

**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-FOURTH SESSION

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. INTRODUCTION

1. At its 86th plenary meeting, on 16 December 1978, the General Assembly, on the recommendation of the Sixth Committee, 1/ adopted resolution 33/96 entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations", which reads 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 2/ submitted by the Union of Soviet Socialist Republics, as well as other proposals made during the consideration of this item,

"Recalling in particular 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,

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

"Noting that the Special Committee has commenced work to accomplish the tasks assigned to it,

"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,

"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;

"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;

1/ Official Records of the General Assembly, Thirty-third Session, Annexes, agenda item 121, document A/33/418.

2/ Ibid., Thirty-first Session, Annexes, agenda item 124, document A/31/243, annex.

3/ Ibid., Thirty-third Session, Supplement No. 41 (A/33/41 and Corr.1), (English only).

"3. 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;

"4. Requests the Secretary-General to provide the Special Committee with the necessary facilities and services, including the preparation of summary records of its meetings;

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

"6. Decides to include in the provisional agenda of its thirty-fourth 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 at its 1979 session was as follows:

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

3. The Special Committee met at United Nations Headquarters from 17 April to 11 May 1979. 4/

4. The session was opened on behalf of the Secretary-General by Mr. Mikhail D. Sytenko, Under-Secretary-General for Political and Security Council Affairs, who represented the Secretary-General at the early part of the session. Mr. Erik Suy, Under-Secretary-General, the Legal Counsel, represented the Secretary-General at the later part of the session.

* Nicaragua, Panama and Peru replaced Argentina, Brazil and Chile, which were members in 1978, on the basis of rotation as agreed by the Latin American Group when the members of the Committee were appointed (A/32/500, annex III).

4/ For the membership list of the Special Committee at its 1979 session, see A/AC.193/INF.2 and Corr.1.

Mr. Valentin A. Romanov, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Special Committee. Mr. Gamal M. Badr, Deputy Director for Research and Studies, and Miss Jacqueline Dauchy, Senior Legal Officer, Codification Division, Office of Legal Affairs, acted as Deputy Secretaries to the Special Committee.

5. At its 15th and 17th meetings, on 17 and 19 April, the Special Committee elected the following officers:

Chairman: Mr. Francisco Cuevas Cancino (Mexico)

Vice-Chairmen: Mr. Habil A. Elaraby (Egypt)
Mr. Andreas J. Jacovides (Cyprus)
Mr. Dimiter Kostov (Bulgaria)

Rapporteur: Mr. Eric Duchêne (Belgium)

6. At its 15th meeting, 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 and paragraph 2 of its resolution 33/96, of proposals and suggestions submitted by States.
6. Adoption of the report.

7. At its 16th meeting, on 18 April, the Special Committee, with reference to the communication of the Latin American Group concerning the observers from Argentina, Brazil and Chile (A/32/500, annex III), agreed that the representatives of those Member States which indicated their willingness to contribute to the work of the Committee might, with the consent of the Committee, make statements and elaborate orally on replies submitted by their Governments. At the 18th meeting, on 20 April, the Special Committee took into consideration the request from the Permanent Representative of Viet Nam addressed to the Secretary-General and agreed that, as the representatives of Argentina, Brazil and Chile were granted such requests, the representative of Viet Nam could take part in the work of the Special Committee as an observer. The Committee also agreed that observers could attend the meetings of the Working Group (see para. 11 below) but not participate in discussions. In accordance with the decision taken by the Committee at the 18th meeting, the observer from Viet Nam made a statement with the consent of the Committee.

8. The Special Committee devoted its 16th to 19th and 21st to 25th meetings, held between 18 April and 4 May, to a general debate in which the representatives of the following States took part: Poland, Nicaragua, Union of Soviet Socialist Republics, United States of America, Hungary, Bulgaria, France, India, Ecuador, Italy, Romania, Panama, Greece, United Kingdom of Great Britain and Northern

Ireland, Germany, Federal Republic of, Cyprus, Egypt, Japan, Iraq, Mongolia, Senegal, Belgium, Morocco, Finland, Nepal, Turkey and Benin.

9. 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 and annexed to the present report. The Committee also had before it comments of the Government of Qatar received in accordance with General Assembly resolution 33/96 (A/AC.193/1).

10. At its 15th meeting, on 17 April, the Special Committee decided to re-establish an open-ended Working Group whose mandate would be the same as that entrusted to the Committee itself.

11. The Working Group was chaired by the Chairman of the Special Committee, the other officers of the Special Committee also performing their respective functions in the Working Group. It held eight meetings between 23 April and 4 May 1979.

12. At its 29th meeting, on 11 May, 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.

13. Since the Committee had not completed its work, it recognized the desirability of further consideration of the questions before it. Many delegations supported the continuation of the Committee's work and stressed the importance of the issues. On the other side there were delegations which took the position that the renewal of the mandate was a matter falling within the competence of the General Assembly.

II. SUMMARY OF THE GENERAL DEBATE

A. General observations on the task before the Committee

14. A number of representatives commented on the task entrusted to the Committee by the General Assembly in its resolution 33/96.

15. Many delegations stressed the fact that few United Nations organs in recent years had been given a task more far-reaching in terms of its expected positive implications than the Special Committee, the main task of which was to prepare a generally acceptable draft world treaty on the non-use of force in international relations without permitting itself to be distracted into considering other matters. A number of delegations maintained that the mandate of the Special Committee had been clearly defined. It was to continue its work, its goal being the drafting of such a treaty, as well as the peaceful settlement of disputes. It could make such other recommendations as might be appropriate. They asserted that it was the view of the majority of the Member States of the United Nations that the Special Committee should first give attention to the drafting of the treaty, which could constitute a reliable structure of world peace at a time when the accumulation of lethal weapons posed unknown perils. It was said that many delegations had opposed attempts to hinder the constructive work of the Special Committee on the Soviet draft world treaty by means of procedural discussions or attempts to distract the attention of the Special Committee to the consideration of other matters. It was emphasized that the conclusion of a world treaty on the non-use of force in international relations would undoubtedly contribute to the consolidation and deepening of détente, the creation of favourable conditions for achieving practical results in the field of disarmament and the curbing of the arms race, and the furtherance of lasting peace and security.

16. Other delegations, however, maintained that the Committee would be far more likely to become capable of making a contribution to the work of the United Nations if its members focused on its mandate so that it could labour on a common basis. In their view, the Committee was not denominated as one designed to elaborate a treaty or any normative instrument: its title rightly took the norm of the prohibition of the threat or use of force as an a priori and suggested an examination of ways and means of enhancing the effectiveness of that norm. As to paragraph 2 of the General Assembly resolution, it defined an integral mandate without establishing any kind of priority; it had been so drafted as to give the Committee the necessary latitude to fulfil its task in considering how the effectiveness of the principle of non-use of force in international relations might be enhanced. While recognizing the inextricable interrelationship between the principle in question and that of the peaceful settlement of disputes, it was said that the Committee was entirely free to draft a treaty, or alternatively, such other recommendations as might be appropriate. It was clearly up to the Committee to determine the appropriate course to follow. It was asserted that before commencing discussion of responses to the problem there should be an examination of the reasons why States had recourse to the use of force.

17. An examination of specific instances of uses of force was suggested in this connexion. Serious deprivations of human rights, failure to settle disputes by

peaceful means and lack of faith in the collective security system were noted in this respect. It was suggested that an analysis of the reasons why States had recourse to force would provide the Committee with a deeper understanding of the problem and thus a firm basis for studying possible recommendations to ameliorate the situation, rather than focusing on glib suggestions such as a draft treaty which had no relevance to contemporary needs.

18. Other delegations said that this was unnecessary and would distract the Committee, and that it was definitely clear from paragraph 2 of General Assembly resolution 33/96 that the Committee was established specially for elaborating the world treaty. It was also stated that the task of the Committee as it had been determined by the Assembly consisted not in the purposeless and useless study or research of irrelevant matters, but in the preparation of real political and legal guarantees for the strengthening of world peace - that is to say in the preparation of the world treaty on the non-use of force. As to the causes of the use of force, they were well known and resulted from the expansionist policy of some States directed at the colonial domination of peoples, support for the racist régimes and the suppression of national liberation movements.

19. Since, it was observed, no agreement had been reached on the very idea of drafting a treaty and since it did not seem likely that basic positions on this crucial issue would change in a near future, the Committee could either continue a fruitless discussion on the question of the final outcome of its work or leave this point aside and explore new avenues, thus breaking free of the present stalemate, as it was morally bound to do in view of the deterioration of the world situation. It was therefore suggested that the Committee postpone any decision on the form its product would take - which could be that of a declaration or a resolution - and begin work on the substance, dealing concurrently, as provided in its mandate, with the question of the non-use of force and that of the peaceful settlement of disputes.

20. A number of delegations disagreed with those who said that the Committee's work was at a stalemate. They stressed that the idea of a stalemate had been artificially launched by a few delegations which wanted to distract the Committee from the fulfillment of its main task. They added that the Committee was doing constructive, positive work in drafting an international agreement on such a complicated and important question as the non-use of force in international relations and that, in their view, the overwhelming majority of States considered the preparation of a treaty on the non-use of force as a paramount and realistic goal corresponding to the interests of peace and security. They emphasized that many considerations and proposals on the draft treaty put forward both in the plenary Committee and in the Working Group proved the absurdity of assertions about a stalemate.

21. With reference to the proposed world treaty on non-use of force in international relations, it was pointed out that a proposal coming from a permanent member of the Security Council should be given due weight and respect, particularly because of the imperatives of present-day realities. Attention was also drawn to the fact that the General Assembly, while it had reaffirmed in its resolution 33/96 the mandate it had previously given to the Committee in its resolution 32/150, had introduced a new element by urging the Special Committee to reach its goal of drafting the treaty "at the earliest possible date". While this new element had to be interpreted in the light of the complexity of the task to be accomplished, there was no doubt, it was maintained, that the Committee had to bear

in mind the importance of the time factor and should in particular avoid repeating at the current session the time-consuming exercises in semantics in which it had indulged at the previous session in connexion with the mandate of the Committee.

22. Several delegations emphasized that the Soviet Union's draft had been widely recognized as a sound basis for working out a generally acceptable text and had been the subject, during the first session of the Committee and at successive sessions of the General Assembly, of constructive comments both generally and with respect to particular provisions. The Committee should therefore concentrate on this draft in a business-like manner and a positive spirit of co-operation and mutual understanding, without allowing itself to be distracted into considering other matters and without giving in to attempts to interfere with constructive work on the draft. It was added that all should be done to expedite fruitful negotiations with a view to completing the text of the treaty and that the Committee should follow the sound practice of its previous session and start the discussion of individual articles in the draft before it.

23. Several other delegations said that they had not been definitely convinced either by the arguments adduced in favour of the elaboration, on the basis of the Soviet draft, of a treaty on the non-use of force in international relations or by the reasons invoked in order to rule out the drafting of such a treaty. In their view, the Committee should abandon that pointless discussion and proceed to tackle with honesty and without political sectarianism the practical phase of its work; it should refrain from adopting negative attitudes and remain open to any proposal whose basic purpose was to strengthen the principle of non-use of force. It was pointed out in this connexion that there was nothing in the Committee's mandate opposed to the drafting of a treaty on the non-use of force and that the idea of drafting such a treaty was supported by the majority of Member States. Furthermore, it was important that the Committee should take care not to disregard either the will of the majority or the objections of those who felt some concern about the drafting of a treaty. The Committee should regard as supplementary rather than as antagonistic the drafting of a new instrument reiterating in firmer and more detailed terms the obligation of all States to abstain from recourse to force and the search for more effective procedures for the peaceful settlement of disputes. Since the Committee had a draft treaty before it, it should consider it in detail with a view to improving it as appropriate. If its efforts resulted in an inoperative or dangerous text - and the critical attitude of some delegations could, if used constructively, contribute effectively to the avoidance of such a result - the Committee should consider the other possibilities envisaged in paragraph 2 of General Assembly resolution 33/96.

B. General observations on the principle of non-use of force in international relations and enhancing its effectiveness

24. Several delegations reiterated the commitment of their Governments to the purposes and principles of the United Nations and to international law. Unswerving commitment was expressed to the full implementation of the Charter of the United Nations, to ensuring a universal, just and lasting peace, the strengthening of international security, taking effective measures for disarmament, as well as the furtherance of international détente and the settlement of international disputes by peaceful means. It was recalled that the States participating in the Conference on Security and Co-operation in Europe had, in the Final Act of the Conference 5/

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

signed on 1 August 1975, declared their determination to respect and put into practice the principle of sovereign equality of States, the obligation to refrain from the threat or use of force, the inviolability of frontiers, the territorial integrity of States, the peaceful settlement of disputes, the non-intervention in internal affairs, the respect for human rights and fundamental freedoms, the equal rights and self-determination of peoples, the co-operation among States and the fulfilment in good faith of obligations under international law. It was also said that the Charter of the United Nations and the Charter of the Economic Rights and Duties of States (General Assembly resolution 3281 (XXIX)) contained a number of principles which countries accepted to abide by. In this connexion, it was noted that the international community wished the rule of law to be observed in the conduct of international relations because only through such observance could the sovereignty, independence and freedom of the majority of States be safeguarded and international peace and security maintained.

25. Many delegations stressed that within the system of the United Nations Charter and contemporary international law the principle of non-use of force in international relations occupied a central place. This principle, it was stated, was the cornerstone of international relations and of the Organization itself and all States Members of the United Nations were bound, under Article 2, paragraph 4 of the Charter, to 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. Several delegations referred to relevant provisions of their national constitutions, to the principles guiding the foreign policies of their Governments with respect to the prohibition of aggression and of resort to force, and to the need for a reduction in the threat of nuclear war and accomplishing the historic task of general and complete disarmament. Mention was also made of bilateral treaties containing the obligation to refrain from the threat or use of force and to settle disputes exclusively by peaceful means. It was emphasized that the most rational and effective way of ensuring lasting peace and security of nations was the conclusion of a world treaty on the non-use of force in international relations.

26. The view was also expressed that non-use of force was synonymous with peace and that peace entailed the indispensable requirement of renouncing the threat or use of force. It was stated that the inherent right of individuals and nations to life in peace was the most fundamental human right and reference was made in this context to the adoption by the General Assembly, without a dissenting vote, of the Declaration on the Preparation of Societies for Life in Peace (resolution 33/73) which, it was noted, was the first international document to recognize, in particular, in the light of continued resort to armed force, the fundamental right to life in peace, and which had been so conceived as to generate what could be broadly defined as political goodwill in international relations. The view was also expressed that the principle of non-use of force struck at the very root of the policy of domination and imperialist exploitation which had heretofore flouted the rights of peoples to independence, freedom and sovereignty.

27. It was said that the consideration of the Committee's report at the thirty-third session of the General Assembly had been very challenging and had demonstrated once again that the question of enhancing the effectiveness of the principle of non-use of force in international relations was one which Member States regarded as being of the utmost importance. Some delegations holding that view said that an overwhelming majority of delegations had expressed the view that the conclusion of a world treaty was timely and appropriate. It was said that the drafting of such a

treaty was supported by representatives of all geographic areas of the world, delegations of non-aligned countries of Asia, Africa, Latin America, the socialist countries of Eastern Europe and some countries of Western Europe. The Soviet draft of a world treaty was acknowledged by many delegations as a solid basis for the drafting of a generally acceptable text. Other representatives disagreed with those views.

28. A number of delegations stressed the fact that history, past and present, provided many instances of aggression and resort to force. It was noted that aggressive wars had been waged in the name of various mythical concepts such as "national greatness", "historical mission", "living space" and "defence of the so-called free world". It was also stressed that the peoples of the world had suffered a great deal from the scourge of two world wars, that the outbreak of a third world war which might cause the extinction of civilized life on earth loomed over the head of mankind and that the peoples of the non-aligned countries in Asia, Africa and Latin America had suffered and paid a tremendous price from the results of the unfettered use of force by imperialist Powers. Specific reference was made in that connexion to the question of Palestine. It was said that the people of Palestine were still victims of colonial and racial domination and aggression and still deprived of their legitimate rights to self-determination and statehood; Arab territories continued to be occupied and Arab States were threatened with war and foreign intervention unless they gave their consent to the liquidation of the Palestinian question. Regarding the Arab Gulf area, one representative said that its stability today was undermined by threats of intervention from outside the region; he went on to state that the stability of the Arab Gulf area would only be achieved by the respect of the sovereignty and territorial integrity of the States in the region and the respect of their will to pursue a non-aligned policy away from the pressures of power blocs. In reply to this, another representative said that States which refused to accept fundamental United Nations decisions such as Security Council resolution 242 (1967) would do well to reflect on their own conduct before making accusations.

29. It was also emphasized that violence was not the exclusive preserve of big Powers and that in recent years even small and developing countries had joined in the arms race, thus spending on armaments resources that should have been used for promoting the well-being of their population. Many countries, it was added, had suffered not only from the threat of use of force but also from indirect aggression such as the supply of arms and other forms of assistance to revolutionaries or terrorists, political or economic coercion, press campaigns and pressure by international financial bodies.

30. In the course of the last few months alone, it was said, events in different parts of the world had demonstrated that it was time for urgent measures to strengthen the principle of non-use of force. A permanent member of the Security Council had recently launched an overt and premeditated armed aggression against a neighbouring country in order to punish that country for not following a policy pleasing to the aggressor and to teach it a "bloody lesson". The world had thus witnessed naked aggression against the Socialist Republic of Viet Nam. It was also noted that on recent occasions States in one continent or another had resorted to force without even attempting to find out, before taking such a far-reaching and near-sighted decision, whether the dispute they had decided to resolve by force might rather be brought before the competent United Nations bodies and in particular the Security Council. Experience had shown, it was said, that although principles aimed at realizing the desire of peoples for peaceful coexistence under

international law were enshrined in international instruments such as the Charter of the United Nations they were still often violated, which explained why the establishment of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations had been welcomed by the majority of States Members of the United Nations.

