was stated that such operations could be useful but that their importance should not be exaggerated and that the method could give rise to abuses. It was added that some countries did not participate in the financing of some forces because they could not agree that third countries should be expected to pay for the consequences of conflicts in which they were in no way involved; the financial burden should, it was maintained, be borne by the aggressor. With regard to the proposed study of the causes of the use of force, the view was expressed that any such study would have to go back to the era when certain Powers had invaded countries in Africa, Asia and Latin America in order to "civilize" them and that rather than embarking on such an exercise, which could lead nowhere, the Committee should adhere to its mandate which required it to prepare an objective legal instrument on the prohibition of the use of force in international relations.

225. The definition of the use or threat of force contained in the introductory part of the working paper was considered as an essential element by some representatives, who said that the formulation would have to be carefully looked at so as to leave no loopholes or gaps. In their opinion, the fact that the concept of non-military force still lacked precision was no reason for leaving

29/ Ibid., Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1), annex.

it out, inasmuch as international instruments sometimes included concepts in relation to which there was not yet a generally agreed juridical approach - a case in point being the International Convention against the Taking of Hostages (General Assembly resolution 34/146, annex) which referred to international terrorism even though there was no generally agreed definition of that phenomenon. The concept of force, it was stated, should encompass any act which might have serious consequences for the victim and to which the latter was not able to respond by using the same degree of force. The view was also expressed that the definition should refer both to the use of armed force involving any type of weapons, including nuclear and other weapons of mass destruction, and to non-military forms of coercion. The remark was made that many of the useful concepts contained in the definition were developed in subsequent principles but that others concerning economic or political coercion or hostile propaganda were not reflected in the body of the working paper, something which would have to be corrected if the prohibition of such forms of the use of force was to have full mandatory force.

226. Other delegations, however, expressed doubts about the advisability of engaging in a debate on a definition of the use or threat of force. It was pointed out that the question whether the Charter only dealt with armed force or with other forms of coercion as well was still a matter of conflicting interpretations. The view was expressed that Article 2, paragraph 4, did not deal with intervention, although there were other provisions in the Charter from which a principle of non-intervention could be deduced and that a confusion such as revealed by the proposed definition between the principle of non-use of force and the principle of non-intervention might have dangerous implications in relation to Article 51. The remark was also made that the practice of the Security Council did not support a very broad concept of force and that when the Council had dealt with impermissible pressure, it had viewed such behaviour as a threat to the peace or as being contrary to Charter principles such as State sovereignty rather than as a violation of the principle of non-use of force.

227. Some delegations commented on specific elements of the proposed definition. Thus, the view was expressed that the reference to economic coercion was of special importance for developing countries which had been and continued to be victims of that form of coercion, including economic blockades on the part of powerful countries, whose imperialist designs they opposed. The view was, however, expressed that the reference to economic coercion should be made more precise since that form of pressure could be exerted in widely varying degrees.

228. Some representatives welcomed the reference in the proposed definition to "pressure" and "intimidation" but suggested that it be made more specific. Mention was made of blackmail in relation to economic assistance, which, it was stated, was a form of the use of force potentially as dangerous as military intervention, even though only the victims of it could fully feel its harmfulness. Other representatives held that vague concepts such as pressure and intimidation would, if retained, give rise to serious difficulties of interpretation. The point was made that, if the victims of pressure alone were in a position to gauge its harmfulness, it followed that the concept was a highly subjective one, which would hence be very difficult to define. Disagreement was, however, expressed with that view and the remark was made that pressure and intimidation were objective realities with specific aims and measurable consequences.

229. Some representatives also commented on the reference to the use of mercenaries. Doubts were expressed on the advisability of including such a reference. It was pointed out that the question was being studied in another committee and that mercenary activities often took place without any state involvement. Disagreement was, however, expressed with that view: it was stated in particular that, as evidenced by the mercenary operation carried out in Benin in 1977 and by the documentation which had been submitted in that connexion to the Security Council, mercenaries were neither tourists nor mentally unbalanced persons: assembling them at a given place required a pre-established plan, means of transport, a considerable arsenal and a great deal of money, and was therefore impossible without the knowledge of the secret services of certain States and, indeed, without official collusion. Consequently, armed intervention by means of mercenaries was undeniably a case - and a serious case - of use of force in international relations. It was suggested that the relevant part of the text should be made more precise by inserting the words "and the sending" after the word "use".

230. It was indicated, on behalf of the sponsors, that consideration of the definition could be deferred until after acceptable texts had been worked out for the other elements of the paper.

