

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

GENERAL ASSEMBLY

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NOTE

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I. INTRODUCTION

1. At its 57th plenary meeting, on 13 November 1981, the General Assembly, on the recommendation of the Sixth Committee, 1/ adopted resolution 36/31 entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations", which read as follows:

"The General Assembly,

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

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

"Recalling, in particular, its resolutions 33/96 of 16 December 1978, 34/13 of 9 November 1979 and 35/50 of 4 December 1980, in which it decided that the Special Committee should continue its work,

"Recalling further the important contribution made by the non-aligned countries to the work of the Special Committee, which resulted in the presentation of their working paper on the subject during the session of the Special Committee in 1981, 3/

"Having considered the report of the Special Committee, 4/

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

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

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

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

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

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

"4. Requests the Special Committee to take due account of the efforts made by the non-aligned countries during the Committee's session in 1981 to facilitate the organization of the work of the Committee;

"5. Invites the Governments that 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;

"6. Requests the Special Committee to be mindful of the importance of reaching general agreement whenever it has significance for the outcome of its work;

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

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

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

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

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

* Nicaragua, Panama and Peru replaced Argentina, Brazil and Chile, which were members in 1981 (see A/32/500, annex III, and A/35/762).

3. The Special Committee met at United Nations Headquarters from 29 March to 23 April 1982. 5/

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

5. Mr. Valentin A. Romanov, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Special Committee. Miss Jacqueline Dauchy, Deputy Director for Research and Studies (Codification

Division, Office of Legal Affairs) acted as Deputy Secretary to the Special Committee. Mr. Lucjan Lukasik, Mr. Manuel Rama-Montaldo and Mr. Sergei Shestakov, Legal Officers, and Mr. A. Mpazi Sinjela, Associate Legal Officer (Codification Division, Office of Legal Affairs), acted as Assistant Secretaries to the Special Committee.

6. At its 64th and 66th meetings, on 30 March and 1 April 1982, the Special Committee elected the following officers:

Chairman: Mr. Nabil A. Elaraby (Egypt)

Vice-Chairmen: Mr. Mohammed Al-Haj Hammond (Iraq)
Mr. Ryszard Krystosik (Poland)
Mrs. Olga Valdés (Cuba)

Rapporteur: Mr. Antonio Vifal (Spain)

7. At its 65th meeting, on 31 March, the Special Committee adopted the following agenda:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration, pursuant to paragraph 2 of General Assembly resolution 32/150, paragraph 2 of resolution 33/96, paragraph 2 of resolution 34/13, paragraphs 2 and 3 of resolution 35/50 and paragraphs 2 and 3 of resolution 36/31, of proposals and suggestions submitted by States.
6. Adoption of the report.

8. At the same meeting, the attention of the Special Committee was drawn to requests for observer status which had been received from the Permanent Missions to the United Nations of Afghanistan, Algeria, Argentina, Chile, Czechoslovakia and Viet Nam. At its 66th meeting, on 1 April, after consideration of the requests for observer status from these Permanent Missions and those of the German Democratic Republic and Yugoslavia, the Committee agreed to grant those requests as well as any requests to that effect from any other State that is not a member of the Committee, in accordance with the practice it followed at its 1981 session as reflected in paragraph 8 of the report on that session. 6/ The Committee took a similar decision at its 71st and 74th meetings, held on 8 and 20 April, in relation to a request for observer status which had been received from the Permanent Missions to the United Nations of the Libyan Arab Jamahiriya and Brazil.

9. At its 65th meeting, on 31 March, the Committee, with respect to the organization of its work, agreed to hold a general debate and to establish an open-ended working group, whose mandate would be the same as that entrusted to the Committee itself, with the officers of the Committee serving in their respective capacities as the officers of the Working Group. The Committee, bearing in mind

that at its 1981 session a revised working paper submitted by 10 non-aligned countries (Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda) 7/ had been discussed only in a preliminary way owing to lack of time, agreed that the Working Group would start with the consideration of that working paper.

10. The Special Committee devoted its 65th to 73rd meetings, between 31 March and 13 April, to a general debate in which the representatives of the following States took part: Ecuador, United States of America, Mongolia, Union of Soviet Socialist Republics, Poland, Egypt, Bulgaria, Hungary, Federal Republic of Germany, Finland, Romania, Belgium, Mexico, United Kingdom of Great Britain and Northern Ireland, Spain, Cuba, Japan, France, Iraq, Cyprus, Morocco, Italy, Nicaragua, Greece and Peru. In accordance with the decisions reflected in paragraph 8 above, the observers for Czechoslovakia, Argentina, Chile, Afghanistan, the German Democratic Republic and Viet Nam made statements with the consent of the Committee.

11. The Committee had before it the draft World Treaty on the Non-Use of Force in International Relations introduced by the USSR. 8/ It also had before it the comments and suggestions of Governments received in accordance with General Assembly resolution 36/31 (A/AC.193/4 and Add.1-3, Add.3/Corr.1 and Add.4). In addition, the Working Group had before it the working paper submitted at the 1979 session of the Committee by Belgium, France, Germany, Federal Republic of, Italy and the United Kingdom, 9/ and the working paper referred to in paragraph 9 above.

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

13. At its 76th meeting, on 23 April, the Committee considered and approved the report of the Working Group (see sect. III below). The report of the Committee was adopted at the same meeting.

II. PLENARY MEETINGS

A. General debate

14. The speaker at the 65th meeting, the representative of the Union of Soviet Socialist Republics, said that the Special Committee's mandate as defined in the relevant General Assembly resolutions was to continue its work with the goal of drafting, at the earliest possible date, a world treaty on the non-use of force in international relations. The Soviet Union had made a constructive contribution to the drafting of the main current political and international legal documents prohibiting the threat or use of force, and especially the most dangerous kind of force, armed attack or a war of aggression. These documents included the Charter of the United Nations, the Final Act of the Conference on Security and Co-operation in Europe, 10/ the Definition of Aggression (annex to General Assembly resolution 3314 (XXIX) of 14 December 1974), and a number of Assembly resolutions such as the Declaration on the Strengthening of International Security (resolution 2734 (XXV) of 16 December 1970), 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) of 24 October 1970), the Declaration on the Deepening and Consolidation of International Détente (resolution 32/155 of 19 December 1977), and finally, the Declaration on the Prevention of Nuclear Catastrophe (resolution 36/100 of 9 December 1981), adopted by the Assembly at its thirty-sixth session by an overwhelming majority. In accordance with a proposal by the USSR, that Declaration proclaimed that first resort to the use of nuclear weapons was the gravest crime against humanity. The Declaration was an important political document which could not but have a beneficial effect on the development of the international situation.

15. The speaker pointed out that, when introducing, in 1976, a proposal to prepare a world treaty on the non-use of force, the representative of the Soviet Union stated that the conclusion of such a treaty would be a natural continuation of the efforts of the United Nations and its Member States to strengthen international peace and security, and would reduce the danger of the outbreak of a new world war. This would undoubtedly create more favourable conditions for halting the arms race, including the build-up of nuclear weapons.

16. The Soviet delegation was convinced that the preparation and conclusion of a world treaty on the non-use of force would have an important positive effect in strengthening the provisions of international law regarding the non-use of force, established by the Charter of the United Nations. It was well known that the principle of the non-use of force was already implicit to some extent in a number of important international contemporary documents which set forth in detail the basic principles of international relations. It could not be seriously contended that a concrete statement of the principle of the non-use of force did not add to the effectiveness and validity of that principle. Nothing in those documents detracted from, weakened or replaced either the basic principles of the non-use of force contained in Article 2, paragraph 4, of the Charter or other provisions thereof, such as the right of States under Article 51 to use individual or collective self-defence if an armed attack occurred.

17. The problem of the prohibition of the use of force at the current time was to a large extent the problem of establishing the inadmissibility of the use of nuclear weapons and eliminating the danger of nuclear war. On 3 February 1982 the General Secretary of the Central Committee of the Communist Party of the Soviet Union and Chairman of the Supreme Soviet of the USSR, L. I. Brezhnev, in a conversation with representatives of the Consultative Committee of the Socialist International on Disarmament, said that "the most significant global problem of our time is that of preventing the world from sliding into thermo-nuclear catastrophe, and this means finding a common language and, most important of all, common decisions despite all differences of opinion". By specifying how the principle of the non-use of force could be applied at a time when a number of States possessed weapons of mass destruction including nuclear weapons, the use of which would be a catastrophe for mankind, and at a time when the threat of the use of such weapons had significantly increased, as it had recently, the world treaty on the non-use of force would significantly strengthen the Charter provisions in that respect. Unlike the relevant General Assembly resolutions and the declarations, the provisions of this treaty would be legally binding and the treaty itself would be universal: the parties to it would, of course, include the nuclear Powers. The unchecked expansion of the nuclear arms race by those who proclaimed the "permissibility" and "admissibility" of a nuclear war, pointing to Europe as the most probable scene of another Hiroshima or Nagasaki, created a real threat to peace. That threat, and the problem of removing it, were not confined to an

East-West context; they concerned all regions and all countries. A nuclear conflict between the nuclear Powers would inevitably become world-wide. Hence the urgency of adopting radical nuclear disarmament measures which should be inseparably linked to the strengthening of political and international legal guarantees for the security of States and the preservation of peace. Such measures would dissipate the feeling of mistrust in inter-State relations and contribute to a general normalization of the international climate and to curbing the arms race. The key to that was to enhance the effectiveness of the principle of non-use of force and to adopt new and effective measures to that effect.

18. In 1972, the General Assembly adopted a solemn declaration on renunciation of the use of force and the simultaneous permanent prohibition of the use of nuclear weapons (resolution 2936 (XXVII) of 29 November 1972). A major new step in that direction would be the conclusion of a world treaty on the non-use of force in international relations, in which the solution of the problem of the non-use of force would be organically linked to the prohibition of the use of nuclear weapons. To make provision in such a world treaty for prohibition of the use of nuclear weapons would discharge the obligation not to allow people to become reconciled to the thought that nuclear war was admissible or to the idea that a nuclear war could be limited. The conclusion of the world treaty as an effective political and international legal guarantee for strengthening world peace and security had acquired particular and even greater urgency, given the grave complications in the current world situation, the blame for which should be attributed to certain circles that had entered the 1980s with a policy of heightening international tension and of unrestrained arms build-up in order to ensure their own military superiority. Those circles refused to relinquish their plans for recarving the political map of the world by declaring vast areas of the earth to be their zones of "vital interest". They assumed the "right" to judge and "punish" others, and tried to carry out plans for the economic and political "destabilization" of Governments they found objectionable. They resorted increasingly to force and force alone in their relations with other States. They did not shrink from threatening to use armed force and frequently resorted to aggression against States which conducted an independent and peace-loving policy. It was normal for them to resort to methods involving pressure, threats and blackmail and to "sanctions" and sabre-rattling, regardless of the fact that all such acts were contrary to universally recognized international legal principles and norms which prohibited the threat or use of force against the territorial integrity or political independence of States by those and other means incompatible with the purposes and principles of the Charter.

19. The evolution of world events unquestionably demonstrated the necessity of adopting new supplementary measures to provide political and international legal guarantees of peace, in view of the fact that some people were still bent not only on stopping the clock of world history but also on reviving the times when a small group of Powers, with their gunboats and dreadnoughts, foreign legions, expeditionary corps, marines and other appurtenances of a colonialist, expansionist and predatory policy, held full sway in the world and controlled peoples' destinies. As before, a serious threat to international peace and security, posed by the unresolved situation of dangerously explosive conflicts prevailing in various parts of the world, resulted from the unlawful use of force and had remained on the agenda of various United Nations bodies for many years. Disregarding numerous decisions taken by the Security Council and the General Assembly, the South African racists pursued within South Africa the repressive policy of apartheid, which deprived human beings of their basic dignity, suppressed with armed force the action of the Namibian people, whose territory was illegally

with armed force the action of the Namibian people, whose territory was illegally occupied by South Africa, and committed acts of naked aggression against the independent African States of Angola and Mozambique. The criminal Pretoria régime, by opting for force, had created a situation which seriously endangered international peace. The threat to peace from the southern part of the African continent was aggravated by the known fact that the Pretoria régime was continuing its efforts to create its own nuclear weapon. As before, there was no peace in the Middle East, where Israel, cynically flouting United Nations decisions, pursued a policy of harsh repression against the Arab people of Palestine, terror against the Lebanese people, and seizure of Arab territory, the most recent example of which was the attempt to legitimize the annexation of the Golan Heights, which from time immemorial had been Syrian territory. The outrageous attack by the Israeli air force against the nuclear installation for peaceful purposes in Iraq was a flagrant violation of the international legal ban on the use of force; it could be described only as an unprovoked act of aggression.

20. An enumeration of instances of the use of force could, of course, be continued in order to illustrate the pressing nature of the Special Committee's task, as laid down in the relevant resolutions of the General Assembly. It was not, however, part of the Special Committee's mandate to consider specific cases in which force had been used. That task fell to other political organs of the United Nations, whose terms of reference conferred on them the right to examine such cases on their merits and to take the necessary decisions on them. Reference to instances of the use of force was necessary simply in order to answer the question which was raised almost every year by some delegations in their statements in the Special Committee: why was it necessary to conclude a world treaty on the non-use of force in international relations?

21. Clearly, the political will of States was the basic factor which regulated their conduct on the international scene, but the Soviet delegation firmly believed that an important part in forming that will was played by international law and, in particular, the universally recognized principles and norms of international law which prohibited the use of any kind of force while providing exceptions to that universal prohibition and defining the rights of States and nations that were victims of aggression. It could not but welcome the efforts which were being made within the United Nations to increase the effectiveness of the principle of non-use of force, and the Special Committee should strive towards that end in accordance with its mandate. The tally of votes at General Assembly sessions showed that the vast majority of States of the world had pronounced themselves to that effect. When the Soviet delegation considered the position reached by the Committee, it was bound to acknowledge that certain essential prerequisites had been achieved and that there was an adequate base for the Committee to complete its mandate. The positions of the States members of the Committee had been clearly defined following the discussions at the four previous sessions, and all three main groups of States had officially submitted for the consideration of the Committee proposals which represented a step towards the completion of its task. It should also be noted that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had recently completed the draft Manila Declaration on the Peaceful Settlement of International Disputes. 11/ The Soviet delegation considered that that development could assist the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations to reach agreement on formulations concerning the peaceful settlement of international disputes and on all matters within its terms of reference.

22. In assessing the current state of the Special Committee's progress, one should not exaggerate the part played by those who had so clearly indicated their disinterested approach to the Committee's task. Having stopped shaping the course of world history, they now found themselves cast, on the strength of objective reasons, in the unenviable role of those who hindered the progressive development and codification of contemporary international law. Their attitude had been reflected in the work of the United Nations over at least the last two decades relating to the further progressive development of the principles and norms of the Charter regulating the relations of States in the various spheres of their activity and especially in the most important of those spheres, the removal of the threat of a new war and the strengthening of international peace and security.

23. At the same time, the example of the work of the Special Committee again showed convincingly that an important factor in international relations was and remained the non-aligned movement, whose special strength was its opposition to war and aggression. The working paper of the group of non-aligned countries submitted to the Committee for its consideration (see para. 9) was a timely and solid contribution to the practical implementation of the Committee's mandate and established the necessary conditions for formulating the specific wording for a generally acceptable text of a future treaty on the non-use of force in international relations. The Soviet delegation regarded the initiative of the group of non-aligned countries as the consistent implementation of the policy they had adopted at the Sixth Conference of Heads of State or Government of Non-Aligned Countries, held at Havana in 1979, 12/ which, as everyone knew, noted the importance of observing the principle of non-use of force and welcomed the establishment of the Special Committee to draft a treaty on the non-use of force in international relations, and expressed the hope that that work would be successfully completed in the shortest possible time. The value of the document submitted by the group of non-aligned countries, in the view of the Soviet delegation, lay in the fact that it correctly focused attention on a number of types of illegal use of force which created an immediate threat to the freedom and independence of the newly-independent countries. It also pointed out ways and means of solving the problem of the illegal use of force in international relations, including those which, in the thinking of the authors of the working paper, were capable of enhancing the effectiveness of the United Nations in countering aggression and international lawlessness. The working paper was still further evidence of the concern of the non-aligned countries to prepare and adopt an international legal document on the non-use of force in international relations. The non-aligned countries, like the socialist countries, on the whole favoured the adoption of a new and legally binding document which would confirm and specifically define the principle of renunciation of the use of force or the threat of force enshrined in the Charter. Such a document might become the world treaty on the non-use of force in international relations proposed by the USSR.

24. The current year marked the sixtieth anniversary of the foundation of the USSR, the world's first united, multinational State of workers and peasants. The birth of the Union of Soviet Socialist Republics was the result of the victory of the Great October Socialist Revolution. Among the sources of its foreign policy, adopted just the day after the October Revolution had occurred, was Lenin's Peace Decree, which condemned the imperialist war being waged for expansionist purposes and which branded aggressive war an international crime. In the past decades, the Soviet State had repeatedly been attacked and subjected to armed interference on a scale not experienced by any other State. During the years of the 1918-1920 civil war, 14 foreign States supported an internal counter-revolution by engaging in

armed combat against the new republic. During the Second World War, the USSR suffered invasion from Hitler's hordes. At the cost of countless victims, the Soviet people upheld the country's freedom and independence and made a decisive contribution to the victory over the common enemy. The Soviet people knew what war was. It was therefore easy to understand the deep-seated reasons why it unanimously supported the peace-loving foreign policy of the Government of the USSR designed to ensure peace and eliminate the threat of war.