31. It was concluded that the principle enunciated in paragraph 4 of Article 2 of the Charter, although it was universally accepted and was a principle of jus cogens, 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 as set out in Article 1 of the Charter, and had been violated time and again with impunity. With such manifestations of international lawlessness rampant in the world, it was stated, the need for doing something effective through the United Nations for the universal application of the prohibition of the resort to force in international relations was more than ever present and pressing. Attention was drawn in this connexion to the need to maximize the role of international law in averting the illegal use of force in international relations.

32. Several representatives declared themselves convinced that there was room for improvement upon the present legal position both in order to remedy existing situations and in order to avoid the repetition of such situations in the future. Reference was made in this connexion to the firm position of the non-aligned movement as affirmed by the Colombo Summit in 1976 and the Belgrade Conference of 1978 that it was essential to formulate a binding international agreement under which a firm commitment would be made not to use force in international relations. It was also pointed out that an effective system for the peaceful settlement of disputes was a necessary corollary to the prohibition of the use of force, as was also a watertight and effective collective security system ensuring the safety of all States. Emphasis was placed on the link between the principle of non-use of force and the peaceful settlement of international disputes.

33. It was noted that in the last 35 years that principle had undergone significant developments that had made it possible better to define, clarify and enrich its scope and content. Reference was made in particular to 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)) under which acts contrary to the prohibition of the use of force included not only the threat or use of force against the territorial integrity or political independence of any State but also war propaganda and acts of reprisal involving the use of force and which also enunciated the duty of States to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State, as well as to refrain from 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. Reference was also made to the Definition of Aggression (Assembly resolution 3314 (XXIX)), under which no consideration of whatever nature, whether political, economic, military or otherwise could serve as a justification for aggression, as well as to the Final Act of the Helsinki Conference under which participating States had undertaken to refrain from any acts constituting a threat of force or direct or indirect use of force as well as from any manifestation of force for the purpose of inducing another State to renounce the full exercise of its sovereign rights. 1

34. Many representatives stressed that initiatives aimed at safeguarding the peace, the maintenance of which was the most important task of the United Nations, could only awaken the interest of countries committed to peace.

C. Observations concerning the draft World Treaty on the Non-Use of Force in International Relations submitted by the Union of Soviet Socialist Republics

35. The debate revealed a divergence of approach to this problem. Many delegations favoured the idea of drafting a treaty on the non-use of force in international relations and supported the Soviet initiative. Others were opposed to the idea of a treaty and consequently declined to comment on elements of the drafting thereof.

36. Many representatives held the view that the proposal of the Soviet Union was timely and appropriate as a further effort to promote peaceful relations among all States and strengthen international security. Some of the delegations pointed out that an overwhelming majority of States shared the opinion that the proposal was a positive and constructive one which would enable the international community to achieve a further milestone in the process of building a peaceful structure of world relations and in the progressive development of international law. Mention was made in this connexion of the positions taken on the subject at recently held international conferences, namely the 1978 Conference of Ministers for Foreign Affairs of the Non-Aligned Countries which had reaffirmed the necessity of arriving at a binding international agreement under which States would undertake to refrain from the use of force in international relations, and the 1978 meeting of the Political Consultative Committee of the States parties to the Warsaw Treaty which had stated in a declaration that they were in favour of concluding a world treaty on the non-use of force in international relations which would affirm the obligation of all States to refrain from the use or threat of force in all its forms and manifestations, including the use of nuclear weapons.

37. In the view of those representatives, the elaboration of a world treaty on the non-use of force in international relations in conformity with the Charter of the United Nations could only have a far-reaching positive influence on international relations. The purpose of elaborating and concluding such a treaty was to transform the principle of non-use of force into a clearly defined obligation which would enhance the responsibility of all States parties to the treaty for strict observance of that basic principle of international law and would thus increase its effectiveness. Such a treaty would not be a mere repetition of those provisions of the Charter which concern the non-use of force, but would also contain new important elements, making concrete the provisions of the Charter. The conclusion of such a treaty would be the natural extension of the efforts made by States to strengthen international peace and security. It would also give new and significant momentum to the process of international détente and would foster the creation of the atmosphere of necessary trust among States which proved to become a reliable guarantee against conflicts and war. The conclusion of this treaty would facilitate the strengthening of the foundations of international security without casting doubt on the rights, obligations or interests of any party if, of course, these interests were in accordance with the goals of ensuring universal peace. Such a treaty developing and concretizing the obligation not to use force, as enshrined in the Charter, and taking into account the emergence of nuclear weapons and the particular danger of use of armed force in present conditions would be in keeping with the interests of all States regardless of the size of their territory or population, regardless of whether they were nuclear-weapon Powers or not. Finally, it would engender favourable conditions for curtailing the steadily increasing arms race, as well as for the

reduction of armaments, including nuclear weapons, and for further progress toward universal and complete disarmament, and it would release enormous material and financial resources for the economic and social progress of peoples.

38. It was also pointed out that the proposal for a world treaty on the non-use of force was acquiring ever increasing urgency in the light of recent events which, it was stated, brought further evidence of the need to take urgent measures to strengthen the principle of non-use of force. In connexion with those events the world had witnessed the resurrecting in international practice of doctrines which had until then been held to belong irreversibly to the past. Regret was expressed at the failure of the Security Council to condemn those actions - which, it was stated, clearly constituted aggression on the basis of the criteria set forth in the Charter and in the Definition of Aggression - and at the resulting erosion, to which developments in other parts of the world was also contributing, of the principle contained in Article 2, paragraph 4, of the Charter.

39. Another circumstance which, it was suggested, called for speedy measures to reaffirm the principle of non-use of force and enhance its effectiveness was the emergence and spread of nuclear weapons. In this connexion, attention was drawn to the need to recognize that the solutions to the question of the non-use of force in general and the problem of prohibiting nuclear weapons were inseparably linked. The aim of nuclear disarmament, it was added, required maximum realism in the approach to its solution and it was inconceivable that such a question could be resolved unless measures were taken to strengthen the political and legal guarantees of the security of States. Since, it was concluded, numerous armed conflicts had arisen in the period since the Charter of the United Nations had been signed, and since the risk that local conflicts could develop into a world nuclear war had enormously increased with the emergence of nuclear weapons, the fact that the principle of the non-use of force in international relations was enshrined in the Charter could not be validly invoked to deny the need to develop that principle and to incorporate it in a special treaty.

40. It was further stated that the proposal to develop and give concrete expression to the principle of the non-use of force in a treaty was fully in keeping with the traditional practice of the United Nations under which general principles enunciated in the Charter were embodied in international conventions, treaties and agreements concluded under the auspices of the United Nations. Such instruments reinforced the effectiveness of the implementation of the provisions of the Charter and enhanced the authority and the role of the Organization. The justification for the drafting of a treaty on the non-use of force, it was added, could be traced back directly to Article 13, paragraph 1 (a), of the Charter. From the legal point of view, the elaboration of such a treaty would consolidate the very foundation of contemporary international law and of the international legal order and contribute to the progressive development and codification of international law, the need for which was widely acknowledged both in the United Nations and among prominent representatives of legal thought.

41. A number of delegations emphasized that the proposed treaty should be fully in accordance with the United Nations Charter. The treaty must extend and make more specific the principle of non-use of force set out in the Charter, define its constituent elements and take into account the emergence and spread of nuclear weapons and the particular hazard of the use of armed force in modern conditions. It was clearly envisaged in the Soviet draft that the treaty should not detract from the rights and duties of States under the Charter.

42. With respect to the compatibility of the proposed treaty with the relevant provisions of the Charter, especially those in Article 2, paragraph 4, it was said that the allegations of a few delegations that the treaty in question would undermine the Charter or diminish or nullify its imperative nature - although important since put forward by some permanent members of the Security Council - were very artificial and arbitrary and could hardly conceal an a priori negative approach, the motivations of which had nothing to do with the merits of the issue under consideration. The attitude to the idea of concluding a world treaty on non-use of force, it was added, had turned into a litmus paper test of the goodwill of States in their collective search for peace.

43. With respect to the question whether a treaty based on the Charter which constituted a further elaboration and reaffirmation of its provisions would not weaken the Charter, it was noted that almost every provision of the Charter had been developed in practice and that many of them had been enhanced by their agreed interpretations being incorporated in numerous agreements and declarations within the Organization, as well as in countless multilateral and bilateral international agreements. No one could reasonably maintain, it was stated, and no one had ever maintained, that all these instruments which were based on the principles of the Charter created a double régime or undermined per se the United Nations - a theory which would have the absurd result of ruling out any possibility for the progressive development and codification of international law and of putting in question such instruments as existing agreements in the field of disarmament or the International Covenants on Human Rights (General Assembly resolution 2200 A (XXI)) and many other multilateral treaties and bilateral accords by which States translated the Charter provisions into the language of their mutual relations; if, therefore, it was felt possible to conclude treaties based on the Charter in such fields as disarmament and human rights without diminishing the imperative nature of the Charter, the same should logically hold true for the principle of the non-use of force.

44. The logic of the arguments with reference to the relationship between the Charter and the proposed treaty was very strange, it was said. When certain provisions of the draft treaty corresponded in substance and form to those of the Charter, the opponents of the draft treaty claimed that it was a mere restatement of the Charter. However, when certain elements constituted a further elucidation or elaboration of the provisions of the Charter, adapting them to present international realities, the draft was rejected on the grounds that it went beyond the terms of the Charter. To admit arguments of that kind would be to imply that laws made in domestic legislation would weaken or undermine the constitution of the individual country. No one could also seriously maintain that all bilateral and multilateral treaties which were based on the principles of the Charter created a double régime and undermined per se the Charter. Accordingly that could scarcely be the case with the treaty on the non-use of force.

45. In this connexion it was pointed out that the principle of the non-use of force had already been developed and given concrete expression in a whole series of General Assembly resolutions and declarations and in bilateral and multilateral agreements. Mention was made in particular of General Assembly resolution 2625 (XXV) (Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations), 2936 (XXVII) (Non-use of force in international relations and permanent prohibition of the use of nuclear weapons) and 3314 (XXIX) (Definition of Aggression) and in the Final Act of the Conference on Security and Co-operation

in Europe. No one, it was stated, had thought that the extensions and definitions in such documents were contrary to the Charter or cast doubt upon the effectiveness of its provisions on the non-use of force.

46. The view was further expressed that the proposed draft treaty could only be considered contrary to the spirit of the Charter if it diverged from the principle of the non-use of force in international relations. It was maintained that there were no such divergences in the Soviet draft whose provisions not only made no alterations in the fundamental obligations of States under the Charter but, on the contrary, were intended to uphold them and extend them in a more specific framework.

47. With regard to the claim that the envisaged treaty would in all likelihood not be universally accepted, it was said that the main task before the Committee was to prepare a generally accepted text of such a treaty and that this task was feasible and was in strict compliance with the usual practice of the United Nations bodies; it was also observed that there were many conventions in force which a few States had not ratified and that this fact did not detract from the universal value of the instruments in question.

48. Referring specifically to the Soviet draft, some delegations noted with satisfaction that this text rightly linked the undertaking of States not to use force or the threat of force with the well-established principle of contemporary international law regarding the peaceful settlement of disputes and with the need for effective disarmament measures. Special emphasis was also placed on the elaboration of universally binding legal rules on refraining from the use of armed forces involving any types of weapons including nuclear and other weapons of mass destruction, an aspect which, it was stated, was adequately reflected in the draft treaty. Finally, it was stressed that the treaty should in no way detract from the inalienable right of States to self-defence in accordance with Article 51 of the Charter, or the right of peoples and States to carry on the struggle for the elimination of the consequences of aggression, nor jeopardize the legality of the struggle of colonial peoples for their freedom and independence.

49. Other representatives took the view that the problem before the Committee was to determine what was the best way of enhancing the effectiveness of the principle of the non-use of force. They observed that one way to achieve this end was to embody the principle in question in a treaty - which was precisely what the framers of the United Nations Charter had done when they had included paragraph 4 of Article 2 in the Charter. They therefore asked whether it was useful to embody the prohibition of the use of force in a treaty again and held that this question called for a negative reply. It was noted that although some delegations seemed to consider as a self-evident truth that a world treaty of the kind proposed by the Union of Soviet Socialist Republics would enhance the effectiveness of the principle of non-use of force in international relations, that was not a self-evident truth nor, at least so far, a demonstrated truth but a mere assertion. Several representatives added that although they had heretofore remained unconvinced of the validity of the arguments adduced by the supporters of the Soviet draft treaty, they kept an open mind and were prepared to study carefully any kind of text either of a normative or of an organizational nature which might be submitted to the Committee. In their view, the elaboration of any such text should be preceded by a careful analysis of the causes of the problem. It was announced that a working paper reflecting this attitude would be circulated in the Working Group.

50. It was pointed out that the principle of non-use of force in international relations was accepted by all Member States as a norm of international law and that, although it had been violated on a number of occasions since it had been adopted as one of the principles of the Organization, its sacred character was still universally accepted. The opinion had often been expressed, it was added, that there was nothing wrong with the Charter, which had stood the test of time and that, if something was missing, it was the political will of the Members of the Organization to live up to the objectives of the Charter. If that was true, the question arose whether it was useful to try to set up a separate structure next to the Charter, in the form of a world treaty of the kind proposed by the Soviet Union. The view was expressed that one of the drawbacks of the Soviet draft treaty was that it would weaken the principles it was intended to strengthen. It was said that a document which would repeat provisions of the Charter could well deepen the cynicism with which the Organization was viewed as substituting words for thought and action. It was also pointed out that the Charter was a well balanced document which set forth a number of principles of equal importance for the establishment and maintenance of friendly relations and co-operation among States. A world treaty which would reiterate one only of these principles would necessarily be an incomplete and unbalanced document. The view was further expressed that any eventual treaty would be less solemn in political scope than the Charter, and that, in addition, from a strictly legal standpoint, such a treaty would be hierarchically subject to the Charter, by virtue of Article 103. In addition, it appeared certain that such a treaty would not be signed and ratified by the entire membership of the United Nations, so that in that respect also its scope would be more restricted than that of the Charter, not to mention the problems concerning the relations between the various Members of the United Nations, whether parties to the treaty or not, that such a situation would undoubtedly create. Thus, it was concluded, the proposed treaty would necessarily be less extensive in scope than the Charter, which was a universal instrument since it had been accepted by almost all the States in the world, which was endowed with the most solemn political authority and was binding. It was also said that reiterating in a new treaty the principle of non-use of force would suggest that the legal validity of the relevant provisions of the Charter had diminished and should be strengthened, a suggestion which would cast doubts on the legal force of the Charter as a whole. Furthermore, it was stated, repeating the Charter would make a mockery of the principle pacta sunt servanda and a farce of the act of treaty making.

51. The view was further expressed that elaborating a new treaty on the principle of the non-use of force which would depart from the Charter in any respect would have even worse consequences. Aside from the fact that such a course would violate the amendment procedure provided by the Charter without, for that matter, producing any legally valid effect in view of the terms of Article 103, it would result not only in endless confusion over the governing legal régimes in the critical area covered by Article 2, paragraph 4, but also in blurring the rules concerning the inherent right of self-defence and the entire collective security mechanism. In this connexion it was maintained that the proposal of the Soviet Union resulted in a dilemma. Either the envisaged draft would reaffirm only one of the principles contained in the Charter without referring to collective security mechanisms, the peaceful settlement of disputes, self-defence, etc. - which would necessarily lead to a result less satisfactory than the Charter and distort the latter; or, on the contrary, all of the principles and mechanisms referred to and provided for in the Charter would be reaffirmed - which would necessarily lead to the drafting of a new charter, lacking the necessary universality and solemnity.

The point was further made that the proposal under consideration could lead to what, by comparison with the Charter, would be a treaty on the use of force and that some of the statements made in the Committee pointed in that direction.

52. With respect to the argument that principles of the Charter had been developed in such instruments as 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, it was pointed out that there was a vast difference between a declaration or a definition adopted by the General Assembly and a solemn and binding compact which was the characteristic of a treaty. Regarding the argument that many treaties had been elaborated on the basis of the principles of the Charter, the view was expressed that it did not flow from the fact that a treaty on the non-use of force was redundant that all treaties were redundant. Arms control treaties were not only not repetitious of an existing principle of law enshrined in the Charter but embodied detailed arrangements establishing régimes for the parties as opposed to legal rules of general application. Similarly, it was stated, human rights treaties were not repetitious of an existing rule but contained concrete and detailed steps in accordance with Chapter IX of the Charter. With specific reference to the International Covenants on Human Rights, the point was made that the supplementing of Article 55 of the Charter by this Covenant was the implementing of a positive provision to promote universal respect for and observance of human rights and fundamental freedoms. When the proposition was a negative one, as was the principle of non-use of force, any expansion on it immediately ran into the danger of diluting the relevant provision. With respect to the Final Act of the Helsinki Conference, the view was expressed that it did not single out one principle at the expense of the others, but established a balance in listing the principles, giving them equal and primary significance and then moving on to very detailed provisions on practical implementation of all aspects of co-operation in Europe.

53. With respect to the contention that the attitude of delegations was a litmus paper test of goodwill, it was noted that the introduction of the idea of a treaty on the non-use of force could conversely be seen as a way of distracting the attention of the international community from the record of those countries which refused to pay for peace-keeping operations - including operations which they agreed annually to continue in being - and which, in the area of the peaceful settlement of disputes, fiercely defended antiquated notions of freedom of action instead of accepting third party dispute settlement.

54. The key to a strengthening of the security system, it was concluded, did not lie in mere repetition of existing obligations the validity and the legally binding character of which was denied by no one - not even by the delinquent States which, instead, cited self-defence or odd notions of limited sovereignty or confessed their guilt by failing even to inform the Security Council pursuant to the clear requirement of Article 51.