231. With regard to principle 1, it was noted that the rule enunciated therein was a peremptory norm of jus cogens and that there could be no derogation from it in relations between States. The principle, it was added, should be formulated in such a way as to close any possible gaps and loopholes and account should be taken in that respect of all-too-frequent abusive pleas of collective self-defence or intervention upon invitation. The text should therefore contain provisions to the effect that no justification of a political, economic or other nature could be invoked in order to justify resort to force, taking into account the formulation of Article 5 of the Definition of Aggression and the relevant provisions of the Final Act of Helsinki. It was further pointed out that principle 1 should foreclose the possibility of a contrario interpretations of the phrase "against the territorial integrity or political independence of any State" contained in Article 2, paragraph 4 of the Charter. The view was, however, also expressed that the formulation should follow more closely the text of Article 2, paragraph 4. It was stressed that the principle under consideration should prohibit the use of armed force as the most dangerous form of the use of force and place special emphasis on the prohibition of the use of nuclear weapons, taking into account the results of the tenth special session of the General Assembly, on disarmament, and that it should also reflect the idea contained in the preamble, that the concept of force included economic or political coercion or hostile propaganda and subversive activities. That could be done by inserting the words "direct or indirect" before the word "force" and developing that idea in subsequent principles. The principle under consideration should, furthermore, expressly mention the inadmissibility of frontier violations and provide for changes of boundaries or lines of demarcation in accordance with international law, i.e., by peaceful means and by agreement. In the latter respect, reference was made to principles I and III of the Declaration on Principles Guiding Relations between Participating States contained in the Final Act of Helsinki. 30/

30/ Final Act of the Conference on Security and Co-operation in Europe, Cmnd. 6198 (London, H.M. Stationery Office, 1975), p. 2.

232. Some delegations commented upon the drafting of the principle. It was said that it should be revised since, as currently drafted, it merely indicated the direction to be taken to reach a definition of the obligation of States on that question. The text should read: "States shall not ...". It was also pointed out that since all States already had the obligation not to use force in international relations, the best way to formulate the principle would be to emphasize that all States were already committed to the principle of non-use of force, which was a binding principle under the Charter. The point was also made that the reference to the Charter could be misinterpreted: it should be understood that the prohibition of the use of force was based not only on the 1945 text, but also on generally accepted norms and principles which had emerged since that time. Disclaimers, it was added, would doubtless have to be included in the final text, but they should appear either in the preamble or at the end of it and not in the principle.

233. Commenting upon the references appended to principle 1, one delegation pointed out that, while having no difficulty with the reference to Article 2, paragraph 4 of the Charter and resolution 2625 (XXV), it wished to recall that its country had voted against resolution 2160 (XXI), which it therefore did not consider as offering a good basis for legal work. It was also pointed out that the citations provided were too selective and should include not only Article 2, paragraph 4, which was at the centre of the system established in that area by the Charter, but also Article 2, paragraph 3 and Articles 33, 36 and 37. In the view of that delegation, it was not a positive approach to take rules of substantive law, such as the prohibition of the use of force, out of the system of which they were part.

234. The remark was made that the working paper listed after principle 1 a series of specific manifestations of the use of force, and it was suggested that principles 2, 3, 4 and 6 could be grouped, together with principles 10 and 11, under the title "Duties of States" and that the references to be appended should include the draft Declaration on the Rights and Duties of States (General Assembly resolution 375 (IV)), the declarations on essentials of peace (resolution 290 (IV)) and on peace through deeds (resolution 380 (V)), 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 Definition of Aggression.

235. Some delegations expressed doubts concerning the enumerative approach reflected in the working paper: the view was expressed that drawing up a list of instances of the use of force was inadvisable as such a list would be unlikely to be exhaustive and entailed the risk of presenting as illegal actions which were legal under the Charter and thereby calling in question the Charter and the rights and duties imposed by it. At most, it was stated, a non-exhaustive listing of cases in which there existed a presumption of unlawful use of force might be drawn up in accordance with the technique followed in the Definition of Aggression.

236. Some delegations pointed out that some of the most serious types of use of force were not mentioned in the working paper, and it was suggested that a new principle should be inserted, reading as follows:

"First and foremost, all acts or threats of invasion or occupation of the territory of a State, all use of armed forces against the territory of another State or any other act directed against the territorial integrity or unity of a State, and attacks by the armed forces of one State on the armed ground, naval or air forces of another State are prohibited."

It was also suggested that the following manifestations of the use or threat of force should be added to the text: aggression committed by a State against the sovereignty, territorial integrity or political independence of another State, or in any manner inconsistent with the Charter; actions intended to destroy partially or totally the national unity and territorial integrity of any other State, or as a means of solving international disputes; external intervention, coercion or constraint, particularly involving the open or covert, direct or indirect threat or use of force; the organizing, financing, instigating, inciting or assisting of or participation in, acts of civil strife or terrorist acts in other States by States or groups of States, or tolerance of or acquiescence in organized activities within their territories directed towards the commission of such acts; the organizing, inciting or sending by or on behalf of a State, of regular or irregular armed forces, volunteers or armed bands, within its territory or in any other territory, for incursion into the territory of another State; the occupation or acquisition by force of the territory of one State by another; the violation of the international boundaries of one State by another through the threat or use of force with the aim of solving territorial disputes; the commission of acts of armed reprisal involving the use of force.