25. The consistent peace-loving foreign policy of the Soviet Union, which it had pursued throughout its history, was designed to eliminate the use of force from international relations. The strengthening of peace, the struggle to eradicate sources of tension, and peaceful co-existence and co-operation - those were the aims of its policies. The range of large-scale Soviet initiatives comprising the Programme of Peace for the 1980s put forward in 1981 at the Twenty-sixth Congress of the Communist Party of the Soviet Union and supplemented by subsequent important proposals was imbued with a single desire - to do everything possible to save peoples from the threat of nuclear war and to preserve peace on earth. The Soviet initiatives were inspired by a concern for the sacred human right, the right to life. The latest evidence of that was to be found in the new constructive Soviet initiatives put forward in the speech by L. I. Brezhnev on 16 March 1982, which were intended to facilitate the attainment of soundly-based agreement on massive reduction of nuclear weapons by both sides in Europe, on the basis of the strict observance of the principle of equality and equal security. That was a far-reaching step, which opened up the real possibility of avoiding a new and dangerous spiral in the nuclear-arms race and of maintaining international security at a lower level. Speaking on 24 March 1982 in Tashkent, L. I. Brezhnev stated:

"I have recently more than once had the occasion to speak - and in some detail - about the struggle being waged by our country together with peace-loving forces through the world for the purpose of averting the threat of a world-wide nuclear war and curbing the arms race, including the build-up of nuclear missiles in Europe. We cannot let up for a single day in this struggle, and shall continue to wage it until such time as the danger is removed and until a lasting peace is ensured."

Among all the Soviet initiatives referred to, the proposal for the conclusion of a world treaty on the non-use of force occupied an important place. It responded to the aims of making additional efforts to ensure the strict implementation by all States of the principle of renunciation of the use or threat of force in their international relations. The realization of that initiative could represent an important step for the building of peace on earth.

26. The Soviet delegation proposed that practical work should begin immediately with a view to reaching agreement on the formulation of aspects of the principle of non-use of force in the form of a working paper based on the Soviet draft world treaty and on other proposals put forward in the Special Committee. It was ready to do its utmost with a view to the elaboration of a mutually acceptable document on the question which would take account of the legitimate interests of all States represented in the Committee.

27. It expressed its confidence that the fifth session of the Special Committee would be characterized not by neglected opportunities but by positive results in the fulfilment of the task assigned to it by the General Assembly.

28. The first speaker at the 66th meeting, the representative of Ecuador, pointed out that, throughout its long history, his country had been a staunch supporter of the principle of non-use of force or the threat thereof in international relations and that it had placed its trust in the United Nations, of which it was a founding Member, and therefore roundly condemned any armed territorial occupation. In addition, the principles of the peaceful settlement of disputes, self-determination of peoples and non-intervention and the principle that territorial acquisition did not result from military occupation were norms governing his country's international conduct. Ecuador also proclaimed respect for the sovereignty of States and their territorial integrity and rejected all forms of aggression and the validity of territorial acquisition resulting from the threat or use of force. Even the slightest resort to force in seeking to impose treaties was contrary to law and the civilized course of history. Treaties imposed by force were invalid according to the principles established in the Vienna Convention on the Law of Treaties. 13/

29. The sine qua non for re-establishing the state of law essential for international co-existence was the withdrawal of foreign occupation troops in Africa, Asia and the Middle East from all territories in which they were stationed in defiance of the reiterated demands and resolutions of the international community.

30. Ecuador had supported texts in the Special Committee condemning and prohibiting all use of force or the threat thereof, not only in terms of military might but also in any other form of direct, indirect or covert coercion or disguised as alleged preventive action, or in terms of economic or political pressure, the subversion of the constitutional order of a country instigated from outside, intimidation and support of terrorism, the use of mercenaries and all campaigns of disinformation and hostile and degrading propaganda directed against a country and its institutions.

31. The withdrawal of foreign occupation forces was indispensable for peoples to be able to determine their future in free elections. No imported formula for dealing with a national situation was a substitute for the open and effective forms of expression of the people's will in a free election with full participation of the political parties, which was the practice in Ecuador.

32. The threat of the use of force, like the use of force itself, as in the case of political pressure exercised by the dozens of armed divisions stationed by imperialist States among weaker peoples in order to prevent their self-determination, was also unacceptable.

33. There were also occupation forces, the remnants of colonial systems, which impeded the political emancipation of peoples desiring to free themselves from foreign oppression and apartheid, as in the case of Namibia, forces whose withdrawal was indispensable in order to enable the people to choose their own historical course through free elections in the full exercise of their independence as guardians of their territorial integrity and national unity. In that connexion, his delegation reiterated the provisions of articles 20 and 21 of the Charter of the Organization of American States (OAS) concerning the inviolability of the territory of a State, non-recognition of territorial acquisition or of the special advantages obtained by force or by any other method of coercion, and collective self-defence in protecting the victim of armed attack.

34. In the process of amending the Charter of OAS, Ecuador had energetically supported the proposition that the conduct of the American States debarred the use of force, whatever its motive - a policy based on the Sucre doctrine which maintained, as expressed by Marshall Sucre, that military victory did not give rise to rights. Ecuador therefore consistently gave its full support in the United Nations system to all resolutions designed to achieve disarmament, because the prohibition of force implied disarmament, which had a definite connexion with the peaceful settlement of international disputes and the economic, social and cultural development of countries, particularly those of the developing world.

35. An inseparable corollary of the non-use of force was the use of the machinery for the peaceful settlement of disputes provided for in Article 33 of the Charter of the United Nations. Any international treaty or instrument on the non-use of force must therefore include provisions on the peaceful settlement of disputes in clear and practical terms, specifying peaceful and operationally effective procedures. The future text of the treaty on the non-use of force must incorporate substantial elements of the draft Manila Declaration on the Peaceful Settlement of International Disputes formulated at the last meeting of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, held at Geneva.

36. His delegation believed that paragraph 15 of the revised working paper submitted by a group of non-aligned countries must be reformulated, particularly in the light of paragraph 4 of that same paper. By careful co-ordination, the principles set forth in the document must be strengthened rather than weakened.

37. His delegation hoped that the work of the Special Committee would be continued and progress would be made in the preparation of the international instrument which would effectively prohibit the use of force in international relations.

38. The second speaker at the 66th meeting, the observer for Czechoslovakia, said that enhancing the effectiveness of the principle of non-use of force in international relations was an exceptionally important issue which affected, in an equal measure, the entire international community and the importance of which was fully borne out by the current international situation characterized by a pronounced deterioration of the over-all climate of international relations. He pointed to the open admission of the possibility of a nuclear conflict, to the spiralling of the arms race to unprecedented heights, aiming at the disruption of the existing global balance of forces, to the obstructionist policies of certain States in negotiations in the field of disarmament and to the introduction of new types of destructive weapons, including neutron and binary weapons.

39. He also emphasized the fact that the right-wing militarist circles of imperialism were approaching the settlement of international problems in various regions of the world from a position of force. Furthermore, not all the remnants of colonialism had as yet been eliminated in Namibia and elsewhere and the criminal policies of the régime of apartheid continued to survive. It should be noted, he continued, that South Africa was stepping up its aggressive policies against independent States of the continent and that Israel was dangerously escalating its policy of expansion against Arab States, to which the act of the annexation of the Golan Heights should now be added.

40. That was why the preservation of international peace and security was coming to the forefront with ever-growing urgency as the principal goal of the United

Nations. The codification of a ban on the use of force in international relations would undoubtedly represent a significant step that was rightfully awaited by all peace-loving mankind. The Czechoslovak delegation had therefore welcomed from the very beginning and, like the overwhelming majority of States Members of the United Nations, had actively supported the proposal of the Soviet Union to work out and to conclude a world-wide treaty on the non-use of force in international relations. It drew attention in that respect to the communiqué issued by the Committee of the Ministers of Foreign Affairs of States members of the Warsaw Treaty, which met in December 1981, which emphasized that the States represented at the session would continue to strive for a universal renunciation by all countries of the use of force in their mutual relations.

41. He further reminded the Committee of the Czechoslovak experience of destructive military conflicts in the past. Czechoslovakia, being located in the centre of Europe, where the time between the use of nuclear or other weapons of mass destruction and the moment of impact would be counted not in minutes but in mere tenths of seconds, was vitally interested in real disarmament, particularly nuclear disarmament, and in the creation of a guarantee that those or other weapons would never be used as a means of resolving international disputes.

42. The delegation of Czechoslovakia was convinced that the elaboration and adoption and the implementation of the treaty would constitute an effective political and international legal guarantee of the strengthening of universal peace and security. The Soviet proposal to that effect further developed and specified the provisions of the Charter in the very essential field of the maintenance and the strengthening of international peace and security.

43. Sufficient prerequisites had been created for the conclusion of a binding treaty that would guarantee the exclusion of the use of force from international relations. Such a document would reaffirm the generally recognized and binding jus cogens rules of international law which provided for the non-use of force in international relations and which covered all types of weapons, including nuclear ones. The drafting and adoption of the treaty would be an expression of political responsibility on the part of States and would reflect their concerted political will to contribute to the improvement of international relations, to the building of mutual confidence and, above all, to the elimination of the threat that was posed by the use of force in international relations.

44. The Committee, in keeping with its mandate, should consider the primary goal of its work in the current year, namely, the speedy elaboration of that important international document. It should therefore embark on the concrete drafting of the individual provisions of the treaty, on the good basis offered by the Soviet draft, and taking into account the stimulating and positive ideas concerning the treaty contained in the valuable working paper submitted by the group of non-aligned countries.

45. The first speaker at the 67th meeting, the representative of the United States of America pointed out that Article 2, paragraph 4, of the Charter, on the prohibition of the threat or use of force committed everyone. Although his country was in favour of enhancing the effectiveness of the prohibition, it had, however, voted against continuing the mandate of the Special Committee since resolution 36/31 continued to refer to the idea of a treaty and even cited a particular proposal to that end. His country's concern at the magnitude of harm that pursuit of a treaty could engender was such that it had voted against the mandate even

though it was explicit that the Committee was free to recommend an entirely different approach to the problem. The Soviet Union and Czechoslovakia were still urging the negotiation of a treaty. The idea was a profoundly bad one. If a treaty were to be the same as the Charter, it would do nothing but suggest that two treaties were somehow more effective than one. Undercutting in that manner the rule of pacta sunt servanda would not seem a positive contribution for a legal committee to make. If a treaty were different from the Charter, it could create a parallel legal régime in a manner that could lead only to confusion and consequently be profoundly destabilizing. The lengthy rehash of tired Soviet slogans on disarmament with which the general debate had been opened suggested that the question of a treaty on the non-use of force was being used as a Soviet propaganda vehicle. Considering that the second special session devoted to disarmament would be convened shortly, it seemed singularly transparent to pretend to need to use the forum of the Special Committee to raise disarmament issues.

46. If the purpose was simply agitation propaganda, then there was not much cause for concern, but considering the global conduct of the prime proponent of a treaty and the existing character of some of its conduct, perhaps obscuring the prohibition against the threat or use of force was indeed the purpose.

47. Although the pre-1945 world could not be judged by the same standards as the post-1945 world - prior to that time, conquest was an acceptable means of territorial acquisition - it might be useful, since the Soviet representative had chosen to give a few historical anecdotes - presumably to suggest a bona fide intent behind the Soviet Union's idea of a treaty - to balance the record in the interest of accuracy.

48. Mention could be made of the episode when Soviet troops had marched to the gates of Warsaw in 1920 carrying a potential puppet régime with them in their military column and had been driven back by Polish soldiers led by Marshall Pilsudski. Mention could also be made of the German-Soviet Non-Aggression Pact of August 1939, and its secret protocol for dividing territory between the régimes of Hitler and Stalin. Stalin as well as Hitler had signed that Pact - in the aftermath of which Finland had been forced to fight to halt the attack of the Soviet army. Due to the extraordinary courage of the Finnish people, although Finland had lost some territory as a result of the aggression, it had maintained its national identity. Rumania also had lost some territory to Soviet troops but not its national identity. Lithuania, Latvia and Estonia had not been so fortunate. In November of 1940, the Soviets had indicated to the Nazi régime a willingness to reach further agreements permitting the Soviets to expand in the direction of the Indian Ocean. In fact, right up to the moment Hitler stunned the Russians by his invasion, the Russians had been supplying material to Nazi Germany and searching for even wider common ground between brother totalitarian States.

49. With reference to contemporary events, reference could be made to the ongoing military adventure in Afghanistan. A sovereign country had been invaded, the head of a Government killed and a man previously residing in the Soviet Union installed in office. The question arose whether there was a need for new legal instruments to make it illegal to invade a country or territory. The General Assembly had spoken conclusively on the character of the invasion of Afghanistan. Even the Soviet Union did not assert the general right to invade countries or territories. It asserted the right to invade some countries whose sovereignty was regarded as limited - calling that invasion "fraternal assistance", more widely known as the "Brezhnev doctrine". That doctrine was in clear violation of the sovereign

equality of States enshrined in the Charter. There was also considerable disagreement between the overwhelming majority of the United Nations on the one hand, and the Soviet Union on the other, as to certain factual aspects of the situation in Afghanistan; that issue, however, would not be clarified by a treaty or other normative instrument but by some agreement enhancing the fact-finding capacity of the United Nations. Creating a climate in which claims of self-defence would be seen as a sham when they had not been preceded by efforts in the United Nations or a regional organization to ameliorate the situation would also help. In that connexion it should be noted that the five-Power proposal and the non-aligned proposal contained material on fact-finding and the functioning at an early stage of the collective security system which could be usefully explored.

50. Another contemporary event was the situation in Poland. The Soviet Union had blatantly used the threat of force in an attempt to intimidate the Polish people and force the hand of the Government of Poland. The threat of force was already prohibited by the Charter and the freedom of each State to choose its political, economic and social systems and the illegality of an attack on that right had long been accepted by all nations. No new rules were needed to perceive the illegality of Soviet conduct toward Poland in 1981 and 1982 or toward other countries in 1968, 1956, 1948 or 1939. Care should be taken, however, not to cloud the body of the law in such a way as to make the illegality of those acts less apparent. There were other illegal uses of force in many areas of the globe but that did not occur because of lack of clarity of the law. In no case was force illegally used because of lack of clarity of the norm.

51. That was not to say that there were no problems or even that there were no actions the international community could take to ameliorate existing problems and to attempt to prevent new ones from arising.

52. A detailed informal examination of specific situations could be useful. Such an examination might make it possible to come to some common ground on the nature of the problem. The point would not be to stimulate exchanges of charges and countercharges for their own sake but to attempt to extract from the charges and countercharges the failures or gaps in the international system which had permitted the problem to get so out of control that force had been threatened or even used.

53. Although cases of naked aggression in which a country simply invaded to expand its own influence would still remain, there would also be cases in which developments, such as a better system of fact-finding and dispute settlement involving the United Nations or another third party at an early stage, would be of use. Finding ways and means to encourage the involvement of the United Nations and regional organizations at an early stage of the problem would surely enhance the effectiveness of the norm, thus dealing with the difficulty before it became so inflamed as to be all but uncontrollable.

54. Where there had not been sufficiently early involvement to prevent problems from reaching the stage of threatening or potentially threatening world peace, the United Nations and, where appropriate, regional organizations, should be prepared to act to avert or cure the threat. In addition to exhorting States to bring matters to international forums, the capacity of the United Nations in the field of collective security should be strengthened, thus providing States with a viable alternative other than self-defence or self-help. Before embarking on sweeping reforms or misdirecting its attention to draft world treaties, the Special Committee should move towards honouring the existing system. So long as some

States, including even those with special responsibilities for the maintenance of peace and security, refused to support peace-keeping, there was perhaps little basis for hope that the collective security system could be made to work. Although Article 17 of the Charter of the United Nations clearly established the obligation to pay for peace-keeping, the Soviet Union seemed to think it needed to pay only for those operations it felt like paying for and only when it was in the mood. The breathtaking Soviet contempt for the collective security system had begun in the 1950s, when it had claimed that certain peace-keeping operations were illegal - because, inter alia, the General Assembly had authorized them. The Soviet Union hated resolution 377 (V) of 3 November 1950 (on uniting for peace) because that resolution risked enabling the United Nations to be effective when the Soviet Union would prefer to see it fail. Subsequently, the International Court of Justice had given the opinion that the peace-keeping operations in question had been validly authorized and that all Members were obligated to pay their share. The General Assembly had accepted that opinion, thus establishing the law of the case. Unlike Mexico which, even though it had some legal qualms about aspects of the matter, had immediately paid, and unlike some other States which had withheld their assessed contributions and subsequently made what they chose to call voluntary payments, the Soviet Union had not contributed anything. Furthermore, the Soviet Union now refused to pay for peace-keeping operations created by the Security Council even though it had concurred in the creation of those operations and went on concurring in their renewal. Those deplorable efforts to weaken the capacity of the United Nations could not be obscured by trotting out agitation-propaganda proposals designed not only to distract the Committee from the collective security system but to becloud the law concerning Article 2, paragraph 4, of the Charter as well.