55. Some of the delegations which expressed doubts on the advisability of drafting a treaty on the non-use of force in international relations commented on specific provisions of the Soviet draft. Thus it was noted that the first part of article I, paragraph 1, of the draft treaty was almost identical with Article 2, paragraph 4, of the Charter, the only difference being that the Charter said that all Members should refrain from the threat or use of force whereas the treaty said that the Contracting Parties should strictly abide by

their undertaking not to use force or the threat of force. That, it was maintained, raised the question whether or not the reiteration of a commitment weakened that commitment. It was also noted that the last preambular paragraph of the draft treaty seemed to imply that renunciation of the use or threat of force was not already a law of international life or that, if such a law existed, it admitted distinctions as to the type of weapons involved. That, it was stated, was not correct, for the Charter was a binding instrument and admitted no such distinction; the same argument applied to the second part of article I, paragraph 1, and to article I, paragraph 3, which seemed to imply that, under the Charter, considerations might be adduced to justify resort to force. The view was also expressed that not only did the draft treaty not clarify the prohibition, it even gave the impression that it referred to a new prohibition which would be binding only on those countries which ratified the treaty.

56. With regard to the settlement of international disputes, it was maintained that the draft treaty merely paraphrased Article 2, paragraph 3, and Chapter VI of the Charter and contained nothing new except the omission of an important means of settlement, namely, resort to regional agencies or arrangements. With respect to the remaining provisions of the treaty, the view was expressed that they contained no clarification of the provisions of the Charter likely to enhance the effectiveness of the principle of non-use of force, as called for by the terms of reference of the Special Committee.

57. Several delegations said that every peace initiative should be given a fair chance. In this connexion, the arguments adduced against the drafting of a treaty on non-use of force in international relations were felt to be less impressive than the underlying political motivation and it was regretted that the initiative taken by one delegation should be resisted by others simply through force of long political habit. Attention was further drawn to the fact that proposals in this area emanating from permanent members of the Security Council who had a special responsibility under the Charter for the maintenance of international peace and security should not be treated lightly but should be considered seriously and sincerely. With reference to the view that the elaboration of a treaty on the topic would be either dangerous or redundant, the question was asked how one could judge the redundancy or detrimental effect of a treaty until its content was known. It was considered illogical to criticize the Soviet draft as containing nothing substantially new or novel and proceed from that premise to insist on dropping the whole subject instead of contributing new ideas. The point was also made that if it were true that the repetition of a rule of law was redundant and could have no beneficial result, no customary rule of law would have ever evolved and crystallized. Disagreement was expressed with the selective approach taken by some delegations with regard to the development and elaboration of principles of international law, and attention was drawn to the fact that Article 13, paragraph 1 (a), of the Charter was a general injunction and did not make a distinction between positive and negative obligations. It was also said that the reiteration of existing rules of law, especially of peremptory norms of ius cogens, emphasized the importance which the parties attached to the application of those norms in their mutual relations, and that the reaffirmation of the principle of non-use of force in a society of States whose structure was based on power politics was extremely relevant and beneficial because it created a momentum for peace and for the respect and observance of the law.

58. The view was expressed that the Soviet draft presented the Organization with an opportunity to consider the problems of the implementation of the principle of

non-use of force in a more constructive and effective way. The Soviet initiative, it was noted, should be particularly welcomed as, notwithstanding the clear prohibition contained in Article 2, paragraph 4, of the Charter, there had been, since the creation of the United Nations, more than 100 local wars and international armed conflicts. Resolutions adopted by various organs of the United Nations, and particularly by the Security Council, were completely disregarded and unacceptable situations, such as illegal occupation of foreign territories or violent expulsion of indigenous populations from their ancestral homes, existed in the Eastern Mediterranean, the Middle East and elsewhere. It was therefore concluded that in the light of the impossibility of preventing by means of legal instruments currently in force unilateral interventions employing either the threat or use of force, the need to strengthen and clarify the principle of non-use of force in the framework of a world treaty or in any other way deemed appropriate by the Committee was becoming increasingly urgent.

59. In this context mention was made of certain forms of the use of force with which the international community and the collective security system were sometimes unable to deal and which entailed an inevitable escalation as negotiation efforts remained stalemated for many years and the facts accomplished became more serious.

60. It was also pointed out that existing machinery, however sophisticated, proved ineffective if the political will to resort to it in a meaningful way was lacking. A treaty on the non-use of force might provide the sound political sense which was needed if the collective security machinery was to function properly. The Soviet initiative, it was added, fully complied with the spirit of the pertinent provisions of the Charter, responded to a deeply felt need to reinforce the principle in practice by reaffirming it or making it more precise and was in line with the efforts made both within and outside the United Nations to reaffirm and complete the relevant provisions of the Charter. In the latter connexion, it was pointed out that since 1945 a wealth of jurisprudence had been accumulated on the subject both in the United Nations and through such parallel documents as the Bandung Principles and the Helsinki Final Act; in addition, case law had developed through the practice of the main organs of the United Nations, arguments had been made attempting to stretch to this or that direction the general wording of Article 2, paragraph 4, of the Charter, and doubts had been cast as to the exact scope of this paragraph which had not in all cases been cleared up because of the modus operandi of such organs as the Security Council where "constructive ambiguity" had on occasion been resorted to for obvious reasons. If, it was stated, all this practice and jurisprudence could be distilled and the outcome of such distillation be incorporated into a binding treaty of universal application, closing loop-holes, removing ambiguities and taking into account the present day tenets of international law by way of progressive development, this would be a valuable contribution to the legal regulation of the use of force in international relations.

61. The coming into existence of a new legal instrument along the lines indicated above would, if it could be achieved, serve to minimize an aggressor's ability to find pretext through exploiting existing ambiguities. It was concluded that no opportunity in the field of international peace and security should be neglected and that it rested with the drafters of the envisaged treaty to ensure that the pitfalls and dangers which had been referred to were avoided.

62. Some representatives commented on the premises from which the elaboration of a treaty in this field should start. It was in particular felt necessary to make an objective analysis of the various causes of conflict so that after proper study a treaty might be formulated in a manner that was meaningful for all and gave fresh hope for peace. It was also considered useful to reflect on a series of questions such as the following: what was the meaning of force; when could it be used, for what purposes and subject to what limitations; what were the situations in which the use of force was excluded; why was it that a number of unresolved disputes which were on the agenda of the United Nations had so far defied settlement by peaceful means; how should one view interpretations of Article 2, paragraph 7, of the Charter whereby situations remained essentially within the domestic jurisdiction of a State even when their repercussions extended far beyond that State, or interpretations of Article 51 which appeared strange depending on one's definition of what constituted "self" and what constituted "defensive action", but were perhaps not strange in a world in which the right of self-defence was accepted as a valid excuse for the arms race, in which the doctrine of a pre-emptive strike was as respectable as the doctrine of a devastating counter strike and in which States were unable to settle their disputes peacefully because it might involve unpopular decisions.

63. It was also pointed out that the use of force in international relations, which took various forms, was the consequence of a series of factors which could not be eliminated through purely normative steps. Emphasis was placed on the need for a multidimensional approach which would, on the one hand, ensure in an integrated framework the cohesion of work on legal questions and, on the other hand, establish a correlation between that work and other specific measures aimed at making more effective the principle of non-use of force, both types of action being directed at the elimination of one and the same phenomenon - namely the existence of sporadic and structural violence in international relations.

64. The view was also expressed that the general orientation for the requisite development in the Committee should be in line with previously adopted General Assembly resolutions. Reference was made in particular to Assembly resolution 2160 (XXI) which, inter alia, reaffirmed that the armed attack by one State against another or the use of force in any other form contrary to the Charter of the United Nations constituted a violation of international law giving rise to international responsibility. The resolution also reaffirmed that any forcible action, direct or indirect, which deprived peoples under foreign domination of their right to self determination, freedom and independence and of their right to determine freely their political status and pursue their economic, social and cultural development constituted a violation of the Charter. Mention was also made of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty (Assembly resolution 2131 (XX)) and of the Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

65. Comments were further made on a number of specific elements which were felt to be relevant to the elaboration of a treaty on the non-use of force. It was stated in particular that the goal of the Committee was not to produce a document reiterating or reaffirming general provisions of the Charter on the non-use of force but to embody in a legal instrument that was intended to be universal and would be precisely worded all the obligations of States flowing from the prohibition of the threat or use of force.

66. More specifically it was felt necessary to include provisions relating to all uses of force, direct or indirect, open or covert. It was also said that the treaty should contain, among other elements, a list not exhaustive in character, of the material elements constituting the threat or use of force to be prohibited by the treaty, for example: the occupation of alien territory by force, acts directed against the unity and territorial integrity of a State, the use of any type of weapons against the territory of a State or attacks by the armed forces of a State on the land, naval or air forces of another State and war propaganda. Reference was also made to the Definition of Aggression which, in listing in its article 3 acts of aggression, did not refer only to the sending of regular forces but also to "the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein". The view was expressed that armed subversion aimed at destabilizing entire regions and at establishing hegemonic systems through resort to armed bands or mercenaries could, when it attained certain proportions and revealed the flagrant complicity of a State, be equated with an act of aggression on the part of that State and consequently justified recourse to the right of self-defence. It was added that the treaty should unequivocally prohibit resort to mercenaries hired in Europe and Africa to destabilize African Governments. The view was also expressed that subversive foreign penetration should be understood as use of force.

67. It was held that the draft treaty should contain express provisions reflecting the illegality of military intervention against other States and should classify direct or indirect intervention, or threat of intervention, as among the illegal uses of force. Finally it was pointed out that the use of force did not take the form of a military presence alone and that since in the contemporary world economic weapons such as commercial protectionism or boycotts, technological oppression and price-fixing could be used against developing countries with infinitely more cruel and devastating consequence than murderous military activity, it was necessary to include a development dimension in the concept of non-use of force. It was also said that the use of mass media to launch a campaign of hatred and vilification, blockade of normal passage, of trade and transit routes and the creation of hindrances to the normal flow of people and goods in transit were expressions of the use of force. The principle of economic independence, it was added, was as important as the concept of political independence and the world community had, through the adoption of the Charter of Economic Rights and Duties of States (General Assembly resolution 3281 (XXIX)), expressed its faith in the development of a system of international economic relations on the basis of sovereign equality, mutual and equitable benefit and the close interrelationship of the interests of all States.

68. Another question which was felt to be relevant to a treaty on the non-use of force was that of disarmament. It was said that the arms race, both in the powerful countries and in the third world countries, encouraged aggression and the use of force. It was also said that the treaty should place the nuclear-weapon States under the obligation to refrain from using nuclear weapons and to refrain from the threat of using them against non-nuclear States, and not to be the first to use those weapons against each other.

69. With regard to the scope of the principle of non-use of force, it was stated that the treaty should affirm that that principle was absolute in character and that no derogations therefrom were possible except in exercise of the right of

self-defence in accordance with the provisions of the Charter. Such an affirmation would render obsolete the theory that bilateral or multilateral treaties could authorize the use of force outside the framework of the United Nations. It was added that the treaty should also specify that no consideration of a political, military or any other nature could justify recourse to the threat or use of force and should contain an agreement by all the contracting States not to resort in any case or in any circumstance to the threat or use of force, and to refrain from interfering in any way in the domestic affairs of other States. No argument or grounds could justify interference with or foreign intervention against sovereign and independent States, or the provision of armed support to groups using force against their own Government to overthrow legally constituted national bodies recognized at the international level. The view was further expressed that the draft treaty should contain express provisions referring to the inherent right of individual and collective self-defence as provided in Article 51 of the Charter and to collective enforcement measures under Chapter VII of the Charter. It was also stated that the draft treaty should contain express provisions upholding the right of peoples subjected to colonial and racist régimes and foreign occupation to use all the means at their disposal to exercise their inherent right to self-determination and independence and liberation of occupied territories. Under the treaty, it was added, the activities of liberation movements aimed at freeing peoples from the colonialist and imperialist domination should be recognized as cases of self-defence.

70. Regarding the consequences of the use of force, the view was expressed that the draft treaty would at best remain a pious declaration without provisions guaranteeing the effective enforcement of the prohibition of the non-use of force and should provide for effective action to ensure the implementation of Security Council resolutions. It was also suggested that a provision should be inserted in the treaty to state that violations of obligations assumed under the treaty would entail enforcement measures provided for in Chapter VII of the Charter. Another suggestion related to the need for appropriate reference to Article 2, paragraph 5, of the Charter with respect to the obligation of States to give to the United Nations every assistance in any action it took in accordance with the Charter and to refrain from giving assistance to any State against which the United Nations was taking preventive or enforcement action. The view was further expressed that the treaty should uphold the rights of countries and peoples who were victims of aggression and foreign occupation as a result of the illegal use of force, as well as the unacceptability of the acquisition of territory occupied by force and the non-recognition of purported faits accomplis - political, territorial, economic, demographic or other - brought about in violation of this principle. In this connexion, it was stated that the draft treaty should affirm, in an independent provision, that no legal right or title could ensue from the use of force contrary to the terms of the treaty, and that Member States of the United Nations were duty-bound not to recognize such rights or titles to be valid.

71. The view was also expressed that the treaty should contain a general provision reaffirming the obligation of all States to settle their disputes exclusively by peaceful means and to abstain from any act or measure that might aggravate disputes. Such a general provision should be supplemented by the elaboration of a separate treaty which would codify and develop the principle of the peaceful settlement of international disputes and would contain detailed provisions concerning the procedures and methods to be used to fulfil the corresponding obligations.

72. Another suggestion was that article III of the draft treaty should be qualified by appropriate reference to Article 103 of the Charter and to the relevant provisions of the 1969 Vienna Convention on the Law of Treaties, b/ and particularly its articles 52 and 53, regarding treaties imposed by the threat or use of force and treaties containing provisions in violation of peremptory norms of international law (jus cogens); this was felt to be necessary in view of the gross abuse of anachronistic past treaty provisions purporting to give a State the right to intervene by force against another State.

73. While being of the view that the objective of drafting a world treaty on the non-use of force which would take into account the various opinions and concerns expressed so far should not prove impracticable, some delegations observed that should the obstacles eventually prove insurmountable, the work of the Committee would at least serve as a reminder of the cardinal importance of the principle under consideration and would, if it were to result in a document such as a declaration or resolution, give the opportunity for a renewed commitment to and elaboration of the principle in question.

74. Finally it was felt that the draft treaty should contain provisions on procedural mechanics designed to secure the maximum adherence of States in their international conduct to the principle of the non-use of force.

D. Other perceptions of the peaceful settlement of disputes

75. Some representatives said that, should the Committee choose the normative approach to the problem of the non-use of force in international relations, it would be possible to elaborate a resolution or even a declaration. The view was expressed that in order to be responsive to contemporary realities any such document would need to focus largely on problems related to the peaceful settlement of disputes. It was also said that a draft declaration on the topic should condemn the use or threat of force as a violation of the Charter and the main danger to international peace and security.

76. For some representatives, however, there was no need to elaborate another normative document if there were other possibilities which might contribute more immediately and more significantly to enhancing the effectiveness of the prohibition of the threat or use of force.

77. One such possibility was felt to be an informal analysis of specific cases during the 34-year history of the United Nations in which the principle of non-use of force had been violated and of the reasons why States attempted in this day and age to settle their differences by resorting to the use of force. In the view of its proponents, such an analysis might include cases where the degree of contention had been extremely serious but where recourse to a variety of alternative measures, including measures for the peaceful settlement of disputes, had prevented a resort of force. It would not be a futile exercise but would throw light on the existing situation whose roots probably varied from one continent to another and from episode to episode. In addition it would facilitate the tailoring of solutions to specific needs which also varied from one case to

b/ For the text of the Convention, see A/CONF.39/11/Add.2 (United Nations publication, Sales No. E.70.V.5), pp. 287-301.

another and which, because of their diversity, could not be met by mere exhortatory formulae of a general nature. The view was expressed that the advantage of this course was that the international community might be able to find some basic common factors underlying the use or non-use of force and might eventually succeed in finding concrete ways to enhance the effectiveness of the principle in question. The proposed analysis, it was stated, might help the Committee in determining whether, despite evidence to the contrary, States resorted to force because they doubted the legally binding nature of the prohibition of the threat or use of force. If such proved to be the case, consideration might then be given to the elaboration of a legal instrument; if, on the other hand, it became clear that it was not new normative instruments which were needed but instead a greater respect of the Charter, the preparation of some organizational materials intended to enhance the functioning of the United Nations machinery should be envisaged.

78. Disagreement was expressed with the approach described above, which was felt to entail the risk of leading to selectivism or sterility, first because the Committee, lacking specific criteria, would be unable to solve the problem of choosing conflict situations in which the mechanisms for the peaceful settlement of disputes had not been used, and secondly because if agreement could be reached on a selection of specific cases it was unlikely that the Committee would be able to discuss them with the necessary objectivity. The Committee could no doubt study the problems which had been brought before the Security Council, for example the problems of the Middle East or southern Africa, but it could do so only within the context of specific proposals aimed at strengthening the mechanisms for the peaceful settlement of disputes, because an uncontrolled discussion of such problems would undoubtedly divert it from its task.

79. While some representatives observed that in certain cases States acted out of a simple desire for aggrandizement or to enforce a particular political system on a neighbour or to maintain or expand a sphere of influence, and that such problems did not necessarily fall into the area of disputes and called for an examination of possible deterrents, it was pointed out by a number of delegations that the question of the peaceful settlement of disputes which was part of the mandate of the Committee was of special importance in this context. It was observed that the principle of non-use of force and the principle of the peaceful settlement of disputes together with the system of collective security - which were grouped together in paragraphs 3, 4 and 5 of Article 2 of the Charter - were closely interlinked and mutually complementary and that there were no more immediate means of enhancing the effectiveness of the principle of non-use of force than measures to strengthen existing mechanisms for prompt, efficient and just resolution of disputes. In this connexion, the view was expressed that the international community must be prepared not merely to urge the use of existing possibilities but also to put the pressure of political opprobrium on States which refused to settle disputes and to do so before the situation escalated into open hostilities or a threat to the peace.

80. It was also said that in current conditions, where force had revealed itself to be completely incapable of producing viable solutions to international problems, the political channel was the only rational alternative for the equitable settlement of disputes and that the most complex problems could - as experience showed - be solved justly and in the mutual interest of the parties concerned if the latter were really prompted by the desire and the political will to negotiate and to seek mutually acceptable solutions.