237. In connexion with principle 2, it was suggested that military intervention and reprisals should be dealt with separately. It was also suggested that the text should refer to armed reprisals, which on the basis of Security Council pronouncements, were recognized as illegal in 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 should be based on the sixth paragraph of the relevant principle of that Declaration. With respect to other types of reprisals which, it was maintained, were not always unlawful, it was suggested that reference in that respect be made to the additional Protocols to the Geneva Conventions, 31/ the Declaration on principles of international law concerning friendly relations and the Definition of Aggression.

238. Principles 3, 4 and 6, had, it was noted, no counterpart in the other proposals before the Working Group and could be brought together under the common heading "Indirect uses of force". They were said to be particularly important to the non-aligned countries but also felt to be imprecisely worded and calling for further elaboration in the light of the General Assembly and Security Council resolutions mentioned in reference. The central idea, it was stated, was acceptable, although the issues dealt with should be covered in all their legal and practical aspects as had been done in the Declaration on principles of international law concerning friendly relations and the Definition of Aggression.

239. As to principle 4, it was suggested that the words "involving the use or threat of force", a phrase borrowed from the corresponding provision of the Declaration on principles of international law concerning friendly relations, should be added at the end. The question of the relationship of principle 4 to the principle of non-intervention was raised and reference was made to the work of the First Committee of the General Assembly which was considering the matter in the context of a draft declaration on the inadmissibility of intervention and interference in the internal affairs of States.

31/ A/32/144, annexes I and II.

240. Many delegations considered principle 5 together with principle 13, underscoring their importance and stressing the desirability of their close co-ordination since they should adequately reflect the legal status of liberation movements of peoples under colonial, racial and other forms of domination. That status had been developed through the United Nations system and affirmed in more than 200 General Assembly resolutions since the adoption of resolution 1514 (XV), and it derived from the right of peoples to struggle for self-determination and national independence. There had been cases where the transfer of power had been the result of many years of bloody struggle against minority régimes and colonial Powers and of forcible measures taken by the Security Council under Article 41; the position reflected in principles 5 and 13 with respect to the legitimacy of the armed struggle waged by peoples of colonial and dependent territories in the exercise of their inalienable right to self-determination and independence was therefore the correct one. It was also held that the scope, the contents and the limits of principles 5 and 13 in their relationship with the principles of self-determination and independence should be the subject of further precision.

241. Other delegations, although not objecting to a reaffirmation of the principle of self-determination, rejected the notion that the achievement of that objective could give rise to a legitimate use of force or lead to the creation of a new exception to the principle of the non-use of force. Many of the resolutions which had been cited in that respect, including resolution 2160 (XXI), had not had the support of several countries and could not be considered as a sound basis for work in the legal sphere. Furthermore, the use of force in carrying out the above-mentioned objective could not be based on the right of self-defence either, since the situation involved did not imply relations between States. Self-determination, it was further pointed out, could be achieved through negotiations and a peaceful political process. Principles 5 and 13, it was stressed, were far removed from the manner in which the principle of self-determination was enshrined in the Charter. On the other hand, the observation was made that, since the adoption of the Charter, international law had evolved considerably, particularly with respect to the problem of decolonization, and disagreement was expressed with the view that the document should, in relation to the right of people to self-determination, confine itself to the relevant provisions of the Charter. It was pointed out that one at least of the delegations which held that view had supported resolution 2160 (XXI) and should therefore have no difficulty in agreeing to an appropriate reflection in the document of the evolution of international law since the adoption of the Charter. Several delegations were of the opinion that the principle of self-determination should be strengthened on the basis of the Declaration on principles of international law concerning friendly relations and the Definition of Aggression. With particular reference to principle 5, the view was held that it should cover the whole of the right of self-determination as it derived from the Charter, using, for example, the language of the International Covenant on Civil and Political Rights (resolution 2200 (XXI), annex). Another view maintained that it should be reformulated on the basis of the Declaration and of Article 1, paragraph 2, of the Charter.

242. Principle 6 was said to reflect a very real and serious concern of the non-aligned countries. It was, however, pointed out that the concept of stability in international law was not highly developed, that changes of government pertained to the exercise of the right of self-determination and that, here again, one should not confuse the principles of non-use of force and non-interference in the internal affairs of States.

243. As to principle 7, it was pointed out that it brought together three disparate elements, namely: (a) non-recognition of territorial acquisitions resulting from the breach of the prohibition of the use of force - a corollary of the principle of territorial integrity also to be found in the Declaration on principles of international law concerning friendly relations; (b) the question of the validity or invalidity of a treaty procured by the threat or use of force or conflicting with peremptory norms of international law - and, in that connexion, the question of the advisability of interference in treaty relations and of the wisdom of encouraging States not to recognize treaties concluded by others; and (c) the concept of changing the demographic or cultural or geographic characteristics of territories - an idea which seemed out of place in the current context and should in any case be formulated on the basis of the Geneva Conventions of 1949. ^{32/} The view was expressed that the formulations were unsatisfactory and confused the law. It was also felt that the principle under consideration should transcend individual situations and should be couched in as general terms as possible, that the examples given in the text should be carefully looked at and that the formulation should be more concise. The remark was further made that the words "ab initio" could give rise to unwanted contrario interpretations, and that an appropriate link should be provided between that principle (on the consequences of the use or threat of force) and principle 8 (on the international responsibility of States).