55. An analysis of the instances of violence in recent years reflected also a noteworthy number of instances in which violations of human rights had been either the cause or the pretext for the use of force by one State against another. The horrendous violations of human rights in Uganda and Kampuchea were among the more obviously spectacular recent examples. The unacceptability of the Vietnamese invasion of Kampuchea had been well established by the General Assembly. Nevertheless, the relevance of human rights violations to peace and security and the relationship between internal repression and external instability was recognized even by the Permanent Representative of the Soviet Union who, by way of seeking to explain Viet Nam's invasion of Kampuchea, had mentioned in the Security Council on 11 January 1979:

"... the monstrous crimes committed by this clique against the people of their own country and their acts of aggression against neighbouring States, which have led to the undermining of stability and international security in this area." (S/PV.2108, pp. 88-90)

An enhanced recognition that there could be no peace so long as there was insufficient respect for human rights would assuredly contribute to reducing violence and thus to the enhancement of the effectiveness of the prohibition of the threat or use of force. There was a symbiotic relationship between internal repression and external aggression because dictatorships needed external crisis so as to distract those they repressed and to justify the repression.

56. The Committee could make a useful contribution by looking at means to enhance the peaceful settlement of disputes, by enhancing the effectiveness of the prohibition of the threat or use of force, by seeking ways and means to strengthen the collective security system of the United Nations, and by emphasizing the

crucial need for the respect for fundamental human rights if peace and security were to be maintained. The delegation of the United States was encouraged to note that both the five-Power proposal and the revised non-aligned proposal contained many elements along those general lines and it intended to comment in greater detail on the positive aspects of both proposals when they were examined in the Working Group.

57. If, on the other hand, the Committee was misled into concentrating on a normative instrument or on normative elements contained in proposals before it, it would at best continue to waste its time. The issue was not what kind of normative instrument. Legally absurd proposals for a treaty should not mislead the Committee into regarding it as a rational compromise to produce a normative instrument of a different character seeking to spell out the ways in which the use of force might be illegal. Compromise was not an end in itself. If it did not result in a useful product, one had not compromised, one had been compromised and, worse yet, probably compromised the United Nations Charter itself.

58. The second speaker at the 67th meeting, the representative of Mongolia, said that the Committee's session was being held at a time when the process of international détente was being deliberately frustrated and the cold-war atmosphere was reviving. The arms race had escalated. Attempts were being made to tilt the existing military-strategic balance between the East and the West, and achieve an over-all military superiority. Plans for the first nuclear strike or waging a "limited nuclear war" in Europe were being openly discussed. More military bases were being set up and so-called rapid deployment forces posed a direct threat of the use of force. Furthermore, the international community was witnessing numerous instances of interference in the internal affairs of developing countries of Asia, Africa and Latin America, and especially of Central America, which were often accompanied by intimidation or the threat of use of force.

59. Mongolia, as an Asian country, was deeply concerned over the dangerous situation prevailing in various parts of that continent. Wars, armed conflicts and clashes had not ceased there since the end of the Second World War. Asia and its neighbouring regions and zones had become the prime targets of aggressive designs by imperialist, hegemonistic and other reactionary forces. The Middle East, for example, had been a constant source of grave international tension. The same could be said of the South-East Asian region, where the heroic peoples of Indo-China had been struggling for freedom, sovereignty, political independence and territorial integrity against imperialist and hegemonistic forces. Furthermore, hotbeds of tension and conflicts had been created in the Persian Gulf region, the Indian Ocean and the Far East. In those circumstances, Mongolia felt it incumbent on itself to give every support to all the constructive initiatives and proposals put forward by the Asian States aimed at preserving and ensuring peace and improving the over-all situation in Asia. The Mongolian Government had fully endorsed the proposals to turn such regions as South-East Asia, the Indian Ocean and the Persian Gulf into zones of peace and stability, to establish a nuclear-free zone in the Pacific and to elaborate and apply confidence-building measures in the Far East. In its desire to make modest contributions to peace and security in Asia, Mongolia had proposed the conclusion of a convention on mutual non-aggression and non-use of force in relations between States of Asia and the Pacific. A special message to that effect had been sent by President Yu. Tsendenbal to the leaders of the countries of those regions and to the five permanent members of the Security Council, because of their special responsibility for ensuring and maintaining international peace and

security. The implementation of that regional initiative would, in Mongolia's view, greatly facilitate the task before the Special Committee.

60. Turning to the questions before the Committee, the representative of Mongolia noted that the international situation underlined the importance and timeliness of the Soviet initiative to outlaw the use of force by concluding a world treaty, whereby every State would assume a concrete, unequivocal, legal obligation not to resort to the use of force in its international relations.

61. In his view, the principle of the non-use of force in international relations, which was directly linked to the question of maintaining international peace and security and to the security interests of every State, had been often violated by those who were frantically trying to oppose the codification and concretization of the jus cogens principle. Those opponents argued that the drawing-up of a treaty or of any other legally binding instrument banning the use of force would either be a mere restating of the Charter obligation or, in case of divergence, would be tantamount to amending it, as if the international community was confronted for the first time with such an exercise.

62. The above argument was fatalistic in nature, contradicted the concept of codification and progressive development of international law and was, consequently, groundless and unconvincing. Moreover, such an argument was totally out of place, since the General Assembly had not asked the Committee to determine the possibility of concretizing the principle without either merely restating the Charter obligation or amending it. Just as in other similar cases, it was understood that the concretization and development of Article 2, paragraph 4, of the Charter should be in strict conformity with its spirit and the provisions of other international legal documents adopted on the basis and in pursuance of the Charter. By referring the item to its Sixth (Legal) Committee and in defining the Special Committee's task, the General Assembly had clearly instructed the Special Committee to draft a legally binding document. That was also evident from the fact that the adoption of clear-cut, legally binding norms, in the current instance a treaty or a convention, had always proved to be the best kind of legal barrier to law infringement. It should be noted, in that respect, that time and again attempts had been made to undermine the legitimate rights of peoples to self-determination and of States to individual and collective self-defence, recognized by contemporary international law, including the Charter. Those rights were being deliberately misinterpreted and grossly violated by imperialist and other reactionary forces. Therefore the future legal document should contain clearly defined, unequivocal provisions in respect of those two principles.

63. In the view of the Mongolian delegation, the positive outcome of the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, namely, the adoption of the draft Manila Declaration on the Peaceful Settlement of Disputes, vividly demonstrated that, with the goodwill and common determination of States, it was possible, despite the complex international situation, to agree upon a common approach. Furthermore, the breakthrough on the question of peaceful settlement of disputes would no doubt have a direct, positive, invigorating impact on the work of the Special Committee on Enhancing the Effectiveness of the Principle of Non-use of Force in International Relations, especially in further clarifying its mandate. With the adoption of the draft Manila declaration, the Committee could concentrate its full attention exclusively on the concretization of the principle of non-use of force in international relations. The Committee's work should be further facilitated by the

fact that the positions of States on the issue were well known and that the Committee had before it concrete proposals from all three groups of States. The last session of the General Assembly had made it clear that the overwhelming majority of Member States expected the Committee to start without further delay the actual work of drafting the legally binding document on enhancing the principle of non-use of force in international relations and the Committee was duty-bound to live up to that expectation. Deliberate injection of controversial political issues in the debate would only provoke sterile debate and mutual recriminations on matters of no relevance to the Committee's mandate, and thus further impede its work.

64. Referring to the preceding speaker, who had made reference to the situation in Poland and Afghanistan, in which he had made deliberate distortions, the representative of Mongolia expressed the view that the situation in Poland was exclusively an internal matter of that country. The measures taken by the Government of Poland to restore law and order and to defend the supreme interests of the Polish people and State in accordance with its Constitution were timely and appropriate in view of the fact that the counter-revolutionary elements in Poland were inspired, guided and even supported by imperialist circles and their intelligence services.

65. As a member of the delegation of an Asian country, the representative of Mongolia wished to comment on the question of Afghanistan raised by the preceding speaker. He stressed that the April revolution of 1978 in Afghanistan had abolished the much-hated feudal system and opened up the way for introducing far-reaching democratic changes and transformation in the country. Deposed feudal lords who had lost their power, and other elements of the internal counter-revolution backed by outside reactionary forces, had waged an undeclared war against the legitimate Government of Afghanistan with the aim of overthrowing it and restoring the old feudal régime. The Mongolian people, in the course of its revolution, and especially in the 1920s, 1930s and 1940s had experienced the same fate. Confronted with large-scale outside interference and in order to defend the gains of the revolution from within, the Afghan Government had turned to the Soviet Union for assistance, in conformity with the Treaty of Friendship, Good Neighbourliness and Co-operation concluded earlier, in accordance with Article 51 of the Charter.

66. The representative of Mongolia recalled that, in the past, Mongolia had also requested and benefited from the disinterested assistance of the Soviet Union, including its military aid, an assistance which had played an exceptionally important part in the defence of the achievements of the Mongolian revolution of 1921 and the repelling of foreign aggression in the 1930s. Even now, the Soviet Union's comprehensive fraternal assistance was a potent factor in the defence of the Mongolian people's socialist achievements against encroachment by external reactionary forces which did not conceal their desire to do away with Mongolia's freedom and independence. The reactionary forces felt a need to raise artificial questions about Afghanistan and Poland to back up slanderous anti-Soviet fabrications aimed at covering up their own designs against the independence and progressive development of the Democratic Republic of Afghanistan and other States, and distract world public attention from their own aggressive activities in creating ever more hotbeds of tension in various areas of the world and intensifying the arms race.

67. The third speaker at the 67th meeting, the representative of the Union of Soviet Socialist Republics, pointed out that his delegation's position of principle on questions relating to the fulfilment of the Special Committee's mandate had been stated repeatedly at sessions of the Committee. At the current session it had been set forth in a statement by the Soviet delegation on 31 March 1982. There was clearly a need to intensify efforts to speed up the drafting of a world treaty on the non-use of force in international relations. It was also clear that, were it not for the obstructionist position of the United States, such a treaty would have been drafted long ago. That fact was clearly confirmed by the statement earlier in the same meeting by the representative of the United States who, instead of contributing to the successful completion of the task entrusted to the Committee in accordance with the wishes of the overwhelming majority of Member States, used his statement to make slanderous attacks on the Soviet Union and to impudently misinterpret historical facts relating to the foreign policy of the Soviet State. Of course, there was no reason to expect anything else from the representative of those aggressive imperialist circles which relied on force and force alone and were pursuing in their international relations a policy that threatened peace and international security. The statement by the United States representative was no more than a deliberate propaganda exercise and diversionary action designed to turn the Committee's session into an arena for confrontation. The statement was a manifestation of the course followed by Washington, a course aimed at whipping up international tension, and of the use of forceful methods in a policy one of the most characteristic manifestations of which, as was pointed out in the statement by the Minister of Foreign Affairs of the USSR, Mr. Gromyko, at the thirty-sixth session of the General Assembly, was "slanderous propaganda against countries adhering to positions of peace and rejecting claims to world leadership by no matter whom." (A/36/PV.7, p. 27)

68. It would be appropriate, in connexion with the statement by the representative of the United States, to quote the following comment by the founder of the Soviet State, V. I. Lenin, (which appears on p. 366 of vol. 42 of his collected works), made after the failure of foreign military intervention in the Soviet Union between 1918 and 1920: "... If they cannot come against us now, weapons in hand, then they will come armed with lies and slander". If the Soviet delegation was to describe the current intent behind the slanderous attacks on its country, it could hardly put it more clearly and succinctly than Lenin did.

69. For insolence and deceitfulness in attacking the USSR, the statement by the representative of the United States deserved to be placed on a par with the daily attacks directed at the Soviet Union by the representatives of the South African racists, the Israeli Zionists and the Pol Pot murderers when, driven into a corner by incontrovertible evidence of the criminal actions of their masters, they dodged and tried to divert the attention of United Nations organs from considering and duly condemning their activities and the activities of those who supported them, in other words their closest friend and ally, the United States of America. Puffed up with imperial arrogance, the United States, in the person of its representative to the Committee, set itself up in the role of prosecutor when it tried to smear the Soviet Union's foreign policy, a policy aimed at safeguarding world peace, eliminating the threat of war and repelling imperialism's aggressive intrigues.

70. Indeed, the hypocrisy of such a position knew no bounds. Thus the United States of America, relying on force and seeking to break the existing correlation of forces in the world, was pursuing the reckless policy of intensifying the arms race in every possible way, thereby creating a genuine threat to peace and to the

security of the Soviet Union and other socialist countries, a threat which was fraught with the risk of nuclear catastrophe for mankind as a whole. Thus the United States, while engaging in a lot of talk about human rights, was a party to the bloody crimes perpetrated by the South African racists against African peoples or by the Israeli Zionists against Arab peoples. The cause of the unbridled expansion and aggression of Pretoria and Tel Aviv was obvious: the United States was behind them and gave them all kinds of support. Those who were both overtly and covertly seeking to stifle any attempt by peoples to determine their own fate were prepared to use armed force to that end.

71. How could one forget which State it was that had waged one of the most barbarous, inhuman wars in the history of mankind, a war of annihilation against Viet Nam in the course of which the aggressors dropped more bombs on the long-suffering land of Viet Nam than they had dropped in the Second World War? They had used a highly sophisticated and deadly arsenal of weapons: anti-personnel bombs, napalm, paralysis-inducing nerve gas and chemical poisons. At the cost of the lives of hundreds of thousands of Vietnamese, the American soldiery had mastered and perfected the tools of war. In so doing, the United States had rudely defied the elementary international legal principles and customs of war, as was evidenced for instance by the Song Me (My Lai) tragedy which shocked the whole world, in which American cut-throats, acting on orders from above, had murdered several hundred women, children and old people. In continuing its policy of territorial expansion, was the United States not seeking to "legitimize" the de facto annexation of Puerto Rico by making it the fifty-first State? By engaging in intrigue and subversive activities for many years, the United States had prevented Micronesia from achieving national and political consolidation as a unified State. The aim of the United States was to turn Micronesia into its own colonial appendage and into a military base.

72. There were several well-known documents listing the many occasions on which the United States had illegally used military force. The attention of the Special Committee, as of other United Nations organs, had already been drawn to one such list, which had been prepared by the Brookings Institute in Washington, D.C. It might be added that, as recently as 16 March 1982, Bill Moyers, a commentator for the American television company CBS, recalled, in reference to United States armed intervention in Latin America, that, since 1878, the United States had conducted 14 military operations against Mexico, 13 against Cuba, 11 against Panama, 10 against Nicaragua, 9 against the Dominican Republic, 7 against Colombia, 7 against Honduras, 5 against Haiti, 3 against Puerto Rico and 2 against Guatemala. The United States leadership, which was directly aiding and abetting the crimes of the anti-popular military dictatorship in El Salvador, had a direct responsibility for the acts of genocide perpetrated in that country, which had claimed many thousands of victims. The hatchet men who were engaged in slaughter on Salvadorian soil were trained in United States territory. They were being armed by the United States and their military operations were being directed by American advisers. The tragedy of El Salvador clearly showed how severely afflicted the people were by Washington's policy of keeping bloody dictatorial régimes in power at all costs. The situation that had now developed in the Central American region afforded one telling example of how the United States imperialists were creating dangerous sources of tension and resorting to the threat and use of force.

73. United States and imperialist circles had launched an unprecedented propaganda campaign against the peaceful foreign policy of the USSR. The USSR, however, was not the only target of that unbridled psychological warfare. In recent months,

an unprecedented, hysterical anti-Polish campaign, orchestrated by Washington, had been launched in the West. The campaign could only be described as propaganda-based aggression. The United States Administration, rallying its North Atlantic Treaty Organization (NATO) allies to its side and flouting the elementary norms of international relations, was not only unceremoniously trying to meddle in the exclusively internal affairs of Poland, but was also doing its utmost to turn Poland into a lasting source of military and political tension in Europe. Attempting to justify in any way possible its blatant interference in Polish affairs, the United States Administration was peddling the allegation that a state of war in Poland - introduced in total conformity with the Polish Constitution - had been instituted because of pressure from the USSR. That was an outright, slanderous fabrication. The measures instituted by the supreme Polish organs emanated from a decision by the Polish nation and concerned solely the Polish people. On 14 January 1982, TASS issued a statement concerning the flagrant attempts by the United States and its NATO allies to interfere in the internal affairs of Poland. The statement read: "On what grounds does Washington assume the right to dictate to another State how it should handle its internal affairs and to make demands on the Polish leadership? This can only be described as an affront to the most sacred norms of inter-State relations and international law."