81. With a view to improving the situation in the area of the peaceful settlement of disputes the suggestion was made to examine why arbitration was not used to a larger extent, why such institutions as the Panel for Enquiry and Conciliation, the Panel of Peace Observers, the Peace Observation Mission and the various fact-finding mechanisms had not been used by States and to what extent the machinery provided by an instrument like the Pact of Bogota 7/ - whose detailed provisions for the peaceful settlement of disputes gave substance to the reaffirmation contained in its article 1, of the principle of non-use of force - had been successful.

82. Several representatives referred to proposals previously made in other forums with respect to the peaceful settlement of disputes. Mention was made in particular of the proposal to draw up a treaty containing provisions for the implementation of Chapter VI of the Charter and for the enforcement of resolutions adopted by the Security Council under Article 37 of the Charter. Another proposal was that a general treaty on the peaceful settlement of international disputes as well as a code of conduct enunciating the rights and obligations of States should be elaborated under the auspices of the United Nations. Reference was also made to the proposal that a permanent commission of the General Assembly should be established to fulfil the functions of mediation, good offices and conciliation. It had further been proposed to ensure strict implementation of the Charter, and in particular of Articles 33 and 37; to set up a system of compulsory settlement of disputes by arbitration in all bilateral and multilateral agreements; to ensure that, where States had voluntarily had recourse to a method for the binding settlement of disputes, they would comply with the decision handed down; to provide for more widespread recourse to the regional machinery referred to in Article 52 of the Charter; to develop ad hoc and specialized methods of settlement wherever possible as well as to lay down in bilateral agreements specific settlement procedures; to draw up a list of authorities which would agree to appoint chairmen of arbitral tribunals on a case-by-case basis, with the understanding that the other arbitrators would first be selected by the States involved in the dispute in question; and to prepare a practical United Nations manual on the peaceful settlement of disputes.

83. All those proposals, it was pointed out, had been submitted to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. In this connexion, the view was expressed that the need to co-ordinate the activities of the two Special Committees or merge them into a single one should be examined. Others were of the view that the Committee on the Charter of the United Nations, as was clear from its mandate, embraced activities of the entire United Nations system and that occasional duplication of work between the two Committees was to some extent unavoidable. This circumstance, it was stated, should not be viewed as a negative factor but would on the contrary make the work of the Committee on the Charter of the United Nations in the area of the peaceful settlement of disputes easier and more productive as well as allow an examination of the problem of the peaceful settlement of disputes in terms of its relationship to the principle of the non-use of force in international relations.

84. The view was also expressed that any treaty on the non-use of force must of necessity be in conformity with the Charter.

7/ United Nations, Treaty Series, vol. XXX, No. 449, pp. 55-116.

85. Another important subject for improving the mechanism of the peaceful settlement of disputes was strengthening the International Court of Justice. In this connexion it was noted that although the Court, which constituted the most important institutional means of judicial settlement available, was not as active as it ought to be, the role it should play, particularly in ensuring the non-use of force in international relations, could usefully be examined in order to determine, for instance, whether the present tendency to avoid resorting to the Court derived from institutional problems relating to the Court itself or from the attitudes of Member States.

86. On the other hand, it was felt to be of paramount importance that the principle of the sovereign equality of States should not be overlooked. It was said that it would be utopian to seek to persuade States to commit themselves in advance to have recourse to arbitral or judicial settlement of all their disputes and that every State should be able to choose the peaceful means of settlement it preferred for each dispute, in accordance with the principle of freedom of choice laid down in Article 33 of the Charter and in General Assembly resolution 2625 (XXV). Furthermore, it was added, the present, constantly changing world gave rise to increasingly technical problems and also to political conflicts or conflicts of interest: in the case of technical problems, priority should be given to flexible, ad hoc, solutions, the suitable arbitrators being selected on a case-by-case basis. In the case of political conflicts or conflicts of interest, which often gave rise to violations of the principle of the non-use of force, sovereign States clearly did not wish to submit themselves to government by permanent international judges and would, again, prefer arbitrators chosen on a case-by-case basis.

87. Attention was also drawn to the fundamental importance of fact-finding in determining what action to take in any given circumstances. In order to enhance the fact-finding role of the United Nations in general, it was suggested to seek the clarification of and, if necessary, an institutional improvement in the fact-finding capacity of the General Assembly and the Security Council, for example through the establishment of fact-finding organs of the Security Council or of the General Assembly, as well as to consider ways of encouraging the Secretary-General to make use of his powers under Article 99 of the Charter.

88. Some other delegations expressed the view that all above-mentioned proposals were completely contrary to the Charter of the United Nations and constituted an attempt to legitimize gross violations of the Charter committed by some States in the past.

89. Some delegations commented on the collective security system and on the need to examine both the way in which it ought to function and the way in which it was functioning. In this connexion, it was noted that the Charter concepts on the possible use by the Council of enforcement measures had never materialized. The Council, it was stated, has consistently shirked from invoking its theoretical powers and confined itself to issuing exhortations which often proved incapable of deterring aggressors or protecting the victims of aggression. Even when a cease-fire was enforced and when a successful peace-keeping operation was under way, efforts to reach an acceptable peace-making arrangement were sometimes, regardless of the consequences, threatened, with the result that the entire foundation of the contemporary international legal order had been further undermined, perhaps even irrevocably.

90. Reference was also made to cases in which violation of human rights might have played a role in triggering the use of force and it was suggested to examine whether resort to force in such circumstances should be blamed on the United Nations system for failing to offer a means of dealing with these problems or on a lack of perception, on the part of States, of the possibilities that existed within that system to deal expeditiously with massive violations of human rights.

91. Some delegations said that work was also needed in the area of disarmament, which was another fundamental element in the body of measures for preventing the use of force, and reference was made to proposals that could make a positive contribution towards the implementation of the right to security which all States should enjoy. It was also said that general and complete disarmament under international control must cover both the nuclear sphere and that of conventional weapons. Support was further expressed for the idea that regional disarmament was an important phase of all disarmament. In this connexion reference was made to the 1974 Declaration of Ayacucho. 8/

92. Finally, reference was made to the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States (General Assembly resolution 2131 (XX)) which, it was stated, should be brought up to date in the light of recent events, and the suggestion was made that the Special Committee could include in its work the drafting of a declaration on non-interference in the internal affairs of States, as envisaged in General Assembly resolution 32/153; in this connexion it was suggested that the Assembly adopt clear, expeditious norms and procedures which would nullify the effects of any interventionist clauses, or clauses which authorized the unilateral use of armed forces in the territory of another State, which might have been or could be inserted in international treaties or agreements concluded by States Members of the United Nations subsequent to the entry into force of the Charter.

8/ See A/10044, annex.

III. REPORT OF THE WORKING GROUP

93. As indicated in paragraph 10 above, the Special Committee decided at its 15th meeting to re-establish an open-ended Working Group whose mandate would be the same as that entrusted to the Committee itself by the General Assembly in its resolution 33/93. The Working Group, which had held three meetings at the 1978 session of the Committee, held eight meetings between 23 April and 4 May 1979.

94. The Working Group had before it the draft World Treaty on the Non-Use of Force in International Relations submitted by the Union of Soviet Socialist Republics. The delegations of Belgium, France, the Federal Republic of Germany, Italy and the United Kingdom of Great Britain and Northern Ireland submitted a working paper (A/AC.193/WG/R.1). The representative of Egypt orally proposed, on behalf of his delegation and the delegation of Mexico, that the Working Group take as the basis of its work the section 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 (General Assembly resolution 2625 (XXV)) entitled "The principle that States shall 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".

95. The Working Group reflected the same difference of approach as had been demonstrated in the Committee.

96. Many representatives welcomed as a constructive initiative the proposal on the elaboration of a treaty on the non-use of force in international relations and emphasized that it was an urgent matter. According to them, the most convincing argument in favour of that idea was the appalling number of wars which had erupted since the adoption of the Charter.

97. Others expressed opposition or doubts as to the utility of a treaty and urged that in any event the Working Group should initially focus on an analysis of why States resorted to the use of force. It was suggested that progress might be made in eliminating the fundamental split in the Committee if, instead of continuing the exchanges on the usefulness of a treaty, the Group examined specific situations and sought a basis of common agreement from which to work.

98. It was said in support of the Soviet initiative that small and developing countries in Africa, Asia and Latin America, which had so often been the victims of violence, intervention and economic aggression, could only strongly support an initiative aimed at eliminating the use of force in international relations. Mention was made of the Declaration on the Strengthening of International Security (General Assembly resolution 2734 (XXV)), paragraph 8 of which recognized the need for effective, dynamic and flexible measures, in accordance with the Charter, to prevent and remove threats to the peace, suppress acts of aggression or other breaches of the peace and security. This Declaration, it was recalled, had been adopted without opposition and among the measures which it called for the first and foremost should be the enhancement of the norm contained in Article 2, paragraph 4, of the Charter, through the strengthening of its effectiveness. The achievement

of that goal is of vital concern to all mankind and all delegations should therefore display political goodwill and contribute in a constructive spirit to carrying out the mandate assigned to the Committee. It was further said that the principle of non-use of force in international relations should be embodied in an updated, legally binding instrument which was precisely the purpose of the Soviet draft.

99. Several delegations observed that the conclusion of a treaty based on this draft would be of major political significance since the measures envisaged therein could prevent the outbreak of war, including a nuclear catastrophe, and substantially contribute to the achievement of general and complete disarmament under strict and effective international control. The draft treaty, it was added, was a progressive code of political action. Its great merit lay in the fact that it not only concentrated on the reaffirmation of the principle of non-use of force but also codified a number of the indispensable components of this notion including, among others, the territorial integrity, political independence and sovereign equality of States, disarmament and the settlement of international disputes. Thus it was clear that the argument that the proposed treaty would be redundant or would weaken the Charter was completely unfounded.

100. Those delegations stated that the Soviet draft could be a sound and sound basis for the work of the Committee and its Working Group. They emphasized that the Soviet draft had the support of the overwhelming majority of States. It called for co-operation among States in promoting the principle of non-use of force and could make an effective contribution to the enhancement of that principle. How could it be possible to enhance the principle of non-use of force without having prepared an international instrument which would have a legally binding force - the question was asked. The view was also expressed that the sponsor of the draft had provided the Working Group with the convincing political and legal evidence of the merits of the draft and it was now time to turn to the stage of drafting. The timeliness of the elaboration of the treaty in question was underscored not only by the events in a recent past but by the threats to which some small countries were being subjected to at the present time.

101. It was stated that the Soviet draft did not claim to be the final word and needed to be amended or improved. It was noted that the sponsor had indicated that he was prepared to consider suggestions to that effect. Some delegations said that they accepted the Soviet draft or supported it subject to certain amendments.

102. It was pointed out, in response to assertions to the effect that the treaty added nothing to the existing state of law, that a treaty along the lines of the Soviet draft would not be repetitious of the Charter since it would contain new elements which were based on the Charter. One such element was the prohibition of the use of any type of weapon, including nuclear and other weapons of mass destruction. Disagreement was expressed with the view that certain principles of the Charter could be developed while others could not. There was, it was stated, no logic in this selective approach which had no theoretical, scientific or practical basis and the differentiation between negative and positive prescriptions of international law, which was a variant of the selective approach, was also groundless.

103. It was further pointed out that a treaty along the lines of the Soviet draft would in no way depart from or amend the Charter. It was difficult to see, for example, how article I of the draft created a double régime since it was absolutely

and totally consonant with the Charter. The proposed treaty, it was added, was intended to reflect not only the principles of the Charter but also the relevant provisions of documents such as the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV)), the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV)) and the Definition of Aggression (resolution 3314 (XXIX)), which were in strict accord with the Charter. The embodiment of such provisions in a legally-binding instrument would contribute to the progressive development and codification of international law.

104. A number of representatives said that they were not prepared to discuss the proposed treaty. In their view the problem should be approached in a realistic way. In none of the instances of violation of the prohibition of the use of force which had been referred to in the general debate had it been claimed by anybody that if only States had been parties to a legally-binding instrument, force would not have been used. Indeed no one could have made such a claim because for the most part States were parties to a legally binding instrument and prohibited to use force in their international relations under Article 2, paragraph 4 of the Charter. Furthermore Article 2, paragraph 4 was universally recognized as stating a peremptory norm of international law binding on Members and non-members, so that whether or not States which used force were a party to a treaty prohibiting the use of force, there was no doubt that they were prohibited from using force and there was no evidence that they denied it. A course of action, it was maintained, which would have international lawyers responding to obvious departures from the prohibition laid down in the law by passing another law which said the same thing could only have the effect of weakening international law.

105. A number of delegations also said that they had no intention of questioning the motivations behind the Soviet initiative, which might underscore the importance which the international community attached to the principle and its awareness of the problems connected with it. They added that they had no pre-conceived ideas either for or against the elaboration of a treaty or of any other type of instrument such as a declaration or resolution. A delegation stated that it was not a priori opposed to an idea of the preparation of a treaty although that delegation was definitely not in agreement with the content of the proposed draft. The delegation further stated that it had seriously considered the Soviet proposal but held the view that the Working Group should have before it a series of proposals on the basis of which it could determine the elements to be included in its final document. Another delegation stated that it could not say yes or no in reply to the question whether it was in favour of the elaboration of a treaty. It was further noted that there was no agreement on the very idea of elaborating a treaty and that the Working Group, if it was to do any useful and constructive work should, for the moment, leave this idea aside. They added that, while they were appreciative of the initiative of the Soviet Union, they were inclined to think that it would be more effective and more useful to discuss basic matters such as the question of the peaceful settlement of disputes. Another delegation emphasized that it was necessary to elaborate a treaty in order to enhance the effectiveness of the principle of non-use of force, that such treaty should strengthen the principle of peaceful settlement of disputes and that it was also advisable to study all the other proposals submitted to the Working Group.

106. At the 4th meeting of the Working Group, the representative of the Union of Soviet Socialist Republics, introduced article I of the draft world treaty as follows:

"Article I 9/

"This article contains the basic elements of the principle of the non-use of force. The text of the article is based on the wording of the Charter of the United Nations and documents extending it, such as the 1970 Declaration on Principles of International Law, General Assembly resolution 2936 (XXVII) on the non-use of force in international relations and permanent prohibition on the use of nuclear weapons, the Definition of Aggression (General Assembly resolution 3314 (XXIX)) and the 1975 Final Act of the Conference on Security and Co-operation in Europe.

"Paragraph 1 consists of two subparagraphs, the first, containing a general formulation of the principle of the non-use of force, and the second, extending the general formulation on the non-use of armed forces with a provision prohibiting the use of any types of weapons.

"The first subparagraph contains a general formulation of the principle of the non-use of force which is crucial for the whole text of the draft and has for its object the affirmation in legally binding form of the basic obligations of States parties to the Treaty with respect to the Charter of the United Nations and to other international agreements binding upon them. The principle is affirmed in the words 'shall strictly abide by their undertaking not to use ... force or the threat of force' ...

"The general formulation expresses the fundamental aim of the Treaty, which is to increase the real influence on international relations of the principle of the non-use of force; for that reason it has a central place in the text of the document. The Treaty follows existing practice for drafting the text of documents similar in content, such as the Definition of Aggression, the Declaration on Principles of International Law and the Declaration of Principles in the Final Act of the 1975 Helsinki Conference, the corresponding sections of which begin with a general formulation based on the text of Article 2, paragraph 4, of the Charter, with the necessary amendments. There are similar amendments in the present draft. In particular, by introducing into the general formulation the words 'in their mutual relations' the future parties to the Treaty give a prominence to the nature of those relations which is complementary to the Charter. At the same time, this could not change the meaning of Article 2, paragraph 4, of the Charter, inasmuch as the draft Treaty adds, after these words, 'or in their international relations in general', which retain the letter and the spirit of the Charter. This is intended to apply to all States and not merely to the States Members of the United Nations.

"Paragraph 1 of article I of the draft Treaty should be read in the context of the proposal contained in article III. This means that the treaty in no way affects the right of States to self-defence in accordance with Article 51 of the Charter or the legal force of bilateral and regional treaties and agreements concluded in pursuance of the implementation of the principle of the non-use of force.

9/ For the text of the article, see the annex to the present report.

"Prohibition of the use of armed force involving any types of weapons, contained in the second subparagraph of paragraph 1, extends and makes specific the general formulation of the principle of the non-use of force in its most significant implication - the prohibition of the use of the physical means for carrying out acts in contravention of the principle of the non-use of force. The use of armed forces involving any types of weapons gives concrete expression to that behaviour of States which is prohibited by the principle of the non-use of force. The prohibition in the Treaty of such conduct is therefore the most direct and effective means for ensuring that the principle of the non-use of force has influence on the conduct of relations between States.

"Unlike the Definition of Aggression, the draft Treaty contains only a general prohibition of aggressive acts, expressed in the obligation to 'refrain ... from the use of armed forces ... , and shall not threaten such use'. This is explained by the fact that the scope of this obligation extends to a significantly greater list of armed actions in comparison with those given in article 3 of the Definition of Aggression. The prohibition applies both to active aggression and to any other acts involving the illegal use of armed forces.

"The obligation in Article 2, paragraph 4, of the Charter, which is given concrete form in this provision of the draft Treaty, includes the prohibition of the acts of aggression listed in articles 3 and 4 of the Definition of Aggression, but goes significantly further than the prohibition of the 'threat of force'. For example, the formal act of declaring war, if not accompanied by the actual use of armed force, does not, according to the Definition, come under the term 'act of aggression', but is, however, within the prohibition in Article 2, paragraph 4, of the Charter and the present provision of the draft Treaty.

"The representative of Senegal said at the first session of the Special Committee that article I could be strengthened by the inclusion of a prohibition on the use of force to violate the boundaries of another State, depriving peoples of their right to self-determination and freedom and independence, the organization of irregular forces, including mercenaries, for incursion into the territory of another State, the organization of acts of civil strife or terrorist acts in another State, and military occupation of the territory of another State (A/AC.193/SR.10). If the representative of Senegal or other delegations submits concrete formulations on these aspects of the problem, we are prepared to consider them.