244. The inclusion of principle 8 in the projected document was widely supported, its importance being underscored by some delegations, particularly as the collective security mechanism had not so far functioned in a satisfactory manner. It was pointed out, nevertheless, that its formulation was too sweeping since it did not take into account that the use of force in self-defence was a legitimate use of force not giving rise to international responsibility. It was also suggested that the current formulation was too concise and vague and that the principle should be further developed, taking into account the work of the International Law Commission and the provisions of existing treaties. Finally, it was also suggested that the principle might appropriately be placed elsewhere in the future instrument.

245. Principles 9 and 10 were generally considered of great importance, for they related to institutional elements and invited a close look at the machinery and procedures of the collective security system and at the duties of States in relation to that system. Although they were not quite clear, it was said they did contain the seeds of a consideration of the ways in which institutional arrangements could be strengthened: peace-keeping operations, in particular, were eminently relevant to efforts aimed at enhancing the principle of non-use of force. They should, therefore, be developed to include the ideas on peace-keeping, fact-finding, crisis anticipation and preventive diplomacy.

246. The working paper, it was felt, was not sufficiently explicit on the ways of enhancing the effectiveness of the collective security machinery: it should provide for the strengthening of United Nations peace-keeping capabilities and lay down the obligation of States to support such operations and contribute to their financing. Both articles were too general and should be elaborated upon in order to correct the imbalance in the projected document between the normative and the institutional aspects. It was also suggested that both principles could be merged since they both related to the role of the United Nations.

^{32/} United Nations, Treaty Series, vol. 75, Nos. 970-973.

247. With reference in particular to principle 9, some doubts were voiced: it was stressed that the United Nations certainly had responsibilities in the maintenance of international peace and security, as well as rights which enabled it to confront States with the consequences of their illegal activities, but the existence of a "duty" of the Organization in that area was questionable. Other delegations felt that the principle should be elaborated upon so as to clarify the ways in which the United Nations was to discharge its responsibilities in the maintenance of international peace and security and in order to cover peace-keeping. It was also said that principle 9 should be reworded to provide for the duty of States to make fuller use of existing and potential possibilities of the United Nations system on the basis of strict observance of the Charter, for the successful discharge by the Organization of its responsibilities depended on the goodwill of Member States.

248. With reference to principle 10, it was stated that it also should be developed and clarified: attention should be paid, in particular, to the relations between the principle of non-use of force, the principle of non-intervention and the collective security system, and account should be taken of the way in which those elements were reflected in the Charter and developed in subsequent documents. Due regard should also be paid to the role of the Security Council.

249. It was suggested that principle 11 should be grouped together with principles 12 and 13 under one heading. Principle 11, as currently drafted, gave rise to some objections. Some delegations felt that it called for clarification and careful examination, for its purpose was unclear and it might result in a restriction of the generality of the norm contained in Article 2, paragraph 4, of the Charter. It was pointed out that the duty of States to lend support to the victims of the use of force was to be interpreted in the light of the Charter and its Article 51. It was also stressed that the principle contained a novel idea, for assistance to a State exercising his right of self-defence had so far been viewed as a right and not as a duty. Providing for a duty of that type outside the system of collective security and Chapter VII could lead to uncontrollable and arbitrary interventions. The principle, as currently drafted, did not offer a clear criterion to determine at what point the consequences of the use of force had ceased to exist. Thus the support to the victim could become unlimited. The formulation of the principle, therefore, should be brought into line with the Charter. Another reservation expressed in connexion with the principle was that it went too far: it was one thing to assert that the use of force could give rise to legal changes, but quite another to speak of the elimination of all the consequences of the use of force.

250. The inclusion of principle 12 in the projected document was generally supported, and some suggestions were made as to how further to develop the principle. The inclusion of the principle, it was said, offered an opportunity of examining whether Article 51 contained the whole of the right of self-defence and whether it had replaced the entirety of the pre-existing law in that area. It was pointed out that the principle should refer both to individual and collective self-defence. Other questions to be examined, it was added, included the concept of proportionality, the requirement of an "armed attack", the reporting obligation and the control of self-defence by the Security Council - in particular, the question of the extent to which the Security Council had the power to ascertain through fact-finding the legitimacy of a plea of self-defence.