74. Behaving as though it were not bound by any of the relevant prohibitions of international law, the United States was sparing no effort to direct subversive activities in sovereign and independent States against legally constituted Governments to which it objected. Those acts covered an extremely wide range and included direct involvement in the training and dispatch of gangs of thugs and saboteurs to the territories of other States, with a view to overthrowing the legally constituted Governments of such States, waging undeclared wars and putting various bloody dictators and corrupt rulers back in power. In that connexion, one could not fail to remember that, on 10 October 1951, the President of the United States signed the 1951 Mutual Security Act. The Act provided for special allocations in the amount of \$100 million to finance designated residents of the Soviet Union, Poland, Czechoslovakia, Hungary, Romania, Bulgaria and Albania, or persons who had fled those countries. The intention was that such persons should join units of the armed forces with a view to engaging in subversion and sabotage in the afore-mentioned States. That was an unprecedented act of blatant United States interference in the internal affairs of States, in violation of the norms of international law. It was well known that United States territory was used for the purpose of hiring, instructing and training armed bands made up of a rabble of emigrés, which were intended for fighting against States whose domestic and foreign policies the United States found unpalatable. United States territory was used for the hiring of mercenaries - those paid dogs of imperialism hired for the purpose of overthrowing lawful Governments of non-aligned countries in various parts of the world. The territory of third countries was also used extensively by Washington for the purposes of using force against States that had chosen an independent path of development. Here it should be said that the armed intervention of the imperialist reactionary forces in the internal affairs of Afghanistan was still continuing.

75. From the very first days of the April 1978 revolution, Afghanistan was confronted with aggression from outside; a veritable undeclared war was unleashed against it. United States ruling circles stopped at nothing, even armed aggression, in order to cast Afghanistan back into the feudal past, subordinate it to alien designs and pose a direct threat to the security of the southern frontier of the Soviet Union. The friendship between the peoples of the Soviet Union and

Afghanistan had deep historical roots. When the heroic struggle of the Afghan people for its independence had ended with the emergence on the international scene of an independent and sovereign Afghanistan, the Soviet Government was the first to recognize Afghanistan's independence. Now the Soviet Union had gone to the aid of its neighbour, Afghanistan, to defend its national independence and the freedom of the country against acts of armed aggression from without. The Soviet military contingent, brought into Afghanistan at the request of the Afghan Government to repel attacks from the outside, would, of course, be withdrawn from the country by agreement with the Afghan Government. But for that to happen, the dispatch of counter-revolutionary bands into Afghanistan should cease entirely and reliable undertakings should be given that there would be no new intervention. There was a sound basis for a political settlement of the situation around Afghanistan: the realistic proposals advanced by the Government of Afghanistan.

76. Judging by deeds rather than words, the United States was torpedoing the very idea of a political settlement of the situation around Afghanistan. It should bear the responsibility for the fact that the question of a political settlement had not moved on to a practical plane, and that the tension around Afghanistan persisted and was being deliberately raised by the launching of ill-intentioned anti-Afghan campaigns and the continuing dispatch of gangs of diversionists, terrorists and other imperialist hirelings into Afghanistan, among other things.

77. The process of revolutionary transformation in Afghanistan was irreversible. Sooner or later the people who were now causing the tension around Afghanistan would be forced to come to terms with that fact. As L. I. Brezhnev was at pains to point out on 16 December 1981, "... if there is genuinely a desire to finish with this problem, external interference in Afghan affairs must cease and there must be a serious and determined involvement in efforts to reach a political settlement of the situation around Afghanistan".

78. The days when imperialists resorted broadly and openly to war to settle disputes and disagreements, when there was no Charter of the United Nations with its universally acknowledged and legally binding prohibition on the use of force, had long since vanished. Even now, however, on the banks of the Potomac it was considered permissible to use a wide selection of military, political and economic means to maintain what in American jargon was referred to as the "Pax Americana". At the same time, the representatives of American diplomacy, at the United Nations and elsewhere, were effectively demanding a revision of the international legal order or, rather, its adaptation to the aggressive course of the United States and American imperialist "big stick" doctrines.

79. That apparently accounted in part for the traditional, passionate opposition by American diplomats in the United Nations to any proposals for the codification or progressive development of legal norms prohibiting or limiting the use of force, or for closing the loopholes through which such prohibitions and limitations could be circumvented. The people who had turned force, or the threat of its use, into an inseparable component of their aggressive foreign policy seemed to have developed a conditioned reflex to say "no" to any proposals aimed at strengthening international legal safeguards of peace and security. That was particularly evident in the United Nations where - one might even say for decades - a particular group of countries, bound together by military and political pacts and blocs and choreographed by a country with imperial ambitions, the self-proclaimed disposer of the fates of nations, had displayed enviable consistency and enterprise in one area: obstructing, delaying and disrupting the combined efforts of the

overwhelming majority of Member States to bring about the progressive development of the principles and norms of law aimed at eliminating war from the life of society and averting the danger of war. Their unambiguous "no" in votes at General Assembly sessions on many important resolutions reflecting the vital interest of people in all countries in securing their basic right - the right to life in peace - attested to that.

80. Were not American diplomats at the head of the list of those attempting to restrict the prohibition in Article 2, paragraph 4, of the Charter by limiting the concept of "force" exclusively to armed attacks which, as everybody recognized, was inconsistent with the development of modern international law, which was tending to expand the scope of the prohibition? Such a legal approach would appear to have a definite political underpinning. For if one intended to expand the scope of the ban on the use of force by including, as the non-aligned countries proposed, political or economic pressure, hostile propaganda, the use of mercenaries and so on, it would tie the hands of the United States in the conduct of its policy of political and economic pressure, blackmail, intimidation and armed intervention - a policy directed primarily against countries in Asia, Africa and Latin America. The arguments by American representatives concerning the bolstering of the collective security system provided for by the Charter were equally hypocritical and out of line with the real state of affairs. It was none other than the United States that was systematically blocking the adoption by the Security Council of effective steps to guarantee international peace and security. Only a few days previously, using its right of veto, the United States had prevented the Council from reaching the necessary decisions in relation to United States aggressive moves against Nicaragua and Israel's moves against the inhabitants of the Arab territories it had illegally occupied.

81. The American representative should be reminded that none other than the United States broke off the discussions that were once being held within the United Nations for the purpose of reaching an accord on the conclusion of agreements called for under Article 43 of the Charter. What was more, the official United States documents submitted to the Special Committee on Peace-keeping Operations revealed that the United States altogether opposed the conclusion of agreements in conformity with Article 43, since it considered that Article to be obsolete.

82. The American representative's attacks on the USSR in connexion with United Nations peace-keeping operations were prompted solely by propaganda motives. Based on the generally recognized principle of international law that the material responsibility for aggression should be borne by the aggressor, it would be entirely right and just to demand that United Nations peace-keeping operations be financed by the aggressor when such operations took place as a result of an act of aggression. Consequently, none other than Israel and its backer, the United States, should bear the cost of United Nations operations in the Middle East. Lodging any claims against the USSR when it refused to finance the consequences of Israeli wars of aggression was, at the very least, ludicrous. Thus, if the United Nations system of collective security did not function as provided for in the Charter and as desired by the overwhelming majority of Member States, it was primarily the United States which should bear the responsibility: the Soviet Union had no part in it.

83. One of the leitmotivs of imperialist propaganda was the insinuation about some kind of doctrine of limited sovereignty, to which the name of the leader of the Soviet State, L. I. Brezhnev, had been attached. The United States representative

mentioned this "doctrine" in his statement of 5 April 1982 (see paras. 45-57). No "doctrine" such as had been attributed to the Soviet Union existed, as was well known, and the Soviet delegation whole-heartedly rejected the slanderous and groundless fabrications of the American representative on that score. The peace-loving principles of Soviet foreign policy were set out in the new Constitution of the USSR. Soviet foreign policy was aimed at ensuring the security of peoples, preventing wars of aggression, supporting the struggle of peoples for national liberation and social progress and consistently implementing the principle of peaceful coexistence of States with differing social structures. Soviet relations with other countries were based on the observance of the principles of sovereign equality, mutual rejection of the use or threat of use of force, non-intervention in internal affairs and conscientious compliance with obligations under international law and under international treaties signed by the USSR. As an integral part of socialist co-operation, the USSR developed and strengthened its friendship and co-operation with and comradely assistance to the countries of the socialist community on the basis of the principle of socialist internationalism.

84. The USSR had often come to the aid of countries subjected to direct or indirect attacks by the imperialist Powers and, in accordance with United Nations resolutions, had supported peoples struggling against colonialism, racism and foreign invaders. At the Soviet Union's initiative, the historic United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples was adopted in 1960 and remained one of the most outstanding achievements in the history of the United Nations. The Declaration, and the United Nations resolutions adopted in pursuance of it, had proclaimed the legitimacy of the struggle of colonial peoples for national liberation and called on all States to give them material and moral support in that struggle. The "doctrine of limited sovereignty" was actually of American origin. In fact, something similar to a "doctrine of limited sovereignty" was formulated by the United States in the Security Council (see S/PV.1939-1943) during the consideration of the question of the criminal actions of the Israeli militarists at Entebbe airport which were branded as aggression by the African countries. Was it not "limited sovereignty" that the United States representative was advocating in the following statement to the Security Council:

"Israel's actions to save the hostages clearly entailed a temporary violation of Uganda's territorial integrity. Usually such actions are unacceptable under the United Nations Charter, irrespective of the reasons which motivated them. However, there is a well-established, though narrowly-defined, right to use limited force for the defence of one's citizens from an existing threat of physical harm or death in situations when the State in whose territory they are located either cannot or will not protect them. This right, like the right to self-defence from which it derives, is limited to such use of force as is essential and required by the circumstances for the defence of the citizens being threatened and does not include actions designed to inflict punishment or gain compensation."

That statement was obviously formulated with the help of Mr. Rosenstock, Legal Adviser to the United States Mission to the United Nations and the American representative at the current session of the Special Committee. There was therefore every justification to refer to the doctrine of limited sovereignty formulated by the United States in the Security Council as the "Rosenstock doctrine". It was obvious that the "Rosenstock doctrine" was incompatible with Article 2, paragraph 4, of the Charter which prohibited 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; it was the imperialist doctrine that "might is right", which was to give legal justification to the American policy of "the big stick", the practice of military adventurism and the extensive use of American marines and the "Green Berets" against States over which the United States had a military advantage. The existence of that doctrine was merely further proof of the timeliness of the Soviet proposal for the conclusion of a world treaty on the non-use of force which would block any loopholes that might be used to justify the illegal threat or use of force.

85. The statement by the American representative revealed the intention of the United States to use all means to distract the Special Committee from the fulfilment of its tasks. The Soviet delegation called on the representative of the United States to be reasonable and not to block the constructive work of the Committee with artificial and far-fetched obstacles, not to impede the Committee's work to formulate a world treaty on the non-use of force, which the overwhelming majority of States Members of the United Nations advocated.

86. The fourth speaker at the 67th meeting, the representative of the United States, speaking in exercise of the right of reply, said that those who referred to the so-called 60-year peaceful history of their country and mentioned examples in support of their claim were ill-placed to complain when the record concerning those examples was set straight and when other concrete examples were mentioned in order to underline that, when force was used, it was not because of a lack of clarity in the existing law.

87. Notwithstanding views expressed to the contrary, the mandate of the Committee was defined most clearly in paragraph 2 of resolution 36/31 which asked the Committee to continue its work with the goal of drafting, as early as possible, a world treaty or - and the word "or" was of paramount importance - such other recommendations as the Committee deemed appropriate. The delegation of the United States had attempted to suggest some areas in which the Committee might wish to make appropriate recommendations. It held the view that ignoring the phrase "or such other recommendations" did not advance the work of the Committee and that saying that most countries believed in the idea of the non-use of force was not very helpful either because Member States were all parties to the Charter of the United Nations and bound by Article 2, paragraph 4.

88. The lengthy listing of events which the delegation of the Soviet Union had presented as instances of illegal use of force did not suggest that there was a defect in the legal régime; it rather revealed a sharp difference as to how the facts of those situations should be seen and the delegation of the United States wished to recall in that connexion that it had stressed the usefulness of improving fact-finding. It did not seem appropriate at the current stage of the general debate to elaborate on the specific examples given, but there might be considerable merit in looking in detail, in the Working Group, at various instances of use of force, in order to analyse the extent to which there was an honest or dishonest difference of opinion as to the facts - or indeed a lack of clarity as to the law - which could be usefully remedied. The fact remained that nothing had been said that suggested that Article 2, paragraph 4, was insufficiently clear.

89. As to the Brezhnev doctrine, the Soviet Union named it "fraternal assistance". The question whether it would be called "fraternal assistance" by General Swoboda - who had been taken back to Moscow in chains to attempt to extract

from him an invitation - and by Alexander Dubček - in the light of what had happened to him at the time of the brutal invasion of Czechoslovakia in 1968 - was of course another matter.

90. With regard to the question of Afghanistan, the basic view of the United Nations on what had happened and what ought to be happening in that country had already been stated by the General Assembly. The delegation of the United States would merely observe that if - and it was not very likely - the Government in power in Afghanistan had issued an invitation, they must have been extremely surprised to find that that invitation ended with their extermination and their replacement by somebody who had been broadcasting from the Soviet Union information about an invitation from Kabul.

91. On the Entebbe incident, the record of the Security Council clearly indicated who it was who had been prepared to look even-handedly at all aspects of that tragedy and who it was who had been prepared only to look at one aspect of the tragedy.

92. With respect to My Lai, the delegation of the United States would not be heard to deny the horror or the illegality of what had taken place there. It would merely observe that the individuals involved had been prosecuted, tried and convicted for their crime and that it would be interesting to know whether there had been action against the Soviet troops who had perpetrated the Katyn forest massacre against the Poles, or indeed whether any Soviet official had ever been punished for brutal acts of inhumanity or repression.

93. The references to the "feudal situation" in Afghanistan were gratifying inasmuch as they implied recognition that to the extent that human rights violations were involved, to that extent a situation could be expected to deteriorate. So far as the human rights aspect of the situation in Poland was concerned, the relevant resolution adopted by the Commission on Human Rights spoke for itself.

94. The role which the proposed world treaty would be likely to play in the situations referred to in the course of the debate remained obscure except in relation to so-called hostile propaganda. In that connexion, the delegation of the United States found it symptomatic that the best idea the Soviet Union could come up with was to limit the free flow of information, undoubtedly because freedom of information would be inconsistent with its brutal retention of power both on its own territory and in the countries it had occupied militarily.

95. The occurrence of military coups within the communist-dominated zone of Eastern Europe seemed to presage an entirely new development for which new doctrines would have to be invented: for "state of siege", one would probably have to substitute "straightening out of the internal situation" when referring to events on which it was forbidden to comment, although one was free to refer to the feudal régime of Afghanistan and to the granting of fraternal assistance to that country, with, incidentally, an implied suggestion that there was some aspect of collective self-defence in the massive invasion of Afghanistan - which led one to ask why the Soviet Union had neither notified the Security Council that it had acted in self-defence, nor suggested that the situation ought to be discussed.

96. As far as Central America was concerned, the differences, to the extent that they were legitimate, were exclusively factual. At the previous session of the

Committee, the delegation of the United States had given detailed information - which had not been contested - as to arms shipments from the Soviet bloc to El Salvador which had fundamentally changed the nature of the domestic fight there and grossly exacerbated the violence. A curious silence had been observed on the recent election in El Salvador - an election in which an extraordinary number of people under the most adverse circumstances had cast a vote - but the fact that the United States had a trusteeship which was a strategic trust had been commented upon, on the ground that there might be a military base in a strategic trust - which, of course, was the reason why it was a strategic trust. Things could look simple to the Soviet Union because of its long-standing national as well as régime insensitivity to the desires and wishes of the people, but when one followed the democratic process, one got trapped into extremely peculiar ideas, such as that Governments derive their legitimacy from the freely given consent of the governed, and one then had the obligation to try and solve problems in accordance with the wishes of the people concerned, with the result that one could not come with as neat solutions as the simple answers offered by a totalitarian régime. While understanding the lack of experience of the Soviet Union in the process, the delegation of the United States would expect some deference to the understanding of other countries which preferred a different approach, particularly to problems affecting the future of individuals and peoples. Moreover, the question of the handling of the Trust Territory of the Pacific Islands was before the Trusteeship Council and would in due course be before the Security Council. The United States would be very surprised if it could then be legitimately claimed that it had in any way failed to be guided exclusively by the wishes of the people concerned.

97. The delegation of the United States would refrain from responding to any of the other deliberately provocative statements made by the representative of the Soviet Union, lest it be accused of attempting to distract the Committee. It would merely urge that in the future an effort be made to explain in what way the proposed world treaty on the non-use of force would assist the world in its common need to avoid tensions and solve problems without bloodshed.