"The draft Treaty broadens the geographical scope of all actions falling within the prohibition of the use of force by means of an unequivocal indication that the obligation to refrain from the use of armed forces is valid 'on land, on the sea, in the air or in outer space'. According to the Definition of Aggression, for example, every kind of aggressive action mentioned in it is expressly linked in principle to air, land or water. The wording of the draft Treaty makes it possible to include in the prohibition use of any weapons in all spheres accessible to mankind in the conditions of scientific and technological progress.

"The prohibition of the use, for aggressive purposes, of 'all types of weapons' means that for the first time in the codification and progressive

development of international law it is proposed to affirm the principle of prohibiting all means for the use of force universally and in the form of a convention.

"Without excluding the possibility of independent measures for prohibiting the use of particular types of weapons, the draft Treaty co-ordinates, in comprehensive form and by means of a composite solution to the problem of the non-use of any kind of weapons, the problem of strengthening the effectiveness of the principle of non-use of force with measures for disarmament and limitation of the arms race.

"By extending the prohibition on the use of force to all kinds of weapons, the draft Treaty places special emphasis on the prohibition of the use of nuclear weapons, which reflects a universal awareness that the problem of averting nuclear war is of fundamental significance in solving the problem of ensuring international peace and security.

"The purpose of the prohibition of the use of nuclear weapons envisaged in the draft Treaty is to give legal affirmation to provisions approved by the General Assembly in the 1961 Declaration on the Prohibition of the Use of Nuclear and Thermonuclear Weapons (resolution 1653 (XVI)) and in its resolution 2936 (XXVII) on the non-use of force in international relations and permanent prohibition of the use of nuclear weapons.

"The prohibition of participation in the use of force laid down in paragraph 2 of article I is a self-sufficient constituent of the principle of the non-use of force.

"Initial material for formulating this element is provided by the provision in paragraph 5 of Article 2 of the Charter, according to which all Member States of the Organization undertook the obligation to refrain 'from giving assistance to any state against which the United Nations is taking preventive or enforcement action'. The United Nations can only resort to preventive or enforcement action through implementation by the Security Council of the provisions of Article 39 of the Charter, i.e. when this body determines the existence 'of any threats to the peace, breach of the peace or act of aggression'. In practice such situations embrace a broad and ill-defined range of international illegalities and conflicts, inasmuch as acknowledgement of their existence is based on the discretionary authority of the Security Council. However, in objective terms such situations principally embrace all instances of the infringement by States of the principle of non-use of force. It is therefore natural that this provision of the Charter primarily obliges States to refrain from giving aid to States acting in contravention of the principle of non-use of force, and it is precisely this interrelated interpretation of paragraphs 4 and 5 of Article 2 of the Charter which forms the basis for paragraph 2 of article I of the Treaty.

"The draft Treaty not only proposes a reaffirmation of the ban on giving assistance to States which have already used force but it is intended to avert the use of force through a prohibition on encouraging and inciting other States to illegal conduct. The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third

State (article 3 (f) of the Definition of Aggression) is an example of action which contravenes paragraph 2 of article I of the draft Treaty. A similar infringement would be the sale by States of weapons to an aggressor State or to a State which is carrying out a policy of preparing for aggression.

"This provision of the draft Treaty envisages the illegality of adducing any consideration for the use of force 'in violation of the obligations assumed under this Treaty', which thus leaves it open to States parties to resort to force only in instances which are not prohibited by the Treaty. However, it should be borne in mind that in so far as the Treaty is in strict accordance with the Charter, participants retain through this provision the right to resort to force in situations either directly mentioned in the Charter or justified by generally recognized practice in the application of its provisions. For this reason the specification in the Treaty of cases where force can legitimately be used merely emphasizes the Treaty's compatibility with the Charter.

"The clear indication as to which cases constitute lawful resort to armed force, i.e. self-defence, derives principally from the second subparagraph of paragraph 1 of article I of the draft Treaty, containing the proviso 'accordingly', which envisages as unlawful only such use of armed forces involving any types of weapons as contravenes the principle contained in the general formulation (first subparagraph). Inasmuch as the right to self-defence is universally recognized, it cannot be restricted by the principle of non-use of force, being a means for resisting its infringement; it therefore follows that the use in self-defence of armed forces involving any types of weapons remains an inalienable right of States parties to the future Treaty as outlined in Article 51 of the Charter.

"Furthermore, the right to self-defence, like other instances of the lawful use of force in accordance with the Charter, including wars of national liberation and assistance afforded by States to national liberation movements, is stipulated in article III of the draft Treaty, which enhances the meaning of the proviso 'accordingly', guaranteeing the consistency of the Charter's provisions. The legality of affording aid to national liberation movements is affirmed by the provisions of article III and by paragraph 2 of article I which prohibits assistance to aggressor States and makes it legally possible to give assistance to national liberation movements and also to States repelling aggression.

"The provision in this paragraph thus does not extend to the uses of force envisaged by the Treaty and by the Charter. Any other circumstances, such as 'armed reprisals' or 'preventive self-defence', and any other grounds for resorting to force, fall within the prohibition in this provision."

107. Some delegations expressed support for this article. It was said that while based on the Charter, article I contained some elements which concretized and updated the obligations undertaken by States under the Charter. Particular emphasis was placed on the second subparagraph of paragraph 1. This subparagraph, it was stated, contained an undertaking which was an important consequence of the principle laid down in the first subparagraph since it prohibited the use of all types of weapons both conventional and sophisticated which had made the use of force such an increasing concern of the present-day world. In this connexion, it was pointed out that this subparagraph particularly underscored the timeliness and

necessity of drafting a treaty on the non-use of force. The other provisions of article I were felt to contain useful additional safeguards aimed at strengthening the prohibition contained in paragraph 1. They had been inspired by such instruments as the Declaration on friendly relations and the Definition of Aggression and constituted further elaboration and elucidation of the legal and political guarantees aimed at ensuring the effective implementation of the prohibition of the use of force.

108. Some delegations said that they regarded the idea of a treaty as fundamentally misguided and therefore saw no point in commenting on particular aspects of a given draft. Certain delegations referred to comments which underlined the basis for their opposition to a treaty as well as the serious flaws in the Soviet draft.

109. With respect to article I of the Soviet draft which, it was stated, demonstrated with particular clarity why a treaty was the wrong approach, legally and politically, it was noted that the first subparagraph of paragraph 1 opened with an undertaking to comply with an existing and fully operative obligation contained in Article 2, paragraph 4, of the Charter.

110. In this connexion, the question was asked whether it was necessary or legally sound to repeat in a new treaty a legal prescription which was already contained in the Charter and formed part of a complex set-up of obligations. It was also asked if the repetition in a treaty of an already established norm was not likely to diminish the legal validity of that norm; the principle of non-use of force, it was stated, could be reiterated but in a broader context where what was already in the Charter would be elaborated on and brought one step further. It was noted that the Soviet draft did not go as far in the elaboration of Charter provisions as 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)) or the Definition of Aggression (resolution 3314 (XXIX)); the Charter, it was stated, had stood the test of time and there was no need to repeat its provisions; efforts should be aimed at filling its possible gaps.

111. The view was also expressed that a restatement of the prohibition of the use of force in an instrument which would have neither the universality nor the solemnity of the Charter and would offset the balance established by the Charter would not strengthen but on the contrary weaken that prohibition. Such a restatement, even if accurate, could only either reflect the view that the obligation in Article 2 of the Charter was no longer binding, so that a new binding instrument was needed, or reflect a desire to change the existing obligation. It was noted that the first subparagraph of paragraph 1 expressed the operative undertaking in words which were similar to but not identical with the existing Charter obligation. The view was expressed that either the purpose of article I was to throw doubt on the meaning of the obligation, in which case one's worst fears were confirmed, or its purpose was to change in some way the existing content of the obligation, in which case one was faced with an attempt to amend or revise the Charter without following the procedures laid down in the Charter for amendment or revision. An explanation for the variation from the Charter was requested.

112. Regarding the second subparagraph of paragraph 1, the view was expressed that it repeated the obligation of the first subparagraph. It was pointed out that the prohibition of Article 2, paragraph 4, of the Charter, was absolute with regard

to the weapons involved, and that any attempt to particularize the prohibition - which was clearly the effect of the phrase "including nuclear weapons and other types of weapons of mass destruction" - could only mislead. Since, it was added, any and all weapons were prohibited, the mention of particular weapons in a legal instrument either suggested drafting incompetence or a desire to create an impression that some weapons were more prohibited than others. It was maintained that the latter approach weakened the generality of the prohibition and sowed confusion as to the legal status of the weapons referred to and constituted an enemy to meaningful progress on arms control and disarmament. The view was expressed that similar flaws were to be found in all the other provisions of the Soviet draft. It was suggested that while many of the flaws were inherent in the idea of a treaty, others were the result of bad drafting and fundamental misperceptions as to the nature of the legal régime of the Charter.

113. At the 5th meeting of the Working Group, the representative of the Soviet Union introduced article III of the Soviet draft world treaty as follows:

"Article III 10/

"An important criterion of the legality of any international document adopted in the process of extending the Charter and making it more specific should be the compatibility of its contents with fundamental Charter obligations, as clearly follows from Article 103 of the Charter. This compatibility is particularly important in extending and specifying the principles of the Charter which are universally considered as peremptory norms of general international law. This is undoubtedly the status of the principle of the non-use of force, i.e. it is in accordance with article 53 of the 1969 Vienna Convention on the Law of Treaties which specifies that such a norm is 'accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character'".

"Whether any international document conflicts or is compatible with the Charter depends on whether or not the document contains any derogation from its fundamental provisions. Obviously a derogation implies complete or partial substitution of a new requirement for an existing requirement of the Charter, i.e. when on the one hand the conduct prescribed by the Charter is completely or partially changed and on the other hand when the document proposes a new type of conduct. Such a derogation is contained, for example, in the notorious General Assembly resolution 377 (V), which was intended as a replacement for Charter provisions regulating the correlation of the terms of reference of the Security Council and the General Assembly, i.e., as a virtual revision of the Charter, and which therefore had no legal force.

"The Definition of Aggression, on the other hand, contained no such derogation. At the very beginning of work on the Definition, as is noted in the 1969 report of the Special Committee on the Question of Defining Aggression, 'all the members of the Special Committee agreed that the Definition of Aggression should be compatible with the Charter and based on the Charter'. 11/

10/ For the text of this article, see the annex to the present report.

11/ Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 20 (A/7620), para. 18.

"The conduct envisaged in the document must not lead to a partial or complete revision of the fundamental obligations of the Charter. It may only affirm, extend and make more specific an obligation laid down in the Charter, or offer an extension to the scope of this obligation within a more precise and specific framework. In drafting such important documents as, for example, General Assembly resolution 2936 (XXVII), many delegations proceeded on the assumption that it was necessary to make use of the method of extending the principles of the Charter and making them more specific. 'The Soviet proposal', said the representative of the USSR at the 2078th meeting of the General Assembly, 'gives concrete expression to the relevant articles and provisions of the Charter in a manner applicable to the present stage of development of international relations' (A/PV.2078, para. 30). The representative of Ecuador, speaking on the same subject, said that an advance of the principles contained in the Charter could only be achieved for the time being by progressive development, by resolutions which defined, established and clarified the scope of the principles (A/PV.2084, para. 99).

"The draft Treaty is in line with this practice. Aside from affirming the obligations of the Charter, the provisions of the draft Treaty are intended to extend them and make them more specific. However, none of these provisions makes any change to the fundamental obligations to the Charter, and they cannot be considered as a 'derogation' from the peremptory norms of general international law or as envisaging what would amount to a revision of the Charter.

"In accordance with the draft, the World Treaty shall be concluded under the auspices of the United Nations, whose Secretary-General will act as depositary, as provided in article VII, paragraph 2, of the Treaty. In other words, the document is called upon to be an expression of the method of affirming, extending and making more specific the principle of the non-use of force in the form of a universal World Treaty concluded under the auspices of the United Nations.

"As the Soviet representative said in the First Committee at the thirty-first session of the General Assembly, 'It has not been the purpose of the Soviet Union to introduce anything new into the United Nations Charter. The Soviet Union consistently and firmly favours strict observance of the United Nations Charter. That has been our position and it remains our position today. In our view the conclusion of a world treaty on the non-use of force in international relations would be a further development of the most important provision of the United Nations Charter - that is the necessity of refraining from the threat or use of force in the light of contemporary international situation' (A/C.1/31/PV.19, p. 96). This standpoint received wide support from many delegations even at the thirty-first session of the General Assembly, including those of Madagascar (A/C.1/31/PV.17, pp. 39-40 et seq.) and Spain (A/C.1/31/PV.17, p. 31 et seq.).

"The need for the draft Treaty to correspond to the Charter was emphasized by many delegations during the Special Committee's first session, in particular those of Mexico, Ecuador and Senegal (A/AC.193/SR.9, p. 13).

"Returning to the text of article III of the draft, it should be noted that, aside from its compatibility with the universally recognized peremptory principles of international law formulated in the Charter, the article allows

States to retain their rights and obligations in connexion with the lawful possibility of resorting to force, based principally on the right to individual and collective self-defence and the right to afford assistance to national liberation movements. This general reference to the lawful occasions on which force may be used is envisaged in the Charter, although in a slightly different form, and is featured in article 6 of the Definition of Aggression, which does not contain specific references to the relevant provisions of the Charter either. Nonetheless, it is well known that this formulation of the provision did not give rise to any objections at the time when it was adopted.

"The words 'treaties and agreements concluded by them earlier' are intended, for example, to give a legally binding form to the interpretation of established practice in applying Article 51 of the Charter in the part concerned with the right of collective self-defence.

"As is well known, international practice has proceeded in the direction of concluding bilateral and regional treaties of mutual assistance in the event of armed invasion as forms of implementation of this important provision of the Charter. In this sense the provisions of the present article of the draft Treaty do not alter the balance of security created by treaties and agreements concluded in the course of the implementation by States of their right to collective self-defence. Obviously the treaties and agreements concerned are those which are compatible with the Charter of the United Nations.

"The article is also intended to safeguard the legal force of those bilateral and regional agreements in which the principle of the non-use of force has been implemented. The following are well-known examples of such treaties and agreements: the bilateral agreements concluded by the Socialist countries (the Soviet Union, the German Democratic Republic and the Czechoslovak Socialist Republic) with the Federal Republic of Germany, the Quadripartite Agreement of 3 September 1971 on West Berlin, the 1973 Soviet-American agreement on averting nuclear war, etc.

"In his statement in the general debate (A/AC.193/SR.19) the representative of the United Kingdom, disputing our reference to the treaties on human rights as examples which proved that it was possible, by means of an international treaty, to extend the principles of the Charter and make them more specific, put forward a curious argument according to which international obligation could be divided into the positive and the negative, the former being, as it were, susceptible to codification, while the latter were not. He used the same argument in connexion with the question of the peaceful settlement of disputes, which, being based on a positive obligation was also, it appeared, amenable to codification, unlike the principle of the non-use of force which was based on a negative obligation. The norms of international law do indeed lay down obligations of a negative or positive kind, i.e. they enjoin States either to refrain from some kinds of action or to report to them. However, can this subdivision of international obligations imply that the former, which is the class of obligations most highly characteristic of international law, cannot be extended or made more specific, and that such a process is the exclusive privilege of a class of obligations comparatively new to international law - obligations envisaging the necessity of taking action? To make such an assertion is tantamount to ignoring the truth, borne out by history, that all contemporary international law, and its positive norms, is the result of consistent and undeviating limitation of a State sovereignty,

which had been absolute in its original historical form, through the emergence and further evolution specifically of obligations of a negative kind. It is sufficient to recall the principle of the sovereign equality of States, which formed the basis of the codification of diplomatic and consular law or the principle of non-interference in internal affairs, which is to a large extent based specifically on negative obligations.

"In its contemporary aspect, the principle of the non-use of force is also a consequence of the development process of negative obligations, which have gradually supplanted the so-called 'right to war' which had previously been, in the words of the well-known British international jurist L. Oppenheim, 'a natural function of the State and a prerogative of its unlimited sovereignty'. Elimination of the 'right of war' in international law in general was accomplished through a whole series of well-known documents, such as the second Hague Convention for the Pacific Settlement of International Disputes of 1907, the Statute of the League of Nations, the Kellogg-Briand Pact of 1928 and the Charter of the United Nations, which, one after the other, gradually and consistently developed upon each other, broadening the scope and applicability of the actions they prohibited, and led to the establishment of that norm which today we refer to as the principle of the non-use of force. All this followed from the process of codification, which includes the elements of progressive development and increasing concretization, and for some reason this historical experience, which is reflected in the Soviet draft World Treaty, was found to be unacceptable by the representative of the United Kingdom.

"In putting forward the idea and the draft of a World Treaty, the Soviet Union proceeded on the assumption that the document should crystallize in binding form the experience accumulated over the period of the existence of the United Nations in codifying the principle of the non-use of force, so that the substance of this principle is compatible with the present stage of development of international relations. Our proposal makes it possible to systematize normative material in the form of recommendations and to confer binding legal force upon it. In this respect the World Treaty follows the same path as other well-known international treaties of a general character which have affirmed and extended the principle of the non-use of force, and it would have similar significance as a landmark for the further strengthening and development of this highly important norm of contemporary international law."

114. It was noted that there was something ironic about the position of pleading for action on the ground that the draft contained nothing new.

115. Certain delegations which spoke on this article supported it, stating that it should allay the fears expressed by some delegations that the proposed treaty might affect the right of States to resist the use of force as provided in the Charter. This article, it was further said, was very important and it was clear proof that the treaty was not in any way intended to depart from the Charter and would in particular not affect the right to individual and collective self-defence nor existing agreements on mutual assistance and security. Neither would it impair the legitimacy of the struggle of colonial peoples for their freedom by all means at their disposal, as recognized by the General Assembly in its resolutions 1514 (XV) and 2936 (XXVII).

116. At the 7th meeting of the Working Group, the representative of the Soviet Union introduced article IV of the Soviet draft world treaty as follows:

"Article IV 12/

"One of the most important characteristics of the draft World Treaty on the Non-use of Force in International Relations is that the purpose of its conclusions is to further diminish the threat of a world war and to create favourable conditions for progress towards disarmament.