251. Many delegations referred jointly to principles 5 and 13 and, therefore, several comments found under principle 5 are also applicable to principle 13. With specific reference to principle 13, some delegations pointed out that it should be concretized, taking into account the numerous relevant decisions and resolutions of United Nations organs: since colonial and racial domination as well as other forms of alien domination were always the result of the direct or indirect use of force, it was natural that the peoples subjected to such domination should receive support from other States to eliminate the consequences of the initial use of force. When a colonial Power refused to withdraw in favour of an entity which legitimately represented a colonized people and used force to maintain the status quo, it was legitimate for the people in question to use force to defend itself and for third States to assist the colonized State, since, in so doing, they were contributing to enforce the principle of the non-use of force. Some other delegations found it ironic that a document aimed at enhancing the principle of non-use of force should advocate an expansion of the permissible uses of force. Several resolutions usually cited in that respect had not had the support of several countries and resolution 1514 (XV) did not support the statement contained in principle 13. The relevant provisions of the Final Act of Helsinki should be taken into account, it was added.

252. Some delegations expressed doubts on the advisability of including principle 14 in the projected document, for while it was true that general and complete disarmament would be a major contribution to the enhancement of the principle of non-use of force, the achievement of that goal was not of sufficient immediacy to warrant the inclusion of a reference to disarmament in the future paper. Furthermore, it was said, the question of disarmament was so broad that it could not be adequately dealt with in just one sentence. Many delegations, however, felt that the inclusion of principle 14 in the future document was important and should be maintained. The provision, it was said, was very relevant to the question of non-use of force, for there was no doubt that negotiations towards disarmament, if conducted seriously, were conducive to stricter compliance with the principle of non-use of force and that fuller adherence to that principle created in turn a political atmosphere favourable to efforts towards disarmament. It was true that the question of disarmament was being dealt with elsewhere, but the concept of non-use of force was so important that it could not be cut off from its context. In sum, the question of disarmament had to be dealt with in the new instrument inasmuch as putting an end to the arms race and moving towards the reduction of stockpiles and eventually general and complete disarmament was undeniably the most reliable way of eliminating the very possibility of the use or threat of force. Furthermore, it was added, the key elements contained in principle 14, namely, the idea of strict and effective international control, highlighted the fact that the value of disarmament treaties was related to the arrangements they contained for monitoring the performance of their obligations by the parties: it was easy to draft rules of substantive law but much more difficult to ensure that States carried out their obligations and to transform a mere paper protection into more effective instruments for the improvement of the international situation. Several delegations supporting the inclusion of principle 14 also felt that its current formulation should be improved. Thus, it was maintained that the principle would be improved if it included a reference to all possible efforts to implement effective measures for lessening military confrontation as a pre-condition for disarmament and for the enhancement of the principle of non-use of force. The principle, it was said, should incorporate additional elements such as measures to reduce tension in international relations and confidence-building measures, as well as measures to foster the free

dissemination and exchange of information and ideas through national frontiers. Furthermore, it should take into account the Final Document of the Tenth Special Session of the General Assembly (resolution S-10/2), which had been devoted to disarmament. The view was held that it would be useful to make an analysis of what had been discussed in the special session as well as in the Disarmament Commission and see how the proposals made in those forums could be included in the projected document. The reference to the Final Document of the Tenth Special Session of the General Assembly should be more precise, it was said.

253. There was support for the idea contained in principle 15 which, it was said, contributed an important guarantee for the stability of States. It was felt, nevertheless, that the current formulation of the principle left much to be desired and that the principle should be redrafted so as to make its relation to the principle of non-use of force clearer.

254. The inclusion in the future document of principle 16 on peaceful settlement of disputes was widely supported. Objections, however, were voiced concerning the extent to which the current formulation of principle 16 reflected the importance of the principle concerned. It was felt that the principle should be developed with a view to placing it on the same level as that of the non-use of force and the collective security machinery. Those principles were interrelated and complementary, should be looked at together and should be given the same balanced treatment as that provided in the Charter. Account should also be taken, it was said, of the undeveloped stage of the law in the area of peaceful settlement of disputes and of the fact that the mandate of the Special Committee placed on the same footing the principle of the non-use of force and that of peaceful settlement of disputes. As to the elements for a future elaboration of the principle concerned, it was stressed that the relevant provision should elaborate on the general obligation to settle international disputes by peaceful means (Art. 1, para. 1, and Art. 2, para. 3, of the Charter), on the means for peaceful settlement of disputes (Art. 33) and on the institutional procedures for settlement as provided for in the Charter: Security Council (Arts. 24, 34, 36 and 38), General Assembly (Arts. 10, 11, 12 and 14), Secretary-General (Art. 99), regional agencies (Art. 52), and International Court of Justice (Art. 36 of the Statute of ICJ). In general, it was said that the principle should be elaborated upon, taking into account the ideas contained in the working paper submitted by the five Western European countries, in particular, points (1) to (4) of the relevant section. 33/ Attention was also drawn to the need for appropriate and effective machinery in relation to the principle of peaceful settlement of international disputes.