98. The fifth speaker at the 67th meeting, the representative of Poland, speaking in exercise of the right of reply, said that the Polish delegation had noted with regret the attempts made to interject into the debate matters which were of no relevance to the United Nations in general and to the mandate of the Special Committee in particular. Such attempts constituted interference in the internal affairs of Poland. The Polish delegation considered as such the remarks on the situation in Poland made by the representative of the United States. It wished to emphasize very strongly that the internal situation in Poland fell exclusively within the competence of the Polish State. The decisions of the Polish authorities were strictly in accordance with the provisions of the Polish Constitution and had been taken in the exercise of Poland's sovereign rights. As to the resolution adopted by the Commission on Human Rights, it reflected the double moral standards of its sponsors and was rejected by the Polish Government as constituting interference in its domestic affairs and as being legally groundless and impermissible in international relations. It was to be hoped that such disruptive tactics would not be resorted to in the future and that the Committee would be able to concentrate on the issues strictly relevant to its mandate.

99. The sixth speaker at the 67th meeting, the observer for Viet Nam, speaking in exercise of the right of reply, said that he doubted whether the representative of the United States gave any credence to the oft-repeated allegations he had levelled against Viet Nam and the Soviet Union as well as Cuba. His delegation

categorically rejected all the slanderous allegations made against Viet Nam. Regarding the assistance given by the Vietnamese people to the Kampuchean people against the genocidal Pol Pot régime, he quoted a statement of a Cambodian national, reproduced in the New York Times of 22 March 1982, that "if it were not for the Vietnamese we would all be dead". The none-too-glorious role of the United States in many wars of aggression waged against various countries, including Viet Nam, remained ever fresh in the minds of people the world over and the monstrous crimes committed by the United States through the force of arms and otherwise in Viet Nam and Indo-China as a whole could never be whitewashed by any means, however perfidious. Resorting once again at the current session to worn-out tactics, the representative of the United States had tried to divert public opinion through sheer falsehood, thereby showing a lack of respect for a gathering of wide and profound political knowledge. In the view of the Vietnamese delegation, the United States' sabre-rattling in Central America could only be viewed as a threat of using force and the encouragement given by the United States to the Chinese hegemonists "to teach Viet Nam another lesson" as well as its efforts to bolster up the remaining Khmers Rouges in order to destabilize Kampuchea amply proved the real nature of the United States policy on the use of force. It was therefore not surprising that the United States had shown reluctance as regards the drafting of a treaty on the topic and was attempting to distract the attention of the Committee from the fulfilment of its mandate as contained in General Assembly resolution 36/31.

100. The seventh speaker at the 67th meeting, the observer for Czechoslovakia, speaking in exercise of the right of reply, said that the Czechoslovak delegation strongly rejected the crude attacks of the representative of the United States directed against Czechoslovakia. There was no need to reply to them in a concrete manner since they were substantially groundless and presented in a form which did not befit a forum such as the Special Committee.

101. These attacks constituted pure and simple distortion of facts. The representative of the United States should be reminded, however, that he spoke to the representatives of sovereign States and not to university students who were obliged to listen to the demagogic lectures of a self-appointed professor indulging in venomous attacks and inventions. Only a constructive spirit could help the Committee to fulfil its important mandate. The delegation of Czechoslovakia therefore appealed to the representative of the United States to try to assist the Committee in its task.

102. The eighth speaker at the 67th meeting, the representative of the Union of Soviet Socialist Republics, speaking in exercise of the right of reply, associated himself with the appeal of the observer for Czechoslovakia and urged the Committee to concentrate on its mandate in view of the limited time at its disposal. His delegation had consistently held that, in view of the basic differences of opinion among delegations in relation to specific instances of use of force, a case-by-case discussion would lead nowhere, and it had been confirmed in its opinion by the unbridled tone of the statement of the United States delegation.

103. The Soviet delegation had not commented on the United States internal policies - even though the rate of joblessness in that country or the insecurity in its streets might prompt legitimate questions - and it therefore protested against any attempt at discussing the political system of the Soviet Union. It similarly refused to discuss the theses of Goebbels which seemed to be espoused by the United States delegation. As to the elections in El Salvador, they had been

held under the threat of fire-arms and amounted to a farcical manoeuvre. The representative of the United States had tried to put himself above the representatives of other States and to pose as their self-appointed spokesman but he should remember that when he argued that there was no proof of a need for a world treaty on non-use of force, he was already in the minority.

104. The doctrine of limited sovereignty which had been formulated by the United States at the time of the Entebbe incident was in keeping with imperialist doctrines which were based on the use of force in international relations, as evidenced by the numerous cases of imperialist interference in Asia, Africa and Latin America, all of which testified to the need for a treaty on the non-use of force aimed at the prohibition contained in Article 2, paragraph 4, of the Charter.

105. The ninth speaker at the 67th meeting, the representative of the United States, speaking in exercise of the right of reply, reiterated his conviction that there was merit in examining specific cases of use of force in order to determine whether they would have been prevented by an instrument of the type proposed by the Soviet Union. A case in point was the Entebbe incident. In the view of the United States delegation, it would serve a useful purpose to analyse the reasons why a specific State had felt driven to resort to an act of self-help rather than resort to international organizations. Such an analysis might lead to the conclusion that the State in question thought that recourse to an international organization would not be helpful. It was important to remember that to the extent that the international community did not provide viable alternatives to the use of force, it condemned itself to the repetition of Entebbe-type incidents.

106. The first speaker at the 68th meeting, the representative of Egypt, pointed out that the principle of non-use of force in international relations rested on a clear and firm foundation in contemporary international law, inasmuch as it had been laid down expressly in many basic international instruments, foremost among them the provisions of the Charter of the United Nations, the principles and declarations of the non-aligned movement and the charters of the various regional organizations. This fundamental and basic obligation in international relations had not met with the necessary respect or had the necessary effectiveness. The best proof of that was found in the deteriorating international conditions currently being witnessed by the world, in which the application of the various forms of the use of force in international relations, whether military, political or economic, could be seen. Precisely what was needed by the international community at the current stage was for the name of the Committee to be a palpable reality and not a mere slogan or appellation. The principle of the non-use of force existed and was laid down clearly in the Charter. However, the desired goal was much more extensive and comprehensive than that. That was perhaps clear from a number of questions regarding the nature of the scope and dimensions of the application of the principle, the means prescribed, the preventive measures, the elements of responsibility and the penalties entailed by the establishment of responsibility, including the compensation of the injured party or parties. The revised version of the non-aligned paper, together with the contents of the other working paper submitted, constituted a general foundation for the subject. It was a first stage, for the future work of the Committee, which was to arrive at a common understanding or common ground for all orientations, on the basis of an enumeration of the relevant principles. Following that, the Committee could proceed to the other stages by a determination of the means of application through the use of the current machinery within the United Nations or through such other

additional means as might be proposed. The elements of international responsibility arising from instances of the use of force in that framework would then have become clear. Lastly, the Committee should discuss the type of instrument which was to cover all these questions and the appropriate legal form in which it was to be issued.

107. The codification of the principle of non-use of force, like other principles of the Charter, had to be in keeping with the requirements of the age and the changes which had occurred since the adoption of the Charter. The forms and methods of the use of force had undergone a great and significant development as a result of the tremendous technological development which had taken place since the Second World War. The destructive force of current stockpiles of weapons in many States, whether of conventional or nuclear weapons, indicated the extent of the danger and magnitude of the outbreak of any armed conflict. The danger extended to the point of the destruction of the entire world and the annihilation of mankind, without distinction as to aggressor or victim of aggression, large or small, East or West. In addition, the tremendous technological progress which had taken place in the exploration of outer space made it essential to strive to ensure the use of that exploration in the service and for the happiness of mankind and not for any hostile or aggressive military ends.

108. If the military aspect of the use of force was so momentous, the other aspects - economic and political pressures and failure to respect human rights - were no less important. The effects could be felt daily, such as more tragedies and the continued deprivation of peoples of sovereignty over their economic resources and preventing them from benefiting from technological progress so that they could exploit that wealth for their advancement. That necessitated the mobilization of all efforts to curb the effects of such policies and to put a halt to them. With reference to the future work of the Committee and the paper submitted in 1980 by 10 non-aligned countries of the Special Committee, including Egypt, the latter's representative stated that that document contained 17 principles to serve as a working basis. 14/ Those principles were merely an attempt to enumerate all principles relating to the subject within the framework of the provisions of the Charter and other international instruments. In the light of the positive contribution of members of the Committee at the 1981 session in the discussion of the non-aligned paper and also the comments and views of other delegations at the thirty-fifth session of the General Assembly, the non-aligned States prepared a first revision of their working paper, so as to crystallize the principles, which appeared in the form of a detailed working paper expressing the viewpoint of its sponsors and the method of enhancing the effectiveness of the principle of non-use of force. That working paper, which the Egyptian delegation had had the honour to introduce, was not designed to take the place of the other proposals. Rather, it should be the subject of discussion and debate in a unified framework arrived at by the Committee after co-ordination of all the proposals submitted to it.

109. The Egyptian delegation had supported the informal consultations held by the Chairman during the last session of the Special Committee, which dealt with the question of how to continue the work of the Committee in an objective manner in accordance with all orientations and taking up all the proposals submitted, in order to harmonize and co-ordinate them for inclusion under agreed general headings, with clarification of the scope to which each of those principles could extend and the appropriate means of application.

110. The general discussions held during the thirty-sixth session of the General Assembly showed that the foregoing accorded with the wishes of a large number of other States, and, accordingly, paragraph 4 was added to the operative part of resolution 36/31, to take due account of the efforts made by the non-aligned countries during the last session of the Committee (in 1981) to facilitate the organization of the work of the Committee. His delegation hoped that the Committee would manage to implement the provisions of the above-mentioned General Assembly resolution, so that its work during the session could be facilitated, and it was prepared to participate effectively in any efforts made in that regard.

111. There was a close relationship between the work of the Committee and that of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The finalization by the latter Committee of the draft Manila Declaration on the Peaceful Settlement of International Disputes provided a powerful incentive to the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations to make progress in the completion of the task entrusted to it, inasmuch as those two subjects constituted the two inseparable faces of a single coin. That emerged clearly from the provisions of article 13 of section I of the draft Manila Declaration.

112. His delegation hoped that the draft Manila Declaration would be adopted and promulgated by the General Assembly at its next session.

113. The second speaker at the 68th meeting, the representative of Bulgaria, said that since the thirty-first session of the General Assembly, when the Soviet Union had proposed the conclusion of a world treaty on the non-use of force in international relations, his delegation had consistently supported the Soviet initiative and commended it as a most timely step toward the strengthening of international security and the promotion of trust among nations, which was all the more important as it came from a permanent member of the Security Council bearing a special responsibility under the Charter for the maintenance of international peace and security. Almost six years later, the idea of enhancing the effectiveness of the principle of non-use of force in international relations had become an even more vital and burning issue in view of the recent visible deterioration of the international situation and the threatening resurgence of tension and confrontation in the system of international relations.

114. The use of force or threat of use of force and the correlative material and political preparations were at the core of the current negative developments. The new massive arms build-up initiated by the United States, the declared intention of that country's administration to seek solutions to international problems through the use of force and the policies of military, political and economic pressure against other States went well beyond the limits of the usual "tough guy" rhetoric of a newly elected administration and posed a serious threat to the preservation of international peace. The new United States administration had, in fact, reneged on previously assumed international obligations, such as those contained in the document on the basic principles regarding the Soviet-American relations, and had abandoned its participation in the SALT negotiating process in other international forums. Entire regions of the planet were declared spheres of vital United States interests and a rapid deployment force was being assembled for carrying out police actions to suppress political and social trends which were not to the liking of the United States. Thus the position of a posture of strength had once again become the keystone of that country's vision of the global political processes. It was

revealing that a mere enumeration of principles of the contemporary international law in a Security Council resolution turned out to be an unsurmountable obstacle to the delegation of a country vested with special responsibility for the maintenance of peace and security in the world.

115. The ideas of and plans for waging a "limited nuclear war" were extremely dangerous. The mere fact that the use of military force in its worst and most threatening form - nuclear weapons - was being openly contemplated was a threat of use of force in itself, especially when directed against small and medium-sized States. One of the great merits of the Soviet draft for a world treaty on the non-use of force was that nuclear weapons were explicitly identified as a specific kind of force constituting a grave menace for the existence of mankind. Such a treaty would greatly increase the degree of stability in international relations as well as the degree of predictability of the behaviour of States, and would undoubtedly, once incorporated in national legislation and political practices, facilitate the transition to a stage when political changes resulting from the electoral process or otherwise would not necessarily mean renouncement or foregoing of international obligations, especially by countries upon which world peace was dependent. The increased extent of stability would multiply the elements of confidence, thus totally removing the chances for accidental misunderstanding or misreading of intention which might trigger open hostilities. An adequate definition of the scope of the future instrument would strengthen the code of conduct governing the behaviour of individual States and bar all options for the use of force in its multifarious forms.

116. The dynamic relationship between the Charter of the United Nations, on the one hand, and the existing and constantly evolving system of international relations, on the other, required an equally dynamic interpretation of the Charter principles through the process of codification and progressive development of international law, which had resulted in the elaboration of a number of instruments providing an authoritative reading of the principles of the Charter and their adequate interpretation. The Committee represented a very important link in that process, inasmuch as the principle of non-use of force with all its implications was a cornerstone of the system established with the adoption of the Charter.

117. The Committee was approaching a decisive stage in its work: in addition to the draft treaty submitted by the Soviet Union, it had before it proposals coming from several non-aligned delegations. In renewing the Committee's mandate, the General Assembly had once again emphasized the necessity of a speedy conclusion of its work on the elaboration of an instrument in the form of a treaty for enhancing the principle of non-use of force. The Committee should now, on a comparative basis which could be translated in practical terms into a table comprising the proposals submitted so far, proceed directly to the formulation of provisions of the instrument on the non-use of force.

118. The first speaker at the 69th meeting, the representative of Hungary, pointed out that the General Assembly, at its thirty-sixth session, had reaffirmed its interest in the continuation of the work of the Committee, the primary task of which, as defined in resolution 36/31, was again the drafting, at the earliest possible date, of a world treaty on the non-use of force in international relations. The Hungarian Government attached great importance to the work of the Committee aimed at codifying, in the form of a world treaty, a principle so crucial to the normal development of international relations. This task was rendered still more timely by the international situation, which was characterized by increased

tension and efforts in certain quarters to undermine the policy of détente and peaceful co-operation among States. Furthermore, owing to the imperialist policy of seeking military strategic superiority, which jeopardized international peace and security, as well as the new doctrine of a limited nuclear war which attempted to make the use of nuclear weapons acceptable and admissible, everything should be done to reverse this course of events.

119. In that context, and especially bearing in mind the mandate of the Special Committee, the Hungarian delegation pointed to the recent emergence of dangerous tendencies in inter-State relations resembling the cold-war years, which were accompanied from time to time by efforts from certain quarters of imperialism to build up an atmosphere of military psychosis in which cold-blooded calculations were drawn up and disseminated about the prospective and likely consequences of a limited or even global nuclear conflict, that is, the most devastating form of the use of force.

120. Considering the deterioration of the international situation and the increase of the danger of war or even a nuclear holocaust, the Hungarian delegation did not fail to realize the decisive impact of the dialogue of the Soviet Union and the United States on the development of international relations and therefore sincerely welcomed all efforts aimed at revitalizing in a constructive spirit the negotiating process and other kinds of contact between the Soviet and American Governments. At the same time, it believed that each and every country should take an active part in promoting the maintenance of international peace and security. In that respect, the Committee had also a special role to play in contributing to the elimination of the use of force in international relations.

121. Against the background of the imperialist policy of coercion, military threat and ideological subversion, the proposal put forward by the Soviet Union at the thirty-first session of the General Assembly for the conclusion of a world treaty on the non-use of force in international relations expressed the aspirations of all peoples and was consonant with the real interests of all countries, regardless of their social system. The further elaboration and concretization of the principle of non-use of force which was formulated in general terms in the Charter, and the prohibition of the use of force involving any types of weapons of mass destruction, as stipulated in the draft treaty submitted by the delegation of the USSR, would serve to promote, also by legal means, the noble cause of maintaining international peace and security.

122. The principle of non-use of force had in recent years been reaffirmed and developed further in several international documents, particularly in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 26/25 (XXV)) and, in a number of resolutions such as resolution 3314 (XXIX) containing the Definition of Aggression as well as in the Final Act of the Conference on Security and Co-operation in Europe, the signatory States to which had also expressed their conviction of the need to make renunciation of the use or threat of force an effective law of international life. The above-mentioned documents contained most valuable and relevant elements and formulations which should be taken into account in the course of work on codifying the principle of non-use of force in a comprehensive world treaty.

123. In the opinion of the Hungarian delegation, the Special Committee had all the necessary means at its disposal to achieve significant progress at the current

session, in particular, the documents and working papers submitted to the Committee during the past four sessions by all three main groups of States. Tribute should be paid to the 10 non-aligned States whose contribution to the last two sessions of the Committee had greatly facilitated deliberations. Their extremely valuable working paper represented a remarkable attempt to define the fundamental elements of the principle of non-use of force, such as the definition of the use or threat of force, the various forms of the use or threat of force, the exceptions to the principle and ways and means to deal with the consequences of the unlawful use of force. The Hungarian delegation sincerely welcomed the efforts of the non-aligned States to bring about constructive results in the Committee's work so that a legally binding new international instrument on the non-use of force in international relations could be elaborated and adopted in a short time.