"If we reflect on the substance of any of the problems which lead to international complications, if we concentrate our attention on the direct cause of the risk of war and the outbreak of military conflicts, we cannot avoid the conclusion that this constitutes the use of force by certain States against others within the aim of territorial annexation, the subjugation of peoples and the establishment of supremacy over those peoples.

"This remains true even today.

"It should not be forgotten that tens and hundreds of millions of people in Asia, Africa and America have in their time been brought into colonial servitude through the use of force. Now that almost all of them have been liberated, the least opportunity is exploited for the purpose of establishing a direct or indirect colonial supremacy over them. Those who formerly resorted to force and who continue to do so in order to further ends which have nothing in common with the interests of peoples are scarcely perturbed by the fact that not a single dispute between States has been or can be resolved on a firm basis of justice through the use of force. Using force for the purposes of aggression, acquisition of territory and suppression of other peoples generally created grounds for further enmity and further conflicts. In this it is peoples which are the sufferers; human beings perish and the enormous material resources they have laboured to create are destroyed.

"For this reason, progressive political figures have been aware of the necessity of excluding the use of force from international relations for almost as long as States themselves have been in existence. Certainly, no single interpretation of this principle can be sufficient. States must take practical steps, which are all the more necessary now that nuclear weapons have appeared in the arsenals of States and now that the accumulation of such weapons has radically altered views on the consequences which military conflicts may have for peoples.

"The likelihood that a particular crisis or conflict will develop into a nuclear confrontation can be assessed in various ways. However, as long as nuclear weapons exist, so also do this possibility and this hazard, and no State or Government can ignore it. Our country assumes it is possible to eliminate, or at least significantly reduce, the danger that such a conflict between States will bring about a nuclear catastrophe. It can be done if denunciation of the use of force in international relations is raised to the Status of an international law and if at the same time the use of nuclear weapons is prohibited.

12/ For the text of this article, see the annex to the present report.

"The Soviet delegation is convinced that serious consideration of these questions can no longer be postponed.

"The Soviet draft World Treaty envisages renunciation by States of any use of force for resolving international disputes, including the use of nuclear weapons or of those weapons which are normally known as conventional. It is proposed that this renunciation should be of such a kind that no one may derogate from its strict observance; this is possible if the United Nations exhibits the necessary understanding of its responsibilities for the fate of the world.

"This approach is entirely compatible with the fundamental principle enunciated in the Charter, according to which 'All Members shall 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' (Article 2, para. 4). This is directly affirmed in articles I and IV of the draft World Treaty. The need to resolve the general question of the non-use of force together with the prohibition on the use of nuclear weapons as an organic whole is dictated by the present state of world affairs.

"From the time of their appearance, nuclear weapons have invariably been considered as the most dangerous weapons of mass destruction. It is more than ever true today that, far from remaining constant, the power of these weapons is increasing.

"One would be mistaken to lose sight of a further aspect of the problem: with the development of conventional weapons the risk that they will be used in military conflicts has also increased many times over in comparison to the period of the Second World War. In the last quarter-century nuclear weapons have not been used in military conflicts; yet who can tell how many tragedies have come about through the use of conventional weapons, or how many victims they have claimed? All of this testifies in favour of a prohibition of the use of force in contravention of the Charter, in organic connexion with a prohibition on the use principally of nuclear weapons, which have a special significance.

"The soundness and appositeness of such a decision is shown also by the experience which the United Nations has accumulated in its consideration of the problems of security and disarmament. The repeated efforts of the United Nations to find a solution to both these problems is fresh in everyone's memory. On the one hand Member States have attempted to tackle the question on the non-use of force and on the other they have tried to deal with the problem of prohibiting the use of nuclear weapons. What has emerged from these efforts?

"In recent years alone, Member States have unanimously adopted resolutions in favour of the strict observance of the prohibition on the use or threat of force in international relations: 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, the Declaration on the Strengthening of International Security, and General Assembly resolution 2936 (XXVII) on the non-use of force in international relations and permanent prohibition of the use of nuclear weapons.

"The real core of all these documents is the principle of the non-use of force in international relations. It seemed that all the aspects of the problem had been taken into account, and all the necessary formulations entirely worked out and adjusted in the scales of politics. Yet it is no secret that it has still proved impossible fully to achieve the aims laid down - force is still being used and human blood spilled. The Soviet Union's proposal is based on the principle of a solution most realistic and practically effective in present conditions. It is this condition which corresponds to the interests of all States, irrespective of their social systems, the extent of their territories and the size of their populations, or whether or not they possess nuclear weapons.

"As a result of such a decision, States, even those which are militarily strong, and nuclear Powers in particular, will mutually benefit from greater confidence in the absence of a mutual threat. The security of each will be more reliably protected and, at the same time, on an equal footing, i.e. neither will gain a one-sided advantage at the expense of the other as compared to the situation obtaining at the present time. And neither will lose anything.

"Those States which are not militarily strong, including all countries which do not possess nuclear weapons, will also benefit. At present, they have a well-grounded anxiety regarding security, fearing that nuclear weapons may be used against them if aggression should occur. Prohibition of the use of nuclear arms, combined with a renunciation of the use of force, should remove that threat and greatly consolidate the security of all States.

"Of course, the obligation of countries to refrain from the use of force, including nuclear weapons, can in no way affect their right to individual and collective self-defence, which is affirmed in Article 51 of the Charter. On the contrary, this obligation will strengthen the right to self-defence against aggression, and the right to struggle for the elimination of the consequences of aggression in all instances where it has already been committed and where the aggressor attempts to exploit the fruits of his aggression.

"No one can cast doubt on the inalienable right of a State and people subjected to aggression to resist it by using all means so long as the aggressor continues to use violence and encroaches upon their freedom and sovereignty, and so long as that aggressor attempts to hold on to territories seized by force.

"Renunciation of the use of force in international relations in no way limits the rights of the peoples of colonial countries to struggle for their freedom and independence by using any means which may be required for the purpose. This is recognized as their legal right by the United Nations. It is based on the fact that violence has been used against all peoples which have been the victims of colonialism and aggression and, in resorting to force in order to gain their freedom, they are merely reinstating justice and re-establishing their violated rights.

"Taking precisely these views into account, article IV of the draft World Treaty states:

'The High Contracting Parties shall make all possible efforts to implement effective measures for lessening military confrontation and for disarmament which would constitute steps towards the achievement of the ultimate goal - general and complete disarmament under strict and effective international control.'

"In discussing the present article, we are aware of all the complications and obstacles which stand in the way of disarmament. None the less, the Union of Soviet Socialist Republics and the other fraternal socialist countries resolutely oppose the point of view which maintains that there is no way out. We are firmly convinced that it is within the power of peoples, States and responsible Governments to change the situation provided they get down to business, as the phrase correctly has it, and do not practice a policy of deceiving their peoples.

"Plenty of experience has already been gained in restraining the growth of armaments in a number of sectors. By means of bilateral and multilateral agreements - by now more than 20 of them - a number of channels for the spread of weapons of mass destruction have been closed and others narrowed. This is surely shown by, for example, the 1967 Treaty on the Non-Proliferation of Nuclear Weapons. ^{13/} There could and should, therefore, be further forward movement from the positions already secured. The political climate which has developed in the world favours efforts to limit armaments. This climate, despite all the patches of turbulence and fluctuation, has been characterized over many years by the supremacy of détente. Up to that point there had never been such a situation in the history of the mutual relations of two world social systems. Although of course insufficient, a certain level of mutual trust has been attained.

"The benevolent efforts which have evolved must be exploited to the full. If it is acknowledged that there is no reasonable alternative to the policy of détente, it is equally true that this is because there is no reasonable alternative to disarmament.

"Clear evidence of this approach is furnished by the extremely broad programme of disarmament measures introduced by the Soviet Union at the special session of the General Assembly in 1978. This programme embraces both partial measures towards resolving this problem, which is of universal and historical significance, and general and complete disarmament, i.e. a radical step which, we are firmly convinced, mankind must sooner or later take.

"The principal task, one to which our country attached paramount importance at the special session, is to secure a decisive breakthrough in the struggle to halt the arms race. Among the measures proposed by the Soviet Union are: a total halt to further quantitative and qualitative increases in the arms and armed forces of States possessing large-scale military potential; the implementation over a definite and limited period of time of a cessation in the production of all other types of weapons of mass destruction, and a halt to the creation of new types of conventional weapons of large-scale destructive capability; renunciation of the expansion of armies and increases in the conventional armaments of Powers which are permanent members of the Security Council, and also of countries allied to them by military agreements.

^{13/} United Nations, Treaty Series, vol. 729, p. 161.

This also involves refraining from siding nuclear weapons on the territory of States where there are no such weapons at the present; reduction in the military budgets of States; a concern to promote the success of current talks on limiting strategic offensive weapons, as also of talks on a general and complete ban on the testing of nuclear weapons, on a ban on the development, production and stockpiling of chemical weapons and on the elimination of stocks of such weapons, on a ban on radiological weapons, on reducing armed forces and conventional weapons, particularly in Central Europe, and on limiting the international trade in conventional weapons and their delivery. Finally, the proposals extend the circle of States participating in the existing system of international treaties and agreements on the limitation of armaments and ensure the universality of those agreements. A mere enumeration of these measures shows that there are avenues leading to a transition from the arms race and military tension to military détente and a radical diminution of the threat of war.

"Outlining the situation with regard to ending the arms race and averting the threat of a world nuclear war, the General Secretary of the Central Committee of the Communist Party of the Soviet Union and President of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, Mr. L. I. Brezhnev, said in a speech to the voters of the Baumansk electoral district:

'Other steps are also being taken towards restraining the arms race. Conventions have come into force concerning prohibitions on bacteriological weapons and on interference with the natural environment for military purposes. There is a definite strengthening of the régime of non-proliferation of nuclear weapons. This is also helped by the creation of the world's first non-nuclear zone, embracing the majority of countries in Latin America. The General Assembly of the United Nations has approved four proposals with regard to guarantees of security for the non-nuclear States and the non-establishment of nuclear weapons on the territories of those countries where there are no such weapons at the present, and it also - and this is particularly important - called upon the nuclear Powers to initiate talks on the complete cessation of the production of nuclear weapons and on a reduction in the stocks of nuclear weapons. We consider this exceptionally important and we are ready to begin such talks.'

"The statement clearly illustrates the reasonableness and necessity of the inclusion in the draft World Treaty of article IV, which envisages close co-ordination of the question of the renunciation of the use of force with the cardinal question of our time, i.e. disarmament. The overriding importance of this provision of the Treaty is obvious. It is scarcely possible for anyone to doubt that ending the growing and world-endangering arms race and making the transition towards a reduction in stockpiles and to disarmament is the most reliable pathway to eliminating the hazard of the outbreak of a new world war and eliminating the very possibility of resorting to force or the threat of force in international relations. It is widely recognized that the very existence of large-scale armies and stockpiles of various types of weapons has always formed a material basis for the use of force, encouraging the aggressor to use arms to inflict his will upon other peoples and countries in order to resolve international disputes to his advantage. On the other hand, the universal obligation to refrain from using

war to resolve disputes would open up a broad avenue to the strengthening of trust between States, and would create extremely favourable conditions for curtailing the arms race and reducing armaments, including nuclear weapons, and for making further progress towards general and complete disarmament."

117. It was stated that the fact that one delegation intervened from time to time to introduce an article for a draft treaty did not mean the Committee was discussing a treaty. The fact that those who opposed the idea of a treaty did not criticize each and every article could not be taken to mean there was any agreement in the Committee or any aspect of the Soviet draft or any chance of agreement.

118. Some representatives emphasized the significance of article IV which embodied the concept of interdependence between the non-use of force and disarmament as that concept was reflected in the draft. Article IV should be interpreted in the context of the stipulations of article I. The use of nuclear and other types of weapons of mass destruction, it was observed, posed dangers not only for the belligerent parties but for all States and peoples and in view of these highly probable implications of the use or threat of force, there was an organic link between the enhancement of the principle of non-use of force and the solution of the most pressing issue of the present time, that of curbing the arms race and achieving general and complete disarmament. It was further said that although article IV defined a goal for future efforts it could have an immediate effect of bringing about a greater degree of mutual confidence among States, giving more practical validity to the principle of non-use of force and better guaranteeing the observance of the principle. Article IV was of particular importance for the implementation of the principles of the Charter and rightly emphasized the link between the principle of non-use of force and disarmament measures.

119. At the 8th meeting of the Working Group, the representative of the Soviet Union introduced article V of the Soviet draft world treaty as follows:

"Article V 14/

"I should like to dwell on the substance of article V of the Soviet draft treaty on the non-use of force in international relations - a provision on which - as on other provisions - valuable comments were made during the session of the General Assembly. Article V states that each High Contracting Party shall consider the question of what measures must be taken, in accordance with its constitutional procedure, for ensuring the fullest compliance with its obligations under this Treaty.

"The domestic measures for the observance of the principle of the non-use of force provided for in this article are calculated to avert any actions on the part of physical or juridical persons, or the organs of States parties, which may - or the consequences of which may - lead to a violation of the principle of the non-use of force.

"The need for that provision is based on the fact that, unfortunately, there are countries in which war propaganda and hatred against other peoples are disseminated; there are countries in which punitive operations are carried out against the territories of other States; there is proof of the organization and infiltration of bands of mercenaries for the suppression of the national liberation struggle of peoples striving to overthrow colonial and racist régimes.

14/ For the text of the article, see the annex to the present report.

"In that connexion the inclusion in the international treaty of an obligation such as that contained in article V would present the legislative organs of States with a task of considering the question of the necessity - if there be a necessity - of bringing their legislation into full compliance with the obligation to refrain from the use of force in international relations - with the obligations contained in the treaty under consideration.

"As I have already said, comments were made during the session of the General Assembly in the Sixth Committee, as well as in the Special Committee. Certain colleagues made critical remarks concerning that provision. The representative of Australia, for example, emphasized that, in becoming Members of the United Nations, States assume the legal obligation to observe the provisions of the Charter. In that connexion he pointed out that there was no need to repeat that obligation in the domestic constitutional order; there was no need to confirm that obligation by any measures of a domestic nature. In that regard I should like to stress that it is not a question here of a repetition of the obligation in the domestic constitutional order. It is a question of adopting, at the national level, measures of a legislative, administrative or other nature so as to create the conditions whereby the State may consistently abide by the principle of the non-use of force in international relations; it is a question of supplementing the international guarantees provided for in the United Nations Charter - guarantees of the observance of the principle of the non-use of force - by means of a system of internal State guarantees. We are not talking about replacing international guarantees; we are talking about supplementing them.

"The need for the adoption of such measures arises from the fact that the observance of the principle of the non-use of force is linked with the activities of the physical and juridical persons and the organs of the States concerned. You will recall that in the United Nations Charter there exists such a concept as the policy of aggression, a policy which is pursued by the whole system of State organs, and above all - in a number of States - by military-industrial complexes and various State organs and organizations on which depends to a significant degree the realization of the principle of the non-use of force in international relations.

"That was approximately the line of argument adduced by the representative of Canada, who claimed that the provisions contained in article V of the Soviet draft treaty did not correspond to article 25 of the 1969 Vienna Convention on the Law of Treaties, which article reflects the principle of 'pacta sunt servanda' whereby each treaty in force is binding on the parties to it and must be implemented by them in good faith. The inclusion in the treaty of a provision which is binding on States and provides that they will consider the question of what measures must be taken at the national level for the observance of the principle of the non-use of force in no way contradicts the obligation under the Vienna Convention and the principle of 'pacta sunt servanda'. There is no question that these obligations are absolute and it is simply a matter, as already emphasized, of creating the necessary conditions for consistently putting this principle into practice.

"The view was also expressed by the representative of Kuwait that such a provision, which provides for the need to take appropriate measures at the national level for compliance with the obligation to refrain from the use of force, gives the parties a certain room for manoeuvre in ensuring compliance

with their obligations under the treaty. In particular, the representative of Kuwait referred to the principle of international law according to which no State can refer to its constitutional procedures and its domestic law as a means of freeing it from the fulfilment of international obligations. I should like to emphasize that our country proceeds from the premise that not a single State can refer to its constitutional procedures and its domestic law as grounds for freeing it from compliance with its international obligations. That is a perfectly correct principle to which the representative of Kuwait quite justifiably referred. However, I should like to stress that the sense of article V does not in any way consist in providing any pretexts for avoiding existing obligations, for avoiding obligations assumed under the treaty. On the contrary, as already emphasized, this provision is called upon to supplement, through domestic guarantees, the international guarantees for the observance by States of the principle of non-use of force in international relations. Of course, if States adopt certain measures of a legislative, administrative or other nature, such measures must be in full conformity with the provisions of the treaty on the non-use of force. Those measures must be geared towards the consistent compliance with that principle, not towards disregarding it. Therefore, if there are any clarifying provisions and if there is a feeling that a particular provision needs to be made more precise and specific, then of course we are ready to consider most carefully with other colleagues any such considerations and formulas. I should like to emphasize, however, that the very sense of the provision contained in article V consists precisely in not providing any grounds for reference to domestic procedures or grounds for disregarding the principle of the non-use of force. The substance of the provision in article V is aimed at ensuring the most consistent observance of that principle.

"I should like to refer in that regard to individual examples taken from various States. I refer to the example of my own country; other colleagues obviously are better acquainted with the examples of their own countries. I refer to the case of my own country in order to show that such measures of a legislative nature fully respond to the need, the objective, which we are trying to meet - that of enhancing the effectiveness of the principle of the non-use of force in international relations.

The Soviet Union has instituted a number of constitutional and other legislative measures of a domestic character which preclude the possibility of any activities being carried out in its territory - each State is responsible for what happens in its territory - and by its organs abroad. Each State is responsible for the activities of its organs. You will recall, for example, that the outer space treaty specifically provides that States Parties shall bear responsibility for national activities in outer space, i.e. they bear responsibility for the activities of any physical and juridical persons. Whichever physical or juridical persons carry on activities in outer space, the State bears full responsibility for their activities. That is a very important provision, a very important principle, which is now becoming part of international law. Formerly, as you know, it was sometimes disclaimed by various references to freedom of activity or, as it were, to the unlimited and almost absolute freedom of activities of various organizations, and to individual freedoms. But in such questions as the non-use of force our present day society is moving towards restrictions; in other words, measures of a domestic nature must be taken which would preclude the possibility of conditions being created that would facilitate the conduct of activities that contradict the principle of the non-use of force in international relations.