255. Although the idea behind principle 17 was widely considered as acceptable, some reservations were expressed regarding the current formulation of the principle and its place within the document. Thus, regarding its formulation, it was pointed out that the draft was rather vague. It was also said that a legal definition of the principle of good faith should be included, through reference, inter alia, to the principle pacta sunt servanda. The view was also expressed that the principle should be elaborated upon in the light of the Declaration concerning friendly relations and the Final Act of Helsinki. With reference to the place of the principle within the document, some delegations pointed out that it should be inserted at the beginning of the projected document, perhaps in the preamble.

33/ Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1), para. 129.

256. Some representatives held the view that the scope of the working paper should be enlarged to include additional principles, including those of the territorial integrity of States, inviolability of frontiers and respect for international treaties. Other elements which were felt to have a place in the working paper included: in the area of disarmament, measures to reduce tension and increase confidence and promotion of the free flow and exchange of information and ideas across frontiers; in the area of human rights, measures to encourage and promote respect for human rights and fundamental freedoms for all in accordance with the Universal Declaration of Human Rights (resolution 217 A (III)) and other relevant international treaties and instruments, including the International Covenants on Human Rights (resolution 2200 (XXI), annex); in the area of mutual understanding and confidence, measures to promote mutual understanding and confidence among peoples by promoting and facilitating cultural exchanges and greater freedom of movement and contact between peoples, from both the individual and the collective point of view; and in the area of co-operation among States, measures to develop relations and co-operation among States in accordance with the purposes and principles of the Charter.

257. Some representatives, however, warned that the working paper should not be disproportionately extended or have its sense distorted by the insertion of a mass of principles not directly related to the issue under consideration.

258. The question of preparing a comparative table or a topical compilation for the Committee was also discussed in the Working Group and elsewhere. Some delegations were of the view that the proposed comparative table or compilation should be based on the three proposals submitted so far, namely, the draft world treaty submitted by the Soviet Union, the working paper submitted by five Western European countries and the working paper submitted by 10 non-aligned countries. Other delegations felt that the comparative table or compilation should take into account not only the above three proposals, but also the relevant ideas and suggestions which had been put forward orally and in writing in the Special Committee as well as in other forums, including the Sixth Committee of the General Assembly. No agreement, however, was reached.

259. At the 32nd meeting of the Working Group, on 13 April, a revised working paper (A/AC.193/WG/R.2/Rev.1) was submitted by the non-aligned countries which had sponsored the original document, namely, Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda. The revised text read as follows:

"1. The use of force or threat of force could be defined 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.

"2. In accordance with general international law and the pertinent provisions of the Charter of the United Nations, the complete prohibition of the use of force or the threat thereof in international relations constitutes an imperative norm which shall not be derogated from.

"3. All States shall refrain from:

"(a) All acts or threats of invasion, occupation or bombardment of a territory of another State; the use of armed forces against the territory of another State as well as other acts and manifestations of the use or threat of use of force aimed against the territorial unity and integrity and independence of another State;

"(b) Any attack against the land, sea or air forces, or marine and air fleets of another State;

"(c) All forms of intervention, in particular military intervention, reprisal by force or the threat thereof against another State;

"(d) Using armed force to deprive peoples of their right to self-determination, freedom and independence, or to disrupt territorial integrity;

"(e) Hostile propaganda directed against a State or a group of States;

"(f) Engaging in covert attempts to destabilize other Governments;

"(g) All forms of coercion or political, economic or military pressure or any other form thereof against another State;

"(h) Sending, organizing or encouraging the organization of irregular forces or armed bands, including mercenaries;

"(i) Organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts.

"4. Not to recognize, ab initio, the consequences that ensue from the use of force, or threat of it, such as the conclusion of a treaty which has been procured by threat or use of force or contains provisions in violation of peremptory norms of international law or creation of situations of fait accompli, or acquisition of territory or advantages resulting from use of force, or the change of the demographic or cultural or geographic characteristics of the territories under occupation, in accordance with binding international legal conventions and principles of international law.

"5. The use of force gives rise to international responsibility.

"6. The United Nations responsibility under the Charter in the effective maintenance of international peace and security is fundamental to the enhancement of the effectiveness of the principle of the non-use of force in international relations.

"Such responsibility should be discharged by:

"(a) Making full use of Articles 10, 11, 13 and 14 of the Charter as well as the relevant resolutions of the General Assembly and the rules of procedure of the General Assembly;

"(b) Utilizing and updating the fact-finding mechanisms set up by the General Assembly;

"(c) Full use of the fact-finding functions of the Security Council under Article 34 of the Charter;

"(d) Full recourse to Chapter VII of the Charter by the Security Council and implementation of its provisions;

"(e) Establishing clear rules and principles governing the military activities of the United Nations;

"(f) Giving early consideration by the Security Council to the provisions of Article 43 of the Charter;

"(g) The establishment of peace-keeping forces;

"(h) Encouraging the Secretary-General to discharge his responsibilities under Articles 98 and 99 of the Charter.