124. The Hungarian delegation reiterated its confidence in the work of the current session of the Committee despite the difficulties and obstructionist attempts that had marked past sessions. The task incumbent upon the Committee was both an important and timely one. The Hungarian delegation stood ready to participate in a businesslike and constructive discussion and expressed its earnest hope that the expectations placed on the Committee by the General Assembly would be fulfilled by the successful outcome of the session.

125. The second speaker at the 69th meeting, the representative of the Federal Republic of Germany, recalled that the General Assembly at its thirty-sixth session had, through a controversial vote, extended the mandate of the Special Committee. While the results of the Committee's work had given rise to legitimate criticism in the Sixth Committee, the view had prevailed that the outstanding relevance of the subject justified the continuation of the dialogue.

126. A glance at the world map showed the extent to which world peace was jeopardized by violations of the principle of non-use of force and the growing readiness to reach political aims by the threat or use of force. Serious examples of this trend were the Soviet Union's military intervention in Afghanistan and Viet Nam's invasion of Kampuchea, the continuing occupation of those two countries and the disregard of the call for withdrawal made by the great majority of the States Members of the United Nations. But various other hotbeds of conflict in the Middle East, Africa, Asia and Latin America were likewise evidence of the growing tendency to solve political differences by force. Only a few days earlier the Security Council had had to deal with a serious case, the conflict between Argentina and the United Kingdom, on which the Council had adopted an important resolution affirming the principle of non-use of force in international relations.

127. Article 2, paragraph 4, of the Charter of the United Nations prohibited not only the use but also the threat of force against the territorial integrity or political independence of any State. The Government of the Federal Republic of Germany had declared repeatedly that no State had the right to determine the political and social development of another State and to exert pressure on a neighbour to this end. Since August 1980, a State Member of the United Nations and permanent member of the Security Council, the Soviet Union, had made demands on neighbouring Poland involving that country's internal affairs. It had made military preparations and used language that was all too reminiscent of the events of 1956 and 1968 and it had openly recalled those events. Although those occurrences had not been repeated in Poland to date, there had without doubt been a threat of force which put strains on détente in Europe and in the world. That threat was a violation not only of the Final Act of Helsinki, but also of the Charter.

128. The Government of the Federal Republic of Germany condemned such a policy. It had made the principle of non-use of force a corner-stone of its foreign policy, committing itself to that principle in a number of treaties with its Eastern neighbours. It had therefore not only welcomed the call to strengthen the principle but also supported the creation of a Special Committee to deal with it.

129. The working paper submitted by a non-aligned group at the previous session of the Special Committee could be used as a basis for its work. The suggestion to regroup by subject-matter certain areas and to compare the various proposals on the subject of non-use of force was a sensible and productive one. It would ensure adequate discussion of all aspects of the question of strengthening the principle. Within such a framework, the revised catalogue of principles introduced by the non-aligned members of the Committee would also be taken into consideration. Although not accepting all those principles, the delegation of the Federal Republic of Germany viewed them as one of the bases for the Committee's future work. It welcomed the fact that the efforts of the non-aligned countries, both as regards the method of work and the elaboration of the individual elements of the principle of non-use of force, were mentioned in resolution 36/31.

130. The principle of non-use of force was tightly interwoven with other fundamental principles embodied in the Charter, such as the tenets of self-defence, of non-interference in the internal affairs of other nations, and the right of self-determination, as well as with human rights. Furthermore, it could not be divorced from the procedures for the peaceful settlement of disputes outlined in Chapter VI of the Charter. In this respect, the Committee could build on the achievement of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization which had just reached agreement at Geneva on the text of the draft Manila Declaration for the Peaceful Settlement of International Disputes.

131. Also closely related to the concept of non-use of force was the system of collective security embodied in the Charter, matters like peace-keeping and confidence-building measures, as well as the need to clarify the question of the compatibility of the principle of non-use of force with the possibility of "peaceful change".

132. In its deliberations, the Committee could fall back on existing documents such as the Declaration on Principles of International Law Concerning Friendly Relations, the Definition of Aggression, the principles of the Final Act of Helsinki, and now the draft Manila Declaration on the Peaceful Settlement of International Disputes.

133. It was particularly important that the Committee reach a consensus both on the substantive issues and on the form in which the results of its work should be finalized. The fact that the principle of consensus had now been incorporated in the operative part of the Committee's mandate and the other changes introduced in resolution 36/31 would help the Committee to redirect its earlier one-sided approach. In view of those developments, the Federal Republic of Germany, despite lingering misgivings about a number of formulations in the Committee's mandate, had found it possible to abstain in the vote on resolution 36/31. It stood ready to continue its constructive participation in the work of the Committee and hoped that during the fifth session progress would be achieved in the strengthening of the principle of non-use of force.

134. The third speaker at the 69th meeting, the representative of Finland, said that the current international situation underlined the importance and urgency of the task of the Special Committee. In many areas of the world, patterns of peaceful co-operation had been disrupted. Numerous recent events confirmed the trend established during the past few years: the use or threat of force had been on the increase. That development emphasized the need to consider ways and means for the international community to strengthen the principle of non-use of force.

135. The debate in the Special Committee had shown two basic approaches to the problem and to the mandate of the Committee. One was to elaborate an international legal instrument to strengthen the principle of non-use of force, the other concentrated on the elaboration of various peaceful ways of settling international disputes. Both approaches could lead to a better understanding and eventually to a consensus on measures and arrangements which would, more effectively than existing ones, guarantee that threat or use of force would not be resorted to in any circumstances to solve international disputes. The debate had also shown the complexity of the task embodied in the Committee's mandate. Several substantive proposals had been submitted, which pointed to the need of the continued work of the Committee. Substantive discussion within the framework of the mandate would bring about a wider understanding of the various approaches taken by members and outlined in the working papers. It was the view of the Finnish delegation that differences concerning the form of an acceptable international instrument need not prevent the Committee from proceeding with substantive work.

136. Note should be taken of the encouraging developments which had taken place in another forum, namely, the finalization of the draft Manila Declaration on the Peaceful Settlement of International Disputes, which would be submitted to the General Assembly at its thirty-seventh session for consideration and adoption. Due account should be taken of that draft Declaration in the future work of the Committee. The preparation of the draft Manila Declaration was evidence of a spirit of co-operation which was welcomed in any efforts to improve relations between the members of the international community.

137. In the view of the representative of Finland, the United Nations and the principles enshrined in its Charter were the main instrument available to the international community for the maintenance of international peace and security. The United Nations was the only universal forum in which all nations of the world could together seek solutions to international conflicts. The Charter was not only an expression of the will of nations, but also a legally binding document in which nations had accepted a code of conduct for themselves.

138. The Government of Finland had a permanent interest in the issues involved in the mandate of the Special Committee. Finland consistently supported all efforts to that end and promoted the peaceful settlement of disputes. Its contribution to United Nations peace-keeping activities and disarmament efforts and its contribution to European security were ample evidence of that. Finland therefore supported all efforts aimed at strengthening the principle of non-use of force in international relations as well as the peaceful settlement of disputes in accordance with the Charter of the United Nations.

139. The fourth speaker at the 69th meeting, the representative of Romania, stressed that his country had consistently supported in word and deed the principle of non-use of force or threat of force in international relations, the rejection of any act of force or aggression and the peaceful settlement of all international

problems and disputes. The rejection of the use of force or threat of force to solve international problems had always been a central objective of Romanian foreign policy, an objective reaffirmed on many occasions in the United Nations and in other forums, and one which assumed an even more urgent character inasmuch as the international situation was becoming more and more complex and contradictory. Serious international tensions had arisen as a result of the outdated policy of seeking spheres of influence, using domination, force and the threat of force and intervening in the internal affairs of States. That situation, against the background of a deep economic crisis, and the persistence or emergence of centres of conflict, seriously jeopardized the independence and freedom of peoples and the peace of the entire world.

140. President Nicolae Ceausescu had often stated that nothing justified recourse to force of arms to solve disputes or problems between States, wherever they might be, except to defend their independence and sovereignty against a foreign armed attack. In a recent interview with a Yugoslav magazine, President Ceausescu had stated that it was essential to act with determination to put an end to the policy of spheres of influence and the policy of force and diktat, in order to make all States understand reality and respect the right of peoples to free development without foreign interference.

141. The Romanian delegation wished to stress once more how urgent it was to adopt effective measures to strengthen the principle of non-use of force or threat of force within the United Nations and in other international instances. Those measures included the adoption of a universal treaty or some other international instrument which would be as binding as possible, in which the obligations of States Members deriving from that principle would be defined clearly and unambiguously, as well as the means of strengthening the machinery for defending international peace and security so that such machinery might become a more effective barrier to acts of force in international life. The Romanian delegation wished to stress several essential requirements for such an instrument if it was to contribute effectively to the aims of excluding and preventing acts of force, of deterring States from resorting to the use of arms and other non-peaceful means for the settlement of international problems, of making the justification of such acts far more difficult and of creating a political climate of firm opposition to such behaviour in the relations between States. The document envisaged should establish without ambiguity the mandatory nature of the principle of non-use of force or threat of force as a principle of jus cogens, and not subject to any derogation in the relations between States: no political, military or any other consideration could justify the use of force or threat of force against another State. Secondly, it should affirm that the principle of non-use of force and threat of force applied universally, that is between all States, with no exception whatsoever, regardless of any consideration whatsoever, and should recognize explicitly the nullity of the provisions of the Charter which referred to States which had been enemies in the Second World War. Thirdly, it should state clearly and precisely the obligation of States not to resort to armed force or to other forms of coercion in any circumstances and in particular to prohibit in explicit terms the most serious material elements constituting the use of force, including the occupation of territories of other States, the use of armed force and of any type of arms against the territory of another State, acts directed against the unity or territorial integrity of a State, and the invalidity and non-recognition of any territorial acquisition obtained as a result of the use of force or threat of force. It should contain clear provisions concerning the obligations of nuclear-weapon States to refrain from using or threatening to use those weapons, and any other weapons or

any kind of force, against the non-nuclear weapon States. The document envisaged should reaffirm the commitment of all States not to intervene in the internal affairs of other States because intervention and the use of force often went hand-in-hand and international experience showed that both must be excluded in order to ensure a climate of international peace and security.

142. It should specify the cases in which the use of force was legitimate, namely, the right of each State to legitimate individual or collective self-defence against an armed attack, in accordance with Article 51 of the Charter, as well as the right of peoples under colonial or any other form of foreign domination to resort to armed struggle in the cause of national liberation. It should contain a general provision reaffirming the obligation of all States to resolve their international disputes exclusively by peaceful means and to refrain from any act likely to aggravate those disputes and lead to armed conflict. The draft Manila Declaration on the Peaceful Settlement of Disputes, to which the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had just put the finishing touches, provided a good basis for pursuing efforts within the Special Committee on Enhancing the Effectiveness of the Principle of Non-use of Force in International Relations because both principles were closely linked and the strengthening of the one was the pre-condition and corollary for the strengthening of the other. The Committee should therefore come resolutely and effectively to grips with its task and examine the proposals before it, as well as all other ideas which might still be submitted by delegations, in order to proceed subsequently to the preparation of a universal document on the non-use of force and threat of force in every aspect. It should also help to strengthen the role of the Organization, its goals and principles, and its machinery for safeguarding peace and security and checking any act of force and any breach of the peace. For that purpose it was important not to take advantage of the debate in order to raise problems which related to the sovereignty of States and to their legitimate right to solve their domestic problems in accordance with their aspirations without any external threat.

143. The fifth speaker at the 69th meeting, the representative of Belgium, reminded members that at the previous session of the Special Committee his delegation had expressed doubts about the Committee's future because it saw ample evidence that the principle of non-use of force had not yet deeply penetrated the realm of what might be called international morality.

144. The Belgian delegation noted that most of the instances of the use of force in international relations enumerated at the previous session were still a cause of grave concern, particularly those in Afghanistan and in South-East Asia, and that the Falkland Islands had in turn become the scene of a use of force undertaken in defiance of international law, which had led the 10 Ministers for Foreign Affairs of the countries of the European Community to condemn the Argentine military intervention and to address an urgent appeal to the Argentine Government to refrain from the use of force and to continue to seek a diplomatic solution. As for the threat of the use of force against Poland, which had already been mentioned at the previous session by the Belgian delegation and had been perceived as such by the Poles, it had played an undeniable role in the decision-making process which had resulted in the brutal end of an attempt at resurgence of which the world was a witness and which the majority of the Polish people wanted. The Belgian Government had made it known at the Madrid meeting of representatives of the participating States of the Conference on Security and Co-operation in Europe that it believed that the Soviet Union had played an active role in inspiring, preparing and

supporting the decision of the Polish leaders which had resulted in the repressive action still going on. While it was not always possible to demonstrate specifically how the USSR had gone about threatening the political sovereignty of its neighbours, there was renewed evidence that the oral and written guarantees to respect that sovereignty were not worth very much when there was a possibility of extending the area subjected to the pax sovietica. The role which the concern for peace played in the foreign policy of the USSR had been recalled by the Soviet delegation, which had referred to the first decree signed by Lenin, namely, the Peace Decree. Other important documents signed by Lenin two years after that Decree deserved to be recalled, specifically the peace treaties with the Baltic countries. Article 2 of the Treaty with Estonia, for example, stated that "Russia unreservedly recognizes the independence and autonomy of the State of Estonia, and renounces voluntarily and forever all rights of sovereignty formerly held by Russia over the Estonian people and territory by virtue of the former legal situation, and by virtue of international treaties, which, in respect of such rights, shall henceforth lose their force". Everyone knew how long that renunciation "forever" lasted and what a gulf separated the legal norm from international practice.

145. The behaviour of the major partisan of a world treaty on the non-use of force could only reinforce doubts about the need for such a legal instrument. The texts existed and Article 2, paragraph 4, of the Charter was sufficiently clear, even if United Nations practice had made it seem that two interpretations of the concept of force were possible, namely, armed force on the one side and political and economic pressure on the other. A proliferation of texts prohibiting the use of force served no purpose without proof that the binding nature of existing texts was accepted in practice, and would only strengthen the impression that the standards of behaviour of the modern world were decided elsewhere than in bodies such as the Special Committee. Despite its scepticism regarding the very idea of a treaty or any other legal document, the Belgian delegation was prepared to co-operate constructively in the consideration of proposals concerning the organization of the activities of the working group which was to be established. It wished to remind members that it regarded the document prepared by the five European countries in a spirit of co-operation and open-mindedness as still valid and believed that it was also necessary to take into account the recent work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

146. The sixth speaker at the 69th meeting, the representative of Mexico, said that the principle of non-use of force in international relations was the most characteristic and indisputable rule of jus cogens, the corner-stone of the United Nations system and one of the *raison d'être* of the international Organization.

147. The international community, which in the past 20 years had promoted the gradual development and codification of international law, could not overlook one of its principles, namely, the non-use of force.

148. Although Article 2, paragraph 4, of the Charter of the United Nations was clear and left no room for any doubt or ambiguity, the principle of non-use of force could be improved through subsequent codification, and at the same time supplemented with a number of related proposals which would enhance its effectiveness by ensuring its more effective application in international life. That would be the case in respect of Chapter VII of the Charter and of self-defence. The recent violations of the principle of the non-use of force by some States did not erode the principle. They simply demonstrated how little

political willingness there had been to respect the principle and the absence of alternative machinery to resolve international disputes satisfactorily.

149. Strengthening the principle of the non-use of force would presuppose a high degree of international co-operation and abandonment of the extreme positions which had been taken until now.

150. If the necessary conditions for agreement on a treaty relating to the principle of non-use of force were present, the Mexican delegation would be prepared to co-operate, as it had been doing, in accordance with paragraphs 2 and 3 of General Assembly resolution 36/31.

151. The position of Mexico with respect to existing proposals had already been explained on previous occasions, namely, in the general debate which had taken place during the Special Committee's session the year before, and in the Sixth Committee of the General Assembly.

152. The importance of the Special Committee's efforts made it necessary to reconsider extreme positions and to take a positive approach so that the Committee could carry out the mandate entrusted to it by the General Assembly.

153. The seventh speaker at the 69th meeting, the observer for Argentina, speaking in exercise of the right of reply, referred specifically to certain remarks made by the representative of Belgium, who had mentioned a declaration made by the 10 members of the European Economic Community concerning the recent occupation by Argentina of the Falkland Islands or Malvinas, and had described that occupation as having been "entreprise au mépris du droit international", - "undertaken in defiance of international law". The representative of Argentina wished to stress that that was a misconception and that the Argentine action had been in response to an act of force committed by Great Britain 150 years before, an illegal act which had never been accepted by Argentina. That country had used every means to arrive at a peaceful solution. The presence of British warships on the territorial waters of Argentina and the threat of force conveyed through the announcement of other bellicose steps had compelled Argentina to use force in self-defence.