In our new Constitution, the Soviet Constitution of 1977 - in particular, in article 77 - the averting of aggressive wars is considered the objective of the foreign policy of the Soviet State. There is also article 29 of the Constitution, in which a mutual renunciation of the use or threat of force is proclaimed the most important principle of its foreign policy. In other words, these principles are raised to the level of a constitutional principle in the Soviet State, and we feel that this is an important feature, an important provision. Of course, each State itself regulates its own legislation and acts as it sees fit, but these are obviously examples which simply reinforce the principles of the non-use of force in international relations.

"I should also like to point out that on the basis of the resolution adopted by the General Assembly on 3 November 1947 on the prohibition of war propaganda, in 1951 the Soviet Union adopted a law for the protection of peace and the Constitution contains a special provision prohibiting war propaganda. We know that certain countries have difficulties: they say there is the freedom of speech, freedom of the printed word, freedom of the press, etc., and they do not wish to pass a law on war propaganda, but in any case we consider this matter is particularly important and useful; there is even an appeal by the General Assembly on this subject. Of course, the question of what measures should be taken by a State is a matter for States themselves to decide.

"In other words, this example, the example of national measures in the sphere of national legislation, confirms that we cannot here find a single provision which could be used in order to circumvent, so to speak, the principle of the non-use of force in international relations.

"The representative of Luxembourg observed that article V clearly provides that the non-use of force may be limited by States' internal constitutional procedures. I should like to stress again that the sense of the article is exactly the opposite. Frankly speaking, we cannot understand on what basis one can reach such a conclusion; but if such concerns exist, we are prepared to consider the formulas which our colleagues have in mind to express their viewpoint.

"It has also been said that it is necessary to prohibit using domestic law to obstruct the fulfilment of international obligations. This principle is in our view correct and does not contradict the contents of article V of the draft treaty: that idea, of course, could be expressed in a suitable form.

"The representative of Romania who spoke here yesterday and made a great many very interesting points and presented a number of thoughts on article IV, concerned with the problems of disarmament, another article of the draft treaty, and on the agreement as a whole, then proposed, as I remember, that our treaty should prohibit war propaganda. We are ready and, clearly, so are some of our colleagues, to look carefully at this aspect also, if that is what our Committee wishes.

"We must consider another point, which was the subject of comment. Article V does not establish any direct obligation to make changes in States' internal legislation, but rather establishes the obligation just to consider what measures ought to be taken in order to ensure that obligations under the

treaty are met. It does not rule out the possibility that in a number of cases some States, having considered the question, will reach the conclusion that there is no need to make any changes in their legislation. But this, of course, as I have already said, is the prerogative of the States concerned. In other cases such changes will have to be made, and States will take the corresponding decisions. In other words, the question of whether or not to make such changes remains entirely within the competence of sovereign States. Therefore, the inclusion of this article in no way entails meddling in States' internal affairs.

"In other words, the provision in article V of the treaty is based on the idea that the adoption of legislative, administrative or other measures of an internal nature by participating States should promote the observance of the principle of non-use of force in international relations, and should provide an additional material guarantee that the principle will be acted upon.

"It should be said that the inclusion of such provisions in international legal instruments is not without precedent. There are many examples of the inclusion of similar provisions in international agreements and treaties. Let me just mention the International Covenant on Civil and Political Rights, article 2, which provides: 'Where not already provided for by existing legislative or other measures, each State party to the present Covenant undertakes to take necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.'

"I could also refer, for example, to the International Convention on the Suppression and Punishment of the Crime of Apartheid (General Assembly resolution 3068 (XXVIII), annex) article IV of which provides that:

'The States Parties to the present Convention undertake:

(a) To adopt any legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of apartheid and similar segregationist policies or their manifestations and to punish persons guilty of that crime;

(b) To adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts defined in article II of the present Convention, whether or not such persons reside in the territory of the State in which the acts are committed or are nationals of that State or of some other State or are stateless persons.'

In other words, this is a comparable position, suitably reflected in the corresponding international legal instrument. The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity has a comparable provision in article IV, so does the International Convention on the Elimination of All Forms of Racial Discrimination and many, many others. In other words, this provision is rooted in international legal practice, in international treaty practice and in many authoritative international legal instruments.

"I should like to draw attention to another point. The representative of Cyprus made a very interesting statement here only a moment ago in the course of which he said (I have his English text here before me, and I shall read an extract from his statement): 'Finally, with reference to article V of the draft treaty I wish to draw attention to the proposal made by the President of Cyprus before the special session of the General Assembly on disarmament for the total demilitarization and disarmament of the Republic of Cyprus in the context of a just solution of the Cyprus problem based on the United Nations resolution relating to Cyprus, a proposal which comes within and in fact goes a good deal beyond the measures envisaged in the said article V of the Soviet draft.'

"The point, in other words, is that the provision contained in article V is in point of fact already about to be implemented, while we have not yet included it in the treaty and have not yet concluded the treaty, and this is a very positive development testifying to the practical importance and value of such a provision.

"Those who have denied the value of such a provision or expressed doubts as to its value should consider the fact to which I referred at the beginning of my statement: a State bears responsibility for all its national activities on its own territory and for the activities of its juridical and physical persons, as well as for the activities of its nationals and bodies abroad. You well know that the Sixth Committee is currently considering a special question, the question of the code of offences against peace and security of mankind, which confirms this argument.

"Those are the considerations and comments which we wish to make at this stage in the context of article V."

120. The delegation which spoke on this article welcomed it. It was noted in particular that the taking by States of the necessary steps to reflect in their internal legislation their international obligation not to use force would certainly contribute to the improvement of the international climate.

121. It was on the other hand stated that the very idea of a treaty was misguided since it could not either be the same as the Charter and therefore unwise or different from the Charter and therefore improper. It was suggested that the text submitted by Belgium, France, Germany, Federal Republic of, Italy and the United Kingdom of Great Britain and Northern Ireland offered a more promising possibility and delegates were urged to comment on it.

122. While being in favour of the elaboration of the proposed treaty, some delegations took the view that this draft needed to be supplemented. Thus it was said that consideration should be given not only to the use of military force but also to political and economic pressures which threatened the very existence of countries and were tantamount to aggression. The view was further expressed that it was necessary to examine territorial aspects, in particular the prohibition of military occupation and other acts against the territorial integrity of States, as well as the unlawful character of territorial acquisition or special advantages resulting from aggression. It was also said that the treaty should affirm that an aggressor State would not be allowed to benefit from his aggression, that the international community must take enforcement measures to deter or punish an aggressor State, that no State had a right of intervention and that the struggle of peoples by all means at their disposal to achieve self-determination was legitimate.

123. In addition, it was felt necessary that any treaty on the principle of non-use of force in international relations should state that the principle of the non-use of force was absolute and irrevocable, and that the use of force was permissible only in the exercise of the right of individual and collective self-defence, in accordance with the provisions of the Charter; bilateral or multilateral treaties concluded by States must not, therefore, contain any departures from that principle or authorize the use of force in international relations outside the framework laid down by the Charter. It was also said that such a treaty should contain the following principal elements: (a) A clear and unequivocal definition of the obligation of States to refrain from the threat or use of force; (b) A provision stipulating that no political, military or any other consideration could justify the use of force or the threat of force against another State; (c) An undertaking by all the contracting States not to resort in any case or in any circumstances to the threat or use of force, and to refrain from interfering in any way in the domestic affairs of other States. No argument or grounds could justify interference with or foreign intervention against sovereign and independent States, or the provision of armed support to groups using force against their own Government to overthrow legally constituted national bodies recognized at the international level; (d) International non-recognition of any territorial acquisition or special advantages deriving from acts of force directed against the unity and territorial integrity of a State, or from political, economic or cultural threats or pressure; (e) A list, not exhaustive in character, of the material elements constituting the threat or use of force to be prohibited by the treaty: the occupation of alien territory by force; acts directed against the unity and territorial integrity of a State; the use of any type of weapons against the territory of a State or attacks by the armed forces of a State on the land, naval or air forces of another State; war propaganda; (f) The right of every State to individual and collective self-defence against armed attack and the right of peoples still under colonial domination or foreign occupation to resort to armed struggle for national liberation, including the right to seek and receive support; (g) The obligation of States possessing nuclear weapons to refrain from using nuclear weapons and to refrain from the threat of using them against States not possessing such weapons; States possessing nuclear weapons must undertake not to use those weapons against each other; (h) The obligation for all States to continue to make efforts to adopt concrete and effective measures for disarmament, and nuclear disarmament in particular.

124. It was also said that the treaty should contain a general provision reaffirming the obligation of all States to solve their disputes by peaceful means and to refrain from any act or measure that might aggravate disputes. The view was however expressed that the principle of non-use of force and that of the peaceful settlement of disputes, although they were closely interrelated, should be the subject of two separate instruments and that the latter principle should be codified and developed in a separate treaty containing detailed provisions regarding the procedures and methods to be used in the performance of the corresponding obligations. It was recalled that the topic of the peaceful settlement of disputes had for several years been a priority item on the agenda of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

125. With respect to some of the suggestions which had been made for additions or changes to the Soviet draft, it was pointed out that a document in the legal field should be capable of long-term validity rather than bear the stamp of the transient

moment of its adoption. The view was expressed that from this point of view denial of fundamental human rights was a more suitable formulation than one which focused exclusively on a transitory and largely unfortunate institution now clearly vanishing rapidly from the scene. Attention was further drawn to the danger of inveighing against the acquisition of territory by aggression lest the conclusion be drawn that territory might be acquired by any use of force be it aggression or otherwise. It was stated that the existence of those articles of the Charter that legitimized certain of the changes that followed the Second World War were necessary elements of the Charter because the over-all scheme of the Charter was to prevent any acquisition of territory by the use of force. Caution was also urged lest any doubt be cast on the validity of paragraph 1 of Article 2 and the generality of its application to all Members.

126. Some delegations said that the detailed discussion of the draft had produced many concrete ideas, all of which were worthy of careful consideration. The sponsoring delegation expressed readiness to include in the draft provisions which would specify, through express reference to Article 51, the cases in which resort to force was lawful; recognize the right of peoples to resort to armed struggle in order to achieve self-determination, independence and freedom; prohibit the use or threat of force against the sovereign rights of States; recognize the right of peoples to use force to defend their national resources and economies; uphold the non-recognition of territorial acquisition or special advantages resulting from aggression; and state that violations of the obligations assumed under the treaty could entail enforcement measures under Chapter VII of the Charter. That same delegation expressed confidence that it would be possible to prepare a generally acceptable text which would correspond to the wishes of all participating delegations.

127. Other delegations expressed the view that the Working Group had not reached the stage of detailed discussion, much less analysis of the Soviet draft or any other specific proposals or suggestions. These representatives observed that while some delegations were commenting on the draft some others maintained their view that discussion of a text at this stage was premature. In their opinion, therefore, it could not be claimed that the Working Group had embarked on a discussion of texts.

128. To this, some delegations replied that since a number of delegations had made specific comments and proposals on individual articles and on the draft as a whole, this could not be ignored.

129. At the 7th meeting of the Working Group, a working paper submitted by Belgium, France, Germany, Federal Republic of, Italy and the United Kingdom of Great Britain and Northern Ireland was circulated as document A/AC.193/WG/R.1. This working paper read as follows:

"The Committee might wish, after discussion of the causes or reasons which lead States to the recourse to force, to examine the following items on the peaceful settlement of disputes and the non-use of force:

"On peaceful settlements of disputes

"(1) The obligations of the parties to a dispute, if they fail to reach an early and just solution by any one of the peaceful means embodied in the Charter of the United Nations, to continue to seek a settlement of the dispute by other peaceful means;

"(2) The obligation of the parties to international disputes - which, notwithstanding resort to the various procedures for the peaceful settlement of disputes, remains unsettled - to bring such disputes before the Security Council in accordance with the relevant provisions of the United Nations Charter;

"(3) The obligation to conduct negotiations in view of settlement of a dispute in good faith and in a spirit of co-operation and, to this end, early contacts should take place when a dispute is likely to break out between two or more States, or immediately following its outbreak;

"(4) The encouragement of all States parties to an international dispute to agree, if they are unable to solve the dispute through direct negotiations, on the recourse to third-party interposition; i.e., recourse to impartial bodies especially appointed to clarify the issues at stake, fact-finding commissions, conciliatory commissions, etc.;

"(5) The encouragement of parties to international disputes to settle them through recourse to the effective machinery provided for by regional arrangements in conformity with Article 52 of the United Nations Charter, and without prejudice to the competence of the Security Council in this field;

"(6) The encouragement of States to include, in bilateral or multilateral agreements to which they become parties, provisions for the settlement of disputes relating to the interpretation or application of the agreement by an arbitral tribunal or by the International Court of Justice;

"(7) The identification of categories of disputes which Member States of the United Nations would consider particularly fit for arbitration or judicial settlement;

"(8) The preparation of a list of authorities of proven competence, probity and impartiality who, in conformity with the agreement among all parties to a dispute, would be willing to appoint arbiters or chairmen of arbitral tribunals envisaged by international agreements between the parties concerned.

"The Committee might also wish to consider:

"(1) The reaffirmation of the principle according to which Member States of the United Nations shall settle international disputes by peaceful means, in such a manner that international peace and security, and justice are not endangered;

"(2) The restatement of the list of peaceful means for dispute settlement which shall include, inter alia, negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, recourse to regional agencies or arrangements and, in general, all kinds of peaceful means chosen by the parties to a dispute;

"(3) The reaffirmation of the obligation to respect the decision rendered on an international dispute by an authority to which the parties have resorted voluntarily;

"(4) The reaffirmation of the obligation of the parties to an international dispute to refrain from any action which may aggravate the existing situation, or the dispute, in such a way as to endanger the maintenance of international peace and security.

"On non-use of force

"(1) The encouragement to States to make all possible efforts to implement effective measures towards disarmament and lessening of military confrontation; this being in view of the ultimate goal of general and complete disarmament under effective international control;

"(2) The study of means or facilities available or needed to identify and avoid possible crises;

"(3) The enhancement of the United Nations peace-keeping capacity as a means of preventing or defusing international conflicts and providing an alternative to the use of force between States. In particular, States should consider increased use of observer missions, for purposes both of fact-finding and of deterrence;

"(4) The enhancement of the fact-finding capacity of the Security Council, in accordance with the Charter of the United Nations, on an ad hoc basis;

"(5) The wider use of the possibilities offered to the Security Council by Articles 28 and 29 of the United Nations Charter, as well as the encouragement of the practice of informal consultations for the discharge of the Security Council's functions under Chapter VI of the United Nations Charter;

"(6) The underlining of the obligation of United Nations Member States to support United Nations peace-keeping operations decided upon in accordance with the Charter and conducted, within this context, with the consent of the host countries;

"(7) The underlining of the responsibility of Member States to share equitably the financial burden of United Nations peace-keeping operations;

"(8) The encouragement of Member States to create facilities for training personnel for the peace-keeping operations of the United Nations and to share experience already gained in such operations and in national programmes for peace-keeping training;

"(9) The encouragement of Member States to consider supplying the Secretary-General with up-to-date information relating to possible stand-by capacities, including logistics, which could, without prejudice to the sovereign decision of the Member State on the given occasion, be made available if required.

"The Committee might also wish to consider:

"(1) The reaffirmation of the principle according to which all Member States of the United Nations shall 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;

"(2) The reaffirmation that the principle mentioned under point (1) applies also to groups of States, and that no State shall assist, encourage or induce any State or group of States to use force or the threat of force in violation of the political independence, territorial integrity or sovereignty of other States;

"(3) The reaffirmation that compliance with the principle mentioned under point (1) includes refraining from the use of force in violation of such principle irrespective of the weapons used or the place chosen, as well as the use of any weapons, on land, on the sea, in the air or in outer space, or the threat of their use;

"(4) The reaffirmation of the principle embodied in Article 51 of the Charter according to which nothing in the Charter of the United Nations shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a State Member of the United Nations, until the Security Council has taken measures necessary to maintain peace and security.

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"The foregoing list does not claim to be exhaustive. Consideration of each item will show whether new items should be included, or existing items merged or omitted. In any case, the result of the examination of the various items should be considered as a package, so that consensus may be achieved not only on single items but also, and in particular, on the entire complex of proposals."

130. Introducing this working paper the representative of Belgium made the following statement:

"As announced last week, several delegations members of the Special Committee have prepared a working paper which has today been circulated to you. It is on behalf of the delegations of the Federal Republic of Germany, France, Italy, the United Kingdom and Belgium, all sponsors of this working paper, that I have the honour to submit it to you.

"The afore-mentioned delegations consider that the preparation of any international instrument which would deal at the same time with the question of the non-use of force in international relations and that of the peaceful settlement of disputes cannot be undertaken without a preliminary in-depth study of the causes or reasons which drive States Members of the United Nations to an increasingly frequent use of force - despite the clear prohibition set out in Article 2, paragraph 4, of the Charter of the United Nations. This is all the more serious in that exceptions to this prohibition - such as that set out in Article 51 of the Charter - are not always invoked to justify such acts. Moreover, the increasing tendency to resolve international disputes by the use of force is too often accompanied by a lack of respect for the rules of the Charter which established the paramount competence of the Security Council in questions relating to a threat to the peace or to acts of aggression. There is no need at present to give specific examples of this unfortunate tendency; it is sufficient to refer to the most recent report of the Secretary-General of the United Nations on the work of the Organization (A/33/1).

"In these circumstances - on which the whole world appears to be in agreement - it would seem premature to consider hortatory formulae aimed at reformulating what has already been stated in a clear and definitive manner in Article 2, paragraph 4, of the Charter. Such an exercise could not remedy the evil. We need more effective means or procedures in order to ensure respect for the principle of the non-use of force and that of the peaceful settlement of disputes. But these means or procedures should be adapted to the different situations which might arise in the world of today. For these reasons, it would seem imperative that a study should be made of the instances in which Member States have resorted to the use of force, in order to understand the reasons why this rule has not been more effective.