"7. All States have the duty to assist the United Nations in discharging its responsibility as assigned to it by the Charter in the maintenance of international peace and security by:

"(a) Exploring the possibility of earmarking contingents for the United Nations peace-keeping reserve of national contingents trained in peace-keeping functions, or if they are not in a position to do so, considering earmarking other facilities or providing logistic support;

"(b) All States should honour all aspects of the collective security system, including both the need to bring matters to the Security Council and the obligation to report promptly any and all measures taken under Article 51 of the Charter;

"(c) All States should facilitate the implementation of Article 43 of the Charter by making available to the Security Council on its call and in accordance with a special agreement or agreements, armed forces, assistance and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

"8. The duty of States to support the victim of the use of force as defined in paragraph 3 above by all means at their disposal - material or moral - until all consequences of such use of force are eliminated.

"9. Reaffirmation of the legitimacy of the right of all peoples under colonial or racist régimes or other forms of foreign domination and occupation to use all means at their disposal, including armed struggle, and to seek and receive support to achieve self-determination, independence and territorial integrity as well as to liberate occupied territories and to eliminate the traces of racism, colonialism and apartheid.

"10. Reaffirmation of the right of all States to defend their unity, territorial integrity and independence.

"11. In all circumstances States retain their inherent right to self-defence as embodied in Article 51 of the Charter.

"12. The progress towards the realization of the goal of general and complete disarmament under strict and effective international control will enhance the effectiveness of the principle of non-use of force in international relations. To this end, States possessing nuclear arms must refrain from the use or the threat of use of nuclear arms against non-nuclear States. The nuclear-weapon States must refrain from any activity in the nuclear field which would jeopardize the security and well-being of the peoples of non-nuclear-weapon States. They must also refrain from being the first to use nuclear arms against other nuclear-weapon States.

"13. The scrupulous observance by all States of the principle of non-interference in internal and/or external affairs of other States is essential to the enhancement of the principle of non-use of force. The States resolutely reject any attempts to justify foreign interference under any pretext whatsoever, from any source.

"14. The peaceful settlement of disputes is a necessary corollary to the principle of non-use of force in international relations. The content of the substance relevant to the peaceful settlement of disputes is to be derived basically from the provisions of the Charter and the general principles of international law.

"15. Reaffirmation that the implementation of the principle of good faith in the development of international relations as well as that of respect of obligations emanating from treaties, valid under the generally recognized principles and rules of international law, and in full conformity with Article 103 of the Charter, contributes to the creation of the atmosphere of trust and confidence which is necessary to the enhancement of the principle of non-use of force.

"16. The use of force or the threat of use of force against another State cannot be justified under any pretext, in any circumstance, or for any political, economic, military or any other reason whatsoever."

260. In presenting the text, the spokesman for the sponsors stated that a joint effort had been made to reword the 17 principles taking into account the comments and suggestions made during the thirty-fifth session of the General Assembly and at the 1980 and 1981 sessions of the Special Committee, and to present them in the form of a detailed working paper reflecting the sponsors views on the enhancement of the effectiveness of the principle of non-use of force, including ideas expressed by a number of delegations which the sponsors had found acceptable. The revised working paper dealt with the substance of the issue under consideration and left aside, for the time being, the question of the form of the instrument to be prepared. The text was not final and was not intended to replace the two other proposals submitted to the Working Group. It should be the subject of a process of dialogue and of reflection in a framework to be determined by the Special Committee or by the General Assembly.

261. With regard to paragraph 1, the sponsors had not changed the definition of the use of force or threat of force, it being understood that an exact definition could not be formulated until the end when general agreement had been reached on the content of the remainder of the document.

262. Paragraph 2 set forth the principle of the complete prohibition of the use of force or the threat thereof and also the idea that such a prohibition constituted an imperative norm which admitted of no derogation.

263. Paragraph 3 listed the various forms of the use of force or the threat thereof from which States must refrain and contained the ideas contained in principles 3, 4, 5 and 6 of the original document to which it added:

(a) All acts or threats of invasion, occupation or bombardment of a territory of another State; the use of armed forces against the territory of another State as well as other acts and manifestations of the use or threat of use of force aimed against the territorial unity and integrity and independence of another State;

(b) Any attack against the land, sea or air forces, or marine and air fleets of another State;

(c) All forms of intervention, in particular military intervention, reprisal by force or the threat thereof against another State;

(d) Using armed force to deprive peoples of their right to self-determination, freedom and independence, or to disrupt territorial integrity;

(e) Hostile propaganda directed against a State or a group of States;

(f) Engaging in covert attempts to destabilize other Governments;

(g) All forms of coercion or political, economic or military pressure or any other form thereof against another State;

(h) Sending, organizing or encouraging the organization of irregular forces or armed bands, including mercenaries;

(i) Organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts.

264. Paragraph 4 set forth principle 7 of the original document concerning non-recognition of the consequences that ensued from the use of force or threat of it. Similarly, paragraph 5 was identical with principle 8 of the original document.