154. The eighth speaker at the 69th meeting, the representative of the United Kingdom, speaking in exercise of the right of reply, said that the United Kingdom delegation totally rejected the assertions made by the representative of Argentina concerning the essential issues of the Falkland Islands crisis. There was no question of who had used aggression. Argentina had invaded the Falkland Islands. The United Kingdom had always sought a diplomatic solution to the problem. Argentina's action had made that effort more difficult. Argentina had ignored two appeals for restraint made by the Secretary-General of the United Nations. A statement made by the President of the Security Council on 1 April 1982 (contained in document S/14944) calling on both Governments to exercise the utmost restraint had been accepted in the Security Council by the Permanent Representative of the United Kingdom and had been ignored by the Representative of Argentina. The mandatory Security Council resolution 502 (1982) adopted by the Security Council on 3 April 1982 included the following:

"1. Demands an immediate cessation of hostilities;

"2. Demands an immediate withdrawal of all Argentine forces from the Falkland Islands (Islas Malvinas)."

Argentina had not complied with this resolution.

155. The Falkland Islands and their dependencies remained British territory inhabited by British people. It was the firm objective of the United Kingdom to ensure that they were freed from alien occupation. The United Kingdom had no doubt about British sovereignty and could not accept that the clear wishes of the Falkland Islanders, who were British by blood and wished to remain so by allegiance, should be frustrated by armed force.

156. The ninth speaker at the 69th meeting, the observer for Argentina, speaking in exercise of the right of reply, referred to certain statements made by the representative of the United Kingdom. He pointed out that Argentina's recent action in the Falkland Islands or Malvinas did not constitute an invasion because those islands were part of Argentine territory. Furthermore, there were no hostilities taking place on the islands. The only hostilities were attributable to the British naval forces which had been recently dispatched to the islands. As for the right of self-determination of the population of British origin living in the islands, the representative of Argentina wished to point out that 150 years before, the Argentina population which had been expelled by force by British troops had not been consulted about its preference.

157. The tenth speaker at the 69th meeting, the representative of the United Kingdom, speaking in exercise of the right of reply, said that the position of his delegation towards the issue of the Falkland Islands had already been stated in the Committee as well as in the Security Council. Therefore he would like only to reject categorically the point of view just expressed by the Argentine delegate. There was no point in repeating the United Kingdom's point of view again.

158. The eleventh speaker at the 69th meeting, the representative of Poland, speaking in exercise of the right of reply, said that he wished to protest again in strong terms against the attempts being made to interject in the debate matters of no relevance to the United Nations in general and the the Special Committee in particular. He expressed the sincere hope that such diversionary and disrupting tactics would not be resorted to in the future and that the Committee would be able to concentrate on issues relevant to its mandate without embarking on legally groundless and politically unwise controversies. He regretted that the representatives of the Federal Republic of Germany and Belgium should have chosen to comment on questions which fell within the domestic jurisdiction of the Polish State, thereby interfering in the internal affairs of Poland. He rejected those attempts and urged the Committee to concentrate on constructive work.

159. The twelfth speaker at the 69th meeting, the observer for Viet Nam, speaking in exercise of the right of reply, repudiated categorically the slanderous allegations levelled against Viet Nam by the representative of the Federal Republic of Germany. He pointed out also that the representative of the Federal Republic of Germany should refrain from interference in the internal affairs of the Kampuchean people who, in accordance with their free wish, undertook - with the assistance of the Vietnamese people - all necessary steps to get rid of the genocidal Pol Pot régime. By launching an attack against Viet Nam the representative of the Federal Republic of Germany gave tacit support to the Pol Pot clique responsible for the crime of genocide against its own nation. Such a position, in the view of the observer for Viet Nam, would not well serve the purpose of the Special Committee.

160. The thirteenth speaker at the 69th meeting, the representative of Belgium, speaking in exercise of the right of reply, said that Belgium's respect for non-intervention in the domestic affairs of other States did not extend so far that it could remain indifferent to serious violations of international agreements, for such indifference would reflect a disturbing conception of international commitments. He did not believe that a protest against failure to respect such commitments could be termed intervention.

161. The fourteenth speaker at the 69th meeting, the representative of the Federal Republic of Germany, speaking in exercise of the right of reply, said that the statement of the observer for Viet Nam was an insult to the majority of Member States which had taken the same position as that taken by the delegation of the Federal Republic of Germany. With respect to the situation in Poland, he observed that the Special Committee could not work in the abstract and had to look at specific instances of use or threat of force in order to make progress.

162. The fifteenth speaker at the 69th meeting, the representative of the Soviet Union, said that he had taken note of the slanderous attacks and distortions contained in the statements of the representatives of Belgium and the Federal Republic of Germany and would in due course rebut them. The latter representative, when he had attempted to defend the Pol Pot régime which had annihilated three million Cambodians, had suggested that the statement of the representative of Viet Nam was an insult to the majority of the Members of the United Nations. At the current stage, the representative of the Soviet Union only wished to state that the cut-throats of the Pol Pot régime had received their training from Peking and, in the last analysis, from the Nazis.

163. The first speaker at the 70th meeting, the observer for Chile, stated that his country, which, as was well known, had been a member of the Special Committee, was participating in 1982 as an observer, under the current system of rotation for some Latin American countries. Chile accorded high priority to the Committee's work, on the basis of a total commitment, without exceptions or reservations, to the principle of non-use of force or threat of force in international relations.

164. His country's respect for the principle of peaceful settlement of international disputes, which was closely linked to the principle of non-use of force or threat of force, constituted another mainstay of Chile's traditional foreign policy and afforded concrete proof of good faith, genuine political will and full compliance with international law - the norms of international conduct observed by Chile in its relations with all countries. As the general debate suggested, the Special Committee's work was becoming increasingly difficult and assuming greater urgency. There had been a vast increase in the number of alarming and continuing situations where force was used or threatened in international relations. All types of reasons had been invoked, including hegemonistic political interests, based on pseudo-doctrines of solidarity, claims of so-called zones of influence or control, as if the world were something to be divided up among the most powerful or the most daring.

165. The clear and peremptory norms - so often invoked but not applied - which were embodied in the Charter (as in most international instruments currently in force) had been misrepresented, subjected to biased interpretations and finally violated, with increasing frequency and impunity. There had been a gradual breakdown of the international legal order and a growing lack of confidence in the means of peaceful settlement of disputes and in the rule of international law, painstakingly

developed since the most recent global conflagration. Since clear cases of the threat or use of force continued to exist, there was every reason to fear that the United Nations and the basic norms of international coexistence were in a state of crisis that could lead to developments on a much larger scale, with unforeseeable consequences. Accordingly, his delegation called for greater compliance with the norms of the Charter, so that they might have the full validity which Member States had solemnly undertaken to uphold.

166. His delegation supported the elaboration of a generally acceptable international instrument to guarantee the full validity of the Charter provisions and, at the same time, establish effective machinery to prevent those acts or avert, in time, their dangerous consequences.

167. The Special Committee had, inter alia, been identifying the various forms of the threat or use of force that could affect countries, depending on the characteristics of the international situation. There could be political, military, economic or other forms of the threat or use of force. They could serve as unlawful instruments of external or internal pressure against a country or a group of countries. Actions instigated by external elements were easier to characterize or detect, for, as a rule, they involved visible deeds that brought into play the armed forces of a foreign Power engaged in, or threatening, aggression against a territory. However, there were other forms of the threat or use of force which involved underhand or clandestine activities but were no less unlawful or immoral. For example, there were the devious attempts to subvert the internal order of countries or to support, finance and organize activities designed to destabilize Governments and create chaos by means of international terrorism. That was one of the most reprehensible and cowardly forms of the threat or use of force, the objective being domination or doctrinaire imposition of totalitarian hegemonism. To that end, some elements were using and recruiting individuals whose fanaticism and alienation had been carefully nurtured at indoctrination and training centres in some countries, and were smuggling them into the targeted countries. The situation made his delegation more convinced than ever that, together with the identification and characterization of the various forms of the threat or use of force in international relations, the focus must be on strengthening the application of the means of peaceful settlement of disputes. That would ensure respect for another recognized principle of international law, which had enabled parties to seek solutions to their disputes and had had as its basic premise the express renunciation of all forms of the threat or use of force.

168. With respect to that principle, his delegation emphasized the consensus reached at the most recent meeting of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization concerning the draft Manila Declaration on the Peaceful Settlement of International Disputes. Despite any possible short-comings and weaknesses from which that text might suffer, the principles embodied in it constituted a heartening reaffirmation of the prevailing international norms which should govern relations between countries. His country's position concerning the draft Manila Declaration could be summed up as unrestricted support for the principle of peaceful settlement of international disputes, in all circumstances, without artificial delays or obstacles, reliance on the necessary trust that countries must demonstrate in resorting to the peaceful means contemplated by international law, and with emphasis on good faith and a genuine desire for peace as the basis for the entire process embarked upon, whatever the means chosen, until the dispute was settled peacefully. In that respect, his delegation drew attention to paragraph 4 of the draft in question.

169. The close link between the principle of non-use of force or the threat of force and the peaceful settlement of disputes could not be overlooked, from either the political or the legal standpoint.

170. In an interdependent international political system the continuing emergence of litigious situations between States was foreseeable and to some extent inevitable. Such situations, inherent in international relations, were those that gave rise, in some cases, to the use of violence whenever means of peaceful settlement failed. That correlation between litigation, the failed peaceful solution and the use of force had not been dealt with by international law to any substantial degree in practical terms. The Charter of the United Nations totally and absolutely proscribed the use or threat of force in international relations, apart from self-defence in the sole and specific cases of armed attack and under the system of collective security provided for by Chapter VII of the Charter, there being no other legitimate reason or ground for such recourse. That categorical prohibition of the use of force, which constituted one of the basic advances of international law, contrasted with the latter's virtual stagnation in the area of peaceful settlement of disputes. Consensus had not been reached with respect to an effective mandatory and binding system for international disputes, despite the progress in the theory and doctrine of international law. Accordingly, his delegation drew attention to the broad mandate which the Special Committee had received from the General Assembly in resolution 36/31, which, in paragraph 2, referred expressly to the peaceful settlement of disputes as a task to be tackled by the Committee.

171. His delegation appreciated the document elaborated by a group of non-aligned countries of the Committee, which contained the necessary principles and basis for the further development of an international instrument in accordance with the broad mandate conferred on the Committee by the General Assembly. That document would be enriched by the incorporation of such sacred principles as the territorial integrity of States, the inviolability of frontiers and respect for treaties and internationally binding opinions. In that respect, the enumeration of principles contained in the document of the five European Community countries should serve as a most valuable background paper for the Committee's future work.

172. On the other hand, his delegation considered that the draft world treaty submitted to the Committee lacked the elements necessary to a general prohibition, admitting of no exceptions, of the use or threat of force and that the current international situation required such a prohibition for effective compliance with the relevant norms established by the Charter of the United Nations.

173. His country, which had acceded in good faith and with steadfast determination to the principles and purposes of the Charter, which repudiated the threat and use of force in international relations, and which had demonstrated by its actions its dedication to the principle of settling disputes between States by peaceful, preferably legal, means, underlined the need to reflect responsibly on the powers conferred on the Special Committee and the unavoidable duty of making progress in the functions assigned to it by the General Assembly, in which tasks his delegation undertook to make its best efforts.

174. The second speaker at the 70th meeting, the representative of the United Kingdom, after observing that the work of the Special Committee was best described by its title, said that the existing law on the non-use of force was superior to that which existed before 1945 and that that law, as contained in Article 2,

paragraphs 3 and 4, of the Charter was satisfactory and did not call for changes at the current stage - a position which appeared to be very widely held. The United Kingdom held the same view in relation to the institutional arrangements established by the Charter to ensure universal respect for the relevant provisions of the substantive law, arrangements in which the Security Council played the central role.

175. In the view of the United Kingdom, the Special Committee could best carry out its task by bringing home to Member States that they must abide by the law and respect binding decisions of the Security Council, and that they must use the existing machinery in such a way as to ensure the maintenance of international peace and security. These general arguments had been emphasized at past sessions of the Committee and reference had been made to specific issues such as Afghanistan, Cambodia and the pernicious doctrine of limited sovereignty, on all of which the positions of the United Kingdom remained unchanged, but they could best be illustrated, at this critical juncture, by reference to a most apt and vivid case study.

176. The salient facts, as described by the representative of the United Kingdom, were as follows.

177. On 27 February 1982, a further round of negotiations had been held in New York between Ministers from Argentina and the United Kingdom about the question of the Falkland Islands within the framework of relevant General Assembly resolutions, in the presence of representatives of the Islanders. That meeting, according to the agreed communiqué, had taken place "in a cordial and positive spirit" and "the two sides had reaffirmed their resolve to find a solution ...". On 1 April, it had come to the knowledge of the British Government that Argentina might be preparing to launch an invasion of the Falklands. The Secretary-General, having also received disturbing news, had summoned the Permanent Representatives of Argentina and the United Kingdom in order to appeal for restraint and had subsequently issued two successive press statements, both appealing for restraint. In the afternoon of the same day, the Permanent Representative of the United Kingdom had informed the President of the Security Council that the United Kingdom had good reason to believe that the armed forces of Argentina were about to invade the Falkland Islands and had asked for an immediate meeting of the Council. At that meeting, which was convened in the evening of the same day, the Permanent Representative of the United Kingdom had explained the situation to the Council and had stressed that there was strong evidence that armed invasion of the Falklands was planned to take place as early as the following morning and had asked the Council to call upon Argentina to use the utmost restraint and to refrain from the threat or use of force. The Permanent Representative of Argentina had stated that there was a threat by the United Kingdom to use force against Argentina's waters and mainland, leaving his country no other course except immediately to adopt the necessary measures to ensure its self-defence.

178. The President of the Security Council had then read out a statement on behalf of the Council, which contained the following key paragraph:

"The Security Council, mindful of its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, expresses its concern about the tension in the region of the Falkland Islands (Islas Malvinas). The Security Council accordingly calls on the Governments of Argentina and the United Kingdom to exercise the utmost

restraint at this time and in particular to refrain from the use or threat of force in the region and to continue the search for a diplomatic solution." (S/14944)

179. The Permanent Representative of the United Kingdom had immediately stated that the United Kingdom would comply with the Security Council's call, and invited the Permanent Representative of Argentina to follow suit. The latter had remained silent. On 2 April, Argentina had invaded the Falkland Islands, using armed force to overcome the resistance of the local inhabitants and the small military detachment at Port Stanley. The Permanent Representative of the United Kingdom had then addressed a letter to the President of the Security Council (S/14946) informing him that, contrary to the call of the Security Council on Argentina to refrain from the use of force, Argentine armed forces were at that very moment invading the Falkland Islands. Further to his request, the Council had held in the morning of 2 April a meeting at which it had been presented with the facts by the Permanent Representative of the United Kingdom, who had proposed a draft resolution demanding immediate withdrawal of all Argentine forces from the Falkland Islands. The Permanent Representative of Argentina had informed the Council that Argentina had "proclaimed the recovery of its national sovereignty over the territories of the Malvinas Islands, South Georgia Islands and South Sandwich Islands, in ... an act of self-defence in response to the acts of aggression by the United Kingdom". (S/PV.2346, p. 7) In the evening of the same day, the Security Council had held another meeting on the subject, during which the permanent representatives of France, Ireland, Australia, Canada and New Zealand had pointed out that Argentina had deliberately disregarded the appeals for restraint made by the Secretary-General and the statement made by the President on behalf of the Security Council calling on Argentina to refrain from the use of force. Some of them had also pointed out that Argentina's action was a glaring violation of Article 2, paragraph 4, of the Charter. The following morning, the debate had resumed and the Foreign Minister of Argentina had denied the accusation of a violation of Article 2, paragraphs 3 and 4, of the Charter on the ground that "no provision of the Charter can be taken to mean the legitimization of situations which have their origin in wrongful acts, in acts carried out before the Charter was adopted ...", a doctrine the dangerous nature of which had been emphasized by the Permanent Representative of the United Kingdom, as follows:

"The world is distressingly full of crisis situations which have from time to time exploded into hostility in every continent on the globe. A large number of those situations have their origins years, decades, centuries before the United Nations Charter was adopted in 1945. If the proposition were to be accepted that the use of force was valid for situations which originated before the Charter was adopted, ... I believe the world would be an infinitely more dangerous ... place than it already is." (S/PV.2350, p. 72)

After the representatives of Guyana, Japan, Jordan, Spain, Togo, Uganda and Zaire had stated their opposition to the use of force as a means of settling disputes, some of them stating that use of force to settle disputes was contrary both to the Charter and to the principles of the Non-Aligned Movement, the Security Council had adopted as resolution 502 (1982) the draft resolution referred to above which, the Permanent Representative of the United Kingdom had stated, had been put forward with Article 40 of the Charter in mind and which, like all the decisions of the Security Council, had to be implemented by Member States, including Argentina, under Article 25 of the Charter.

180. After thanking countries, including the Member States of the European Community (see document S/14949) and member States of the Commonwealth, which had publicly expressed their support for the United Kingdom in the crisis and had condemned or deplored the use of force by Argentina, the representative of the United Kingdom pointed out that it was the duty of Argentina to comply with resolution 502 (1982) in all its parts and without delay and that it was the duty of other Member States to bring maximum pressure to bear on Argentina to do its duty under the Charter and comply. He added that, although many States had already done that, the President of Argentina had been reported in the media on 4 April as having stated that "Argentina is not willing to ... withdraw ... the armed forces ...", a statement which amounted to defiance of the Security Council and was contrary to the Charter.

181. The inhabitants of the Falkland Islands, numbering about 1,900 people, were a settled population which had long been entirely tranquil, peaceful and productive. About 80 per cent had been born in the Islands and more than 1,000 of them could trace their origins in the Islands to 1850 or earlier. For many years, the people had had democratically elected representatives, through whom it had been able to participate in the administration of the territory, as well as in the discussions between Argentina and the United Kingdom. In the view of the United Kingdom, it would be an outrage to hand over these people to an alien military junta whose appalling human rights record had not escaped world-wide condemnation and scrutiny by the United Nations. The Falkland Islanders were not Argentinian. They were British. They spoke English, had British nationality and had an entirely British cultural heritage. They had very few ties with the distant continent of South America. To allow them to be subjected to what would undoubtedly be alien domination would be to reject everything for which the Organization stood. Disturbing reports had been received that the Argentine military occupation was already endeavouring to change the social fabric of the Islanders and their traditional way of life.

182. In conclusion, the representative of the United Kingdom stressed that (a) the current law as contained in Article 2, paragraphs 3 and 4, of the Charter was clear and soundly based; (b) no new exceptions could be allowed to creep in, such as exceptions for pre-1945 disputes - a doctrine advocated by the Foreign Minister of Argentina, which was quite contrary to the Charter and to the consistent stand of, for example, the Organization of African Unity, on boundary disputes; (c) the existing machinery for dealing with the use of force could be used quickly and effectively as evidenced by the two statements of the Secretary-General, the statement of the Security Council on 1 April and the mandatory resolution 502 (1982) of 3 April, so that what was needed was not a change in the law or in the machinery but readiness on the part of the Government of Argentina to implement the resolution immediately and in full; and (d) the Committee would enhance the effectiveness of the principle of non-use of force by bringing home to the head of every military dictatorship and every Government the existence of a rule of law in the world, which the United Nations had the task to uphold.

183. The third speaker at the 70th meeting, the representative of Spain, said that the use or threat of use of force in international relations had, in the opinion of some authors, the same status as in domestic law, that is, it might constitute an offence, a sanction, or an act of self-defence. It was an offence when, as specified in Article 2, paragraph 4, of the Charter, States, in their international relations, had recourse to 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. It was a sanction, when, within the meaning of the provisions of Articles 42, 10 and 11, and 52 of the Charter, the Security Council took the necessary action to maintain or restore international peace and security, the General Assembly made recommendations on such questions or regional organizations took cognizance of them in a regional framework, arriving, where necessary, at the adoption of collective measures within the limits of the collective security system. It was an act of self-defence when, in accordance with the provisions of Article 51 of the Charter, States, individually or collectively, exercised the inherent right of self-defence in the event of armed attack.

184. Sometimes, however, attempts had been made to preserve the discretion with regard to the use of force existing in the legal régime preceding that of the Charter, with resort to equivocal interpretations of its provisions in order to make manifestly unlawful uses or threats of force appear lawful. To that end, it had been affirmed that the use or threat of the use of force violated the Charter only where it had the intent or the effect of diminishing the integrity or political independence of another State, but not where the State which had recourse to the use or threat of the use of force did not have the intention of remaining in or occupying the territory of the other State or suppressing its political independence or did not actually do so. Thus, where there were no elements of intent to produce, or of actual production of, a specific result, there was no transgression of the norms of the Charter; where there was no transgression of the norms of the Charter, there was no offence properly speaking.

185. Sometimes, also, the sanction possibly entailed by a violation of the provisions of the Charter had been avoided by resorting to paralysing the Security Council, interpreting the functions and powers of the General Assembly restrictively and ignoring the role of regional organizations. As a consequence, the intrinsic deficiencies, congenital defects and emptiness of the postulates on which the system of collective security provided for in Chapter VII of the Charter was based had become more acute, and that system, as had been graphically pointed out by one author, had come to have no more substance than a phantom. The purposes and principles of the Organization thus seemed to be subordinated to the particular purposes of States, leaving the coercive action and sanctions implicit in the collective security system deprived of all effectiveness.

186. Lastly, Article 51 of the Charter had sometimes been interpreted as meaning that underlying that provision there was a broad right of self-defence (defensa propia) which derived from customary law and which had not been restricted by the Charter. Thus, it had been maintained that Article 51 not only did not curtail the customary right of self-defence (defensa propia) but also that it preserved a pre-existing customary right of self-defence (legítima defensa). That interpretation would set up the above-mentioned Articles against general principles of law or against general international law, subordinate the former to the latter and broaden considerably the concept of self-defence (legítima defensa).

187. The practice of some States had again in recent years furnished abundant proofs of equivocal interpretations, such as those mentioned above. Those States had attempted to justify such attitudes with seemingly legal arguments, while it had been forgotten, unfortunately, that the prohibition of the use of force or threat of force was a peremptory norm of general international law, within the meaning of articles 53 and 64 of the Vienna Convention on the Law of Treaties. 15/

188. One of those States had, paradoxically, resorted to what George Scelle would not hesitate to term a "functional dichotomy", by proposing, on the one hand, a draft world treaty on the non-use of force in international relations and violating, on the other, the principle which it pretended to wish to clarify. In the course of recent years, that same State had not hesitated, when its own interests had so required, to launch unequivocal demonstrations of a policy of force: in one instance, an act of aggression against an Asian country; and, in another, an act of intimidation against an Eastern European country. In both cases, the prevailing norms, both conventional and customary, concerning the non-use of force had been violated; the national unity, territorial integrity and political independence of those countries had been seriously diminished; and the United Nations had been reduced to a mere spectator of faits accomplis, which, unfortunately, were still being perpetuated. The legal consequences of those two offences which had been committed placed on the offending State, in the words of Professor Riphagen in his third report on the content, forms and degrees of State responsibility (A/CN.4/354/Add.1), an obligation to restore the status quo ante, including a wiping out of all the consequences of those offences and a providing of guarantees against repetition.

189. In those circumstances, to aspire to the drafting of a treaty on the non-use of force in international relations at the same time when that principle had been and was still being violated, was a clear contradiction. If the principle of prohibition of recourse to the threat or use of force in international relations was not respected, if the idea of international jus cogens implicit in its formulation was violated, if the omnipotence of the will of the State prevailed over objective barriers based on grounds of humanitarianism, justice and solidarity, any attempt to develop or supplement it would be meaningless. The political will of States to comply strictly with its content was a prerequisite for the development or supplementation of that principle, as of any other principle of the Charter.

190. At the current stage, the Spanish delegation considered that the work of the Committee should be established on the most realistic bases possible, bases to which, until that time, any aspiration to the drafting of a treaty on the non-use of force in international relations had been completely foreign.

191. On the other hand, the working paper submitted by Belgium, France, the Federal Republic of Germany, Italy and the United Kingdom and the working paper submitted by Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda both offered much more reasonable prospects for progress. On the basis of those two documents, the work of the Committee should be conducted with caution, realism and seriousness. To insist, at the current stage, on proceeding with the objective of drafting a treaty on the non-use of force in international relations would, at the very least, impede the progress of a Committee which, in recent years, had shown clear indications that it wished to carry out a more modest task, but a task that was also, by that very fact, more in keeping with the current international situation.

192. To that end, on the basis of the above-mentioned documents, the Spanish delegation believed that special attention should be accorded, first, to the close relationship existing between the principle of non-use of force, the principle of peaceful settlement of disputes and the collective security system. The three principles formed a whole, and one could not be disregarded without a risk of unbalancing the two others. Accordingly, the treatment, development and order of

those principles should reflect harmoniously the interrelation and interdependence which existed between them.

193. Secondly, the normative elements contained in each of those principles should be considered very carefully. In that regard, his delegation was aware of the dual risk which such consideration involved. On the one hand, merely paraphrasing or reaffirming the Charter would add nothing new to the existing principles and, on the other, proclaiming as lex lata principles de lege ferenda might create serious drafting problems. Those risks should therefore be weighed carefully before an attempt was made to formulate and systematize those principles more precisely. As had been emphasized some years earlier, in the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, a mere proliferation of statements of principles of conduct might reduce the very impact of the formulations of those principles. Similarly, mutatis mutandis, in the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, the mere multiplication of statements of principles of conduct might also reduce the impact of the formulation of those principles.

194. Thirdly and lastly, his delegation believed that, in the course of the analysis, emphasis should be placed on the institutional elements of the three major topics which he had mentioned, particularly the procedures, instruments and machinery used in international relations to implement, or ensure the implementation of, the norms deriving from or based on the principles of non-use of force, the peaceful settlement of disputes and the collective security system. The normative effectiveness of a rule often depended on the institutionalized measures adopted for the purpose of implementing it. Sometimes, due attention had not been accorded to those measures, so that the balance which should always exist between the normative elements and the institutional elements of those principles had been disrupted.

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

196. The fourth speaker at the 70th meeting, the observer for Afghanistan, said that the current atmosphere of global tension intensified the importance of the elaboration and conclusion of a world treaty on the non-use of force. More than at any other time in history, humanity was currently confronted with the danger of annihilation. The international situation was continuing to drift toward a dark and bleak destiny. There was a strong effort by the militarist aggressive imperialist circles to create an atmosphere of hysteria and distrust. As the result of warmongering policies of imperialism, there was a sharp turn toward material and psychological preparation for war, which had faced the world with the prospect of plunging into a nuclear holocaust. The shadow of a nuclear holocaust was haunting our planet more than ever. Hotbeds of tension were created in different regions of the world. The situation in the Middle East had deteriorated. Zionist authorities persistently violated the inalienable rights of the Palestinian people. The Israeli Government under the direct protection of United States imperialism was engaged in a war of genocide against the Palestinian people. The racist régime of Pretoria continued its suppression of the South African people, occupation of Namibia and increasing aggression against Angola and Mozambique. Wide-scale interference went on unabated in the internal affairs of

the Central American countries. Nicaragua was living under constant threat of overt and covert interference by the United States. United States imperialism and its allies were continuing their undeclared war against Afghanistan. They were financing, training and sending armed mercenary bands to disrupt the peaceful life of innocent civilians. In an effort to prolong the tension in the region, United States imperialism had resorted to wide-scale conspiracies against Afghanistan. Furthermore, the continuous arms build-up in the Indian Ocean and the Gulf and the activities of the rapid deployment force, had created a direct threat to the sovereignty of the countries of the region.

197. Under those circumstances the need for the conclusion of a treaty on the non-use of force acquired extreme importance.

198. Ever since the Second World War, the principle of non-use of force had been violated by the colonialists, racists and hegemonists, in different regions of the world, in their efforts to suppress the struggle of the colonial people for their national liberation and to block their social transformation, thus creating obstacles for lasting peace and security. Therefore, a treaty on enhancing the non-use of force in international relations should have clear provisions for the people who were living under colonial, imperialist and racist régimes to resort to all means available to them in their struggle for national independence. It should also have clear provisions for the right of people to resort to individual or collective self-defence, envisaged in Article 51 of the Charter.

199. The conclusion of the treaty on the non-use of force would constitute a progressive codification of international law and would work as an assurance for peace and security. It would in no way be incompatible with Article 2, paragraph 4, of the Charter, as had been claimed by certain delegates. Claims like those questioned numerous resolutions and declarations adopted under Article 13 of the Charter. Experience proved that the conclusion of the treaty under the auspices of the United Nations not only would define the role of the Charter but would strengthen the effectiveness of the treaty and the role of the United Nations.

200. The existence of several initiatives which reflected the interests of a large number of countries would facilitate the work of the Committee. The proposal of the Soviet Union and the working paper of the non-aligned countries were of special importance to the work of the Committee.

201. In the view of the Afghan delegation, the working paper of the non-aligned countries contained important elements which would help to codify the treaty on the non-use of force. It was in full accordance with the Charter, the resolutions of the General Assembly, the declarations of the non-aligned countries and international law. The Afghan delegation was in full agreement with paragraph 1 of the working paper, which stated that the use of force or threat of force could be defined not only in terms of military force but also in terms of all uses of coercion such as economic or political coercion or hostile propaganda, as well as the resort to activities such as subversion, pressure, intimidation, support of terrorism, covert attempts to destabilize Governments and the use of mercenaries or financing or encouraging them.

202. The Afghan delegation fully supported the initiatives of the Mongolian People's Republic to work out and sign a convention on mutual non-aggression and non-use of force in relations among States of Asia and the Pacific. The implementation of such a formulation would help in maintaining peace and security in that part of the world.

203. Certain delegations deliberately resorted to polemics in order to divert the work of the Committee from fruitful discussion. Among other things allegations were made against Afghanistan during the general debate. Those malicious insinuations were part of a large-scale conspiracy comprising overt and covert activities by United States imperialism and its reactionary allies against Afghanistan. The revolution of April 1978 in Afghanistan had terminated the hated feudal despotism and established the power of the people. From the very first day of the revolution, wide-scale reforms were undertaken to end the age-old backwardness, illiteracy and social injustice. But the feudal lords and the privileged classes whose power and privileges were challenged started plotting against Afghanistan under strong provocation and coercive action by United States imperialism and its allies. Training camps for terrorist mercenaries were established outside Afghanistan territory. Large quantities of arms, financial assistance and military advisers were sent to carry out subversive terrorist operations against Afghanistan. It was under increasing interference and aggression backed by imperialism from outside the territory of Afghanistan that the Government of Afghanistan had no other alternative than to appeal to its traditional friend, the Soviet Union, for assistance to repulse the intervention and aggression. The Afghan Government asked the Soviet Government to send a limited contingent of Soviet troops to Afghanistan to help the Afghan army and the people to ward off foreign aggression, to safeguard the territorial integrity of the Democratic Republic of Afghanistan, and to defend the gains of the April revolution. The demand for Soviet assistance was in strict accordance with the Charter of the United Nations and article 4 of the Afghan-Soviet Treaty of Friendship and Good Neighbourliness. Afghanistan had declared time after time that as soon as the aggression from the outside ended and an appropriate international guarantee for non-recourse to armed and other forms of intervention in the internal affairs of Afghanistan was reached, the pull-out of the Soviet troops would be carried out.

204. The Afghan Government had made constructive and realistic proposals in that regard. The proposal of 14 May 1980 and especially that of 24 August 1981, provided realistic and flexible grounds for negotiations. But the imperialistic forces had rejected them in order to create hotbeds of tension and to prolong the tension around Afghanistan. Despite the undeclared war against Afghanistan and despite all forms of aggression, the Government and the people of Afghanistan had scored major successes. The Government of Afghanistan had gained strong support among the wide majority of the people, the clear manifestation of which was the creation of the Fatherland Front consisting of the People's Democratic Party of Afghanistan (PDPA), trade unions, farmers' co-operatives, the Supreme Jirgah of Tribes, the High Council of Scholars and Clergy, the Democratic Organization of Afghan Youth, the Democratic Organization of Women and other organizations. The Fatherland Front was representing all classes and strata of the society. Furthermore, last month, the country-wide conference of PDPA was convened. That event was one of the greatest events in the life of the party and the people of Afghanistan. The conference undertook vital decisions in all aspects of the socio-economic and political life of the country. The decisions of the party conference received strong support among the people. Hundreds of thousands of people expressed their support for the party and Government in the course of wide-scale meetings and demonstrations all over Afghanistan. The Afghan delegation made it perfectly clear that the conspiracies of the imperialist circles and the reactionary elements would never be able to divert the people of Afghanistan from the revolutionary path that they had chosen.

205. The fifth speaker at the 70th meeting, the observer for the German Democratic Republic, said that the question of enhancing the effectiveness of the principle of non-use of force in international relations was being considered at a time when international development appeared to be at the crossroads. The German Democratic Republic noted with great concern that the situation in the world, and international relations as a whole, had become exceedingly aggravated. The causes of it and their consequences, which were well known, lay in superarmament confrontation, in the quest for military strategic superiority which the most aggressive quarters of imperialism, especially in the United States, had pursued for quite some time. For the attainment of that objective even the use of nuclear weapons and the turning of the territories of its Western European NATO allies into nuclear powder kegs was included in the reckoning. As a result, the danger of a nuclear world war had grown menacingly.

206. Owing to the imperialist policies of aggression, pressure, blackmail and interference in the internal affairs of sovereign States, tensions in regions like the Middle East, the southern part of the African continent, Central America and the Caribbean, escalated and new conflicts were fomented in other areas. Almost every day there were numerous proofs of the fateful repercussions of a policy under which entire regions in various parts of the world were to be subjected to so-called "national interests" and declared spheres of influence. Those were the real causes of the exacerbated international situation. In no way was this situation due to the deliberately cultivated spectre of a so-called Afghanistan, Kampuchea or even "Polish question" as a number of representatives of Western States in the Special Committee had stated. It was a well-known fact that imperialist quarters increasingly resorted to that kind of demagoguery and defamation in order to distract from their own striving for military superiority and their policy of the threat and use of force.

207. In view of the situation, there was no doubt of a pressing need for enhancing the effectiveness of the principle of non-use of force in international relations.

208. The German Democratic Republic continued to counter the policy of confrontation with