"Such a study should clarify the situation within the Special Committee by indicating to us what should be done. It would provide us with a solid basis for the continuation of the Committee's work, which, at present, has reached a deadlock.

"The preliminary study which we propose should be carried out within the Working Group.

"This procedure is recommended for two main reasons:

- It would enable all members of the Special Committee to participate in the study of the causes and reasons which lead to the use of force; this is essential in view of the fact that no continent or group of States can claim that its members - whether new States or long-standing members of the international community and irrespective of their socio-economic system - have been able to resist the temptation to resort to force;

- This procedure would also permit a frank and completely informal discussion of specific situations which history allows us to verify.

"Without prejudging the outcome of the study, it would seem that several causes of the phenomenon of the use of force in interantional relations could be identified. Each delegation will undoubtedly have different ideas as to those causes, and this applies equally to the sponsors of the working paper which is submitted to you today. I will mention a few of the possible causes which my delegation has considered. The other sponsors will no doubt wish to state their own views on the subject.

"We are thinking in particular of the strategic factors, the delays in the process of decolonization, foreign domination of any kind and the existence of régimes which commit systematic serious mass violations of human rights.

"The sponsors of the working paper believe that, after an in-depth discussion of the causes of the frequent resort to the use of force by States Members of the United Nations, the situation will be ripe for consideration of the main problems as envisaged in the mandate of the Special Committee. It is essential to make it clear that, on this question, paragraph 2 of resolution 33/96 places the question of the non-use of force and that of the peaceful settlement of disputes on the same footing since these concepts are inextricably linked and must therefore be studied together.

"The Committee's mandate does not, in fact, require the drafting of a treaty. Paragraph 2 of resolution 33/96 refers to a 'world treaty' or 'such other recommendations as the Committee deems appropriate'. Profound differences of opinion still exist as to the final form in which the results of the Special Committee's work should be presented. Although it is unlikely that those differences of opinion can be resolved in the near future - taking into account the fact that the Special Committee has agreed to work on the basis of consensus - we should like to suggest that we endeavour to proceed by making a preliminary analysis of the various instances of the use of force and by identifying the reasons for the use of force, discussing the problems one by one and leaving aside for the moment any discussion of the question of whether the proposals which would result from that process would have to be incorporated in a treaty or in any other appropriate form.

"Those are a few ideas which our five delegations have wished to submit to you as an introduction to our working paper. This working paper does not advocate any definitive solution: it should rather be considered as a programme of work. The ideas set out therein do not express in final form the whole of our joint thinking. We have, moreover, taken account of certain suggestions put forward by other delegations. The aim of this working paper is to be constructive and open. Our Committee is not called upon to be an arena of confrontation but rather a place of harmony, and we fervently hope that the few ideas we have put forward will be able to give fresh impetus to the discussion within our group."

131. The sponsors of the working paper considered that it represented a step in the right direction and was likely to advance the Committee's work and enable the Committee to escape from its current impasse. It was urged that the Committee should abandon the sterile argument as to which instrument should be adopted since there was obviously a fundamental split in the Committee on that question; it should instead examine particular situations so that there might be more chance of finding common ground. The paper, it was stated, would enable the Committee to concentrate on the substance of the problem without committing itself at this stage on any specific format for the final outcome of its work: it did not rule out the possibility of the eventual elaboration of a normative instrument but duly took account of the fact that there was as yet no consensus within the Committee on the elaboration of a treaty on the non-use of force in international relations. It was pointed out that the paper was essentially in the nature of a method of work and contained an inventory of topics which should be studied with a view to isolating areas in which the international community as a whole could co-operate towards developing a response which might meaningfully contribute to enhancing the effectiveness of the principle of non-use of force. Furthermore it was said that the working paper took into account the work in progress in other forums such as the Committee on the Charter of the United Nations, the Special Committee on Peace-keeping Operations, the Conference on Security and Co-operation in Europe as well as the results of some resolutions already adopted by the General Assembly such as the resolution on peace-keeping operations. This approach was recommended because these elements were inextricably interrelated. The paper, it was added, was not intended to amend the Soviet draft. It reflected one possible approach to the problem, which should be compared with other possible approaches so as to reach a synthesis of all points of view. It was stated in this connexion that it was imperative that all working documents including the Soviet draft should be placed on the same footing.

132. Other representatives considered that the working paper had been hastily drafted, was conceptually erroneous, clearly reflected the ill-advised short-term interests of a narrow circle of States, lacked the slightest element of constructiveness and did not give the Committee any chance to fulfil its mandate in accordance with the relevant resolution of the General Assembly. They deplored the rigidly negative stand taken by what they described as a few die-hard opponents of the idea of a treaty on the non-use of force and noted with regret that the working paper did not bring any evidence of a positive change of attitude. The view was also expressed that the working paper was intended to sow confusion. It was also said that the working paper contained unacceptable elements and in no way could serve as a basis for an agreement. It put upside down the order of priorities established by Assembly resolution 33/96 placing peaceful settlement of disputes before the non-use of force issue. It was further said that all States were equal and that it was regrettable that a small minority should resort to direct or indirect manoeuvres in order to prevent the Committee and its Working Group from elaborating the proposed treaty.

133. One of the sponsors of the working paper stated that the initiative of the five countries was being misinterpreted. Its purpose was merely to attempt to free the Committee from the impasse in which it had been for the last two years. It represented in fact an effort to try to reach consensus in getting closer to the concerns of those who had a different approach to the problem of non-use of force.

134. Certain representatives welcomed the introductory paragraph of the working paper and recalled that the need to look into the reasons behind the widespread violations of the principle of non-use of force and to undertake an objective analysis of the various causes of conflict had been emphasized by several delegations in the course of the general debate. In this connexion, it was noted that the co-sponsors were not so fearful of the validity of their proposal as to refuse discussion of the reasons why the norm had not been effective. Confidence was expressed that the proposed study would not necessarily take a long time. Among the causes which were felt to be worthy of thorough examination, mention was made of the vacuum of authority left by the fall of colonial empires and the instability deriving therefrom, the failure of the Security Council to anticipate crises, the reluctance of States to resort to the peaceful settlement of international disputes and the role of massive violations of human rights in triggering the resort to force. With respect to decolonization problems, it was recalled that decolonization, when not accompanied by genuine support for the Government which took power at the time of accession to independence, had had very serious consequences in some parts of the world and had resulted in recourse to force. Reference was also made to instances of use of force aimed at imposing recognition of disputed borders, as well as to foreign intervention in the internal affairs of a State aimed at preventing a socio-political system from evolving in the direction desired by its population. Mention was further made of the wish to exert control over strategically important areas, persistence of apartheid and racist régimes, alien domination not recognized by the international community of territories, including military occupation. There was no reason, it was added, why such a discussion could not be carried out in a dispassionate and business-like atmosphere.

135. Other representatives took the view that a study of the causes of violations of the principle of non-use of force was clearly outside the mandate of the

Special Committee and would give rise to digressions extraneous to the substance of the question. It was also pointed out that there was a host of United Nations bodies which dealt with concrete cases of violation of the principle, among which the General Assembly, the Security Council, the Economic and Social Council, the Special Committee against Apartheid, the Commission on Human Rights and the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The view was further expressed that, however interesting the proposed analysis might be from a scientific point of view, the Committee could not turn itself into a research body or a learned society. Furthermore each specific instance was open to different interpretations and there was no hope of reconciling the views of participating delegations on the more than a hundred cases of use of force which had taken place since the adoption of the Charter. There was instead every likelihood that such a discussion would rapidly become heated and polemical and lead to mutual recrimination. Thus, it was concluded, the proposal in question appeared more as an attempt to kill the Soviet initiative and drag the Committee into fruitless discussions.

136. One of the co-sponsors of the working paper explained what were in his view the purpose and the scope of that document. In view of the impasse in which the Committee found itself and the dialogue of the deaf which replaced discussion - since certain delegations were opposed to a treaty whatever its content - it was necessary to try to go around the difficulty and to discuss substantive problems. That same delegation therefore asked other delegations to study one by one the 25 proposals contained in the working paper, a document which was open to all suggestions.

137. With respect to the listing of points as contained in the working paper, it was said that the proposals therein duly took into account three main causes of the lack of respect for the principle of non-use of force, namely the failure to settle disputes by peaceful means, the failure to make recourse to the Security Council the rule rather than the exception and the lack of faith in the collective security system of the United Nations.

138. With respect to the section concerning the peaceful settlement of disputes, the view was expressed that it contained many interesting elements which deserved to be examined by the Working Group and whole-heartedly supported. In this connexion, it was pointed out that Chapter VI of the Charter was lacking in a fundamental respect: the Security Council and the General Assembly, according to the case, lacked mandatory power to settle a dispute when the parties had not agreed to settle it according to some of the procedures set forth in Article 33 of the Charter. It was regrettable that the fact-finding power of the competent United Nations organs with regard to international disputes or situations and, especially, the right of unilateral recourse available to any of the parties to the dispute, were inhibited by the lack of power to settle disputes through mandatory decisions. The only mandatory decisions were the judgements of the International Court of Justice, but the latter's compulsory jurisdiction was subject to the will of the States that were parties to the Statute annexed to the Charter or to that of the parties to a dispute which, by agreement, decided to submit that particular dispute to the Court for a decision.

139. In connexion with point (2) of the section concerning the peaceful settlement of disputes, it was stated that at a minimum all Member States should be urged to bring matters to the Security Council before they resulted in hostilities and that consideration should be given to the idea that it was an implicit obligation of all

Members under the Charter not merely to encourage States to bring matters to the Council but to bring them themselves. In this connexion it was said that there were always foreboding signs of the impending use of force which did not escape the attention of the international community and that it might be useful to examine the ways in which States not directly involved could express their apprehensions at a sufficiently early stage and lock the States concerned into a mechanism of arbitration, negotiation or consultations. It was further said that the Secretary-General should be encouraged to make full use of all of his powers to bring matters to the Security Council and on his own initiative to conduct investigations into the facts so that he might decide on the urgency of a potential problem.

140. With regard to point (3) of the same section, the suggestion was made that the Security Council should be asked to hold regular informal consultations at which potential trouble spots could be informally examined and that consideration might be given by the Council to maintaining an informal watch list of potential trouble spots, for the exclusive use of the members of the Council and the Secretary-General.

141. On point (4), the question was asked whether it should not be recognized that the obligation to settle disputes implied the obligation to agree to dispute settlement by third parties and that, if a matter was not expeditiously solved by negotiation, a refusal to accept third party dispute settlement was a violation of the Charter obligation to settle disputes peacefully. Disagreement was expressed with this view. Reference was made in particular to the desire of the majority of States, as evidenced at the recently held Conference on Succession of States in Respect of Treaties, to retain complete freedom of choice with respect to the means for the peaceful settlement of disputes in accordance with Article 33 of the Charter.

142. It was further suggested that two more points should be added to the section under consideration, namely that (a) all Members should as a general rule refer legal disputes to the International Court of Justice and (b) questions of fact finding, including the establishment of sub-committees or commissions to find facts, should be regarded as procedural issues within the meaning of Article 27 of the Charter.

143. With respect to the section of the working paper entitled "Non-use of force", the view was expressed that the collective security system could be strengthened through more explicit guidance for enhancing the practical side of peace-keeping (earmarking of troops, stand-by arrangements, better advanced training and co-ordination). It was also said that express recommendations to cure the situation resulting from the failure of Members having special responsibilities in the field of peace and security to meet their financial obligations should be made. The suggestion was further made that the section under consideration could include, as an additional point, the reaffirmation of the principle that the prohibition of the use of force was absolute and that no derogations therefrom were possible.

144. Doubts were expressed on points (1) to (4) appearing at the end of both sections of the working paper. They were felt to be premature. Notwithstanding those remarks, some delegations maintained that the working paper offered the Working Group an opportunity of conducting a dialogue focusing on specific issues, which would enable it to find some common ground on the nature of the action the United Nations could usefully take and on ways to translate it into meaningful recommendations.

145. Other delegations commented negatively on the working paper. In their view, the first part of that paper seemed to be little more than a repetition, with a few haphazard additions or omissions, of a number of provisions of the Definition of Aggression (General Assembly 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)).

146. Exception was also taken to point (3) of the section in question. It was asserted that when an aggressor State created a situation of fait accompli, the State victim of the aggression could not be placed under an obligation to conduct negotiations with the aggressor.

147. As to the second part, it was seen as concentrating almost exclusively on issues relating to peace-keeping activities of the United Nations which fell within the competence of the Security Council and the Special Committee on Peace-Keeping Operations. It was also noted that many of the points mentioned in the working paper were being considered within the Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

148. The view was, on the other hand, expressed that the Committee was not precluded under its mandate to explore avenues which were being explored in other forums. It was also noted that the Committee on the Charter of the United Nations had such an all-embracing mandate that attempting to avoid any overlap would result in the Special Committee on Enhancing the Effectiveness of the Principle of Non-use of Force in International Relations being unable to discuss anything. Finally the point was made that although it was true that some of the ideas advanced in the working paper were already reflected in existing instruments, the same remark applied to the Soviet draft which reiterated principles already contained in the Charter.

149. In connexion with points (1) to (4) appearing at the end of each of the two sections of the paper, the view was expressed that repeating in a declaration - in a rudimentary form - elements which already appeared in the Declaration on Friendly Relations and in the Definition of Aggression would be useless and even counterproductive whereas their inclusion in a treaty would confer upon them legally binding value.

150. At the 11th meeting of the Working Group, the representative of Egypt orally proposed on behalf of his delegation and that of Mexico that the Working Group take as the basis of its work the section 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)) which is reproduced below:

"The principle that States shall 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"

"Every State has the duty to refrain in its 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. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

"A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

"In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

"Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

"Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special régimes or as affecting their temporary character.

"States have a duty to refrain from acts of reprisal involving the use of force.

"Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.

"Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State.

"Every State has the duty to refrain from 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, when the acts referred to in the present paragraph involve a threat or use of force.

"The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal. Nothing in the foregoing shall be construed as affecting:

"(a) Provisions of the Charter or any international agreement prior to the Charter régime and valid under international law; or

"(b) The powers of the Security Council under the Charter.

"All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

"All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

"Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful."

151. This proposal was not considered for lack of time.

ANNEX

Draft World Treaty on the Non-Use of Force in
International Relations, submitted by the
Union of Soviet Socialist Republics*

* Previously issued under the symbol A/AC.193/L.3.

World Treaty on the Non-Use of Force in
International Relations

The High Contracting Parties,

Solemnly reaffirming their objective of promoting better relations with each other, ensuring a lasting peace on earth and safeguarding the peoples against any threat to or attempt upon their security,

Seeking to eliminate the danger of the outbreak of new wars and armed conflicts between States,

Proceeding on the basis of their obligations under the Charter of the United Nations to maintain peace and to refrain from the threat or use of force,

Bearing in mind that the definition of aggression formulated and adopted by the United Nations provides new opportunities for the principle of the non-use of force or the threat of force to be consolidated in inter-State relations,

Taking into consideration 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 other resolutions of the United Nations expressing the will of States strictly to abide by the principle of the non-use of force or the threat of force,

Noting with satisfaction that the principle of the non-use of force or the threat of force has been formalized in a series of bilateral and multilateral international instruments, treaties, agreements and declarations,

Recalling in this connexion that the States participating in the Conference on Security and Co-operation in Europe have declared in the Final Act their intention to conduct relations with all States in the spirit of the principles of primary significance set forth therein, among which the principle of the non-use of force or the threat of force holds its rightful place,

Recalling also that the non-aligned States have expressed themselves in their highest forums in favour of strict observance of the principle of the non-use of force or the threat of force in international relations,

Inspired by the desire to make renunciation of the use or threat of force in international relations involving all types of weapons a law of international life,

Have agreed as follows:

Article I

1. The High Contracting Parties shall strictly abide by their undertaking not to use in their mutual relations, or in their international relations in general, force or the threat 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.

They shall accordingly refrain from the use of armed forces involving any types of weapons, including nuclear or other types of weapons of mass destruction, on land, on the sea, in the air or in outer space, and shall not threaten such use.

2. They agree not to assist, encourage or induce any States or groups of States to use force or the threat of force in violation of the provisions of this Treaty.

3. No consideration may be adduced to justify resort to the threat or use of force in violation of the obligations assumed under this Treaty.

Article II

The High Contracting Parties reaffirm their undertaking to settle disputes among them by peaceful means in such a manner as not to endanger international peace and security.

For this purpose they shall use, in conformity with the United Nations Charter, such means as negotiation, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice, including any settlement procedure agreed to by them.

The High Contracting Parties shall also refrain from any action which may aggravate the situation to such a degree as to endanger the maintenance of international peace and security and thereby make a peaceful settlement of the dispute more difficult.

Article III

Nothing in this Treaty shall affect the rights and obligations of States under the Charter of the United Nations and treaties and agreements concluded by them earlier.

Article IV

The High Contracting Parties shall make all possible efforts to implement effective measures for lessening military confrontation and for disarmament which would constitute steps towards the achievement of the ultimate goal - general and complete disarmament under strict and effective international control.

Article V

Each High Contracting Party shall consider the question of what measures must be taken, in accordance with its constitutional procedure, for ensuring the fullest compliance with its obligations under this Treaty.

Article VI

This Treaty shall be of unlimited duration.

Article VII

This Treaty shall:

1. Be open for signature by any State of the world at any time;
2. Be subject to ratification by signatory States; instruments of ratification shall be deposited with the Secretary-General of the United Nations, who is hereby designated the Depositary;
3. Enter into force for each Contracting Party upon the deposit of its instrument of ratification with the Depositary.

The Depositary shall promptly inform the Governments of all signatory States of the date of each signature and the date of deposit of each instrument of ratification.

Article VIII

This Treaty, the Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretariat of the United Nations. Duly certified copies of this Treaty shall be transmitted by the Secretary-General of the United Nations to the Governments of the signatory States.

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