265. Paragraph 6 elaborated on principle 9 of the original document, pointing out that the responsibility of the United Nations for the maintenance of peace and security was essential to the enhancement of the effectiveness of the principle of non-use of force; the eight subparagraphs indicated how the Organization could discharge that responsibility, in particular by implementing the provisions of Chapter VII of the Charter. Although it had seldom been applied, Chapter VII, if implemented, could make a definite contribution to the maintenance of peace and security and could limit the use of force. Paragraph 6 also emphasized the role of the General Assembly and of the Secretary-General in the light of the fact that although the Security Council had the main responsibility for the maintenance of peace and security, under Article 24 of the Charter, it did not have the sole responsibility in that area.

266. Paragraph 7 elaborated on principle 10 of the original document regarding the duty of States to assist the Organization in discharging its responsibilities. Paragraph 8 reflected the idea contained in principle 11 of the original document by stating that it referred to victims of the use of force as defined in paragraph 3.

267. Paragraphs 9, 10 and 11 dealt with exceptions to the principle of non-use of force or, more specifically, to cases in which the use of force was justified.

268. Paragraph 9 combined the ideas contained in principles 5 and 13 of the original document that were supported by all countries and peoples which upheld the principles of justice and freedom. The non-aligned States attached particular importance to those ideas, namely, the legitimate right of all peoples under colonial or racist régimes or any form of domination or occupation to use all means at their disposal, including armed struggle, and to seek and receive support to achieve self-determination, independence and territorial integrity as well as to liberate occupied territories and to eliminate the traces of racism, colonialism and apartheid.

269. Paragraph 10 was directly related to paragraphs 9 and 11 and reaffirmed the right of all States to defend their unity, territorial integrity and independence.

270. Paragraph 11 concerned the right to self-defence and referred to Article 51 of the Charter.

271. Paragraphs 12, 13 and 14 corresponded to principles 14, 15 and 16 of the original document and dealt with principles directly related to non-use of force and conducive to its enhancement - namely, general and complete disarmament, including the special responsibility of the nuclear-weapon States, non-interference in internal and external affairs of other States and rejection of any attempts to justify foreign interference under any pretext whatsoever and, lastly, peaceful settlement of disputes - which, if respected, would guarantee non-use of force.

272. Paragraph 15 took up the idea contained in principle 17 of the original document (namely, that the implementation of the principle of good faith in international relations would contribute to the creation of the atmosphere of trust and confidence which was necessary to the enhancement of the principle of non-use of force) adding to it an idea that was closely related to that principle, that of respect for the obligations emanating from treaties, valid under the generally recognized principles of international law and in conformity with Article 103 of the Charter.

273. Paragraph 16 reaffirmed a final general obligation by stating that the use of force or the threat of use of force could not be justified under any pretext, in any circumstance or for any political, economic, military or any other reason whatsoever.

274. Finally, turning to the structure of the document, the spokesman pointed out that paragraph 1 contained the definition of the use of force or threat of force, paragraph 2 completely prohibited the use of force or the threat thereof, while paragraphs 3 and 4 dealt respectively with the various banned forms of use of force or threat thereof and the consequences of the use of force. Paragraphs 5, 6, 7 and 8 dealt with the role and responsibility of the United Nations and of States in respect of the enhancement of the principle of non-use of force, and paragraphs 9,

10 and 11 dealt with cases in which the use of force was justified. Paragraphs 12, 13 and 14 concerned principles related to the non-use of force that were likely to contribute to its enhancement and paragraphs 15 and 16 dealt with measures calculated to create the atmosphere of trust and confidence necessary to the enhancement of the principle of non-use of force.

275. Most of the representatives who spoke expressed their gratitude to the sponsors for the excellent example of good faith and co-operative spirit, as well as flexibility and pragmatism, which they were giving to the Committee and which testified to the commitment of non-aligned countries to the enhancement of the principle of non-use of force in international relations. Several representatives noted with satisfaction that due account had been taken in preparing the revised version of the working paper of ideas put forward during the debate and said that the revised version of the working paper should serve as a basis for future work. One representative, however, held the view that the imbalance between the non-use of force, the peaceful settlement of disputes and the collective security mechanism on the one hand, and between normative and institutional elements on the other, to which he had drawn attention in connexion with the original version of the paper, had been to some extent remedied but not yet completely eliminated. He also advocated the inclusion in the paper of elements such as measures to reduce tension and increase confidence and the promotion of the free flow and exchange of information and ideas across frontiers, human rights, measures to promote mutual understanding and confidence and measures to develop relations and co-operation among States. One delegation remarked that the drafting of paragraph 15 to some extent weakened paragraph 4. 34/

276. Many delegations, not having had time to study the revised working paper, refrained from commenting on it at that stage.

277. The revised version of the working paper was discussed only in a preliminary way owing to lack of time.

34/ At the 60th plenary meeting of the Special Committee, on 15 April, some delegations similarly expressed the view that the drafting of paragraph 15 to some extent weakened paragraph 4 and one of the sponsors said in that connexion that after the word "treaties", the words "other than those mentioned in paragraph 4 above and" should be inserted.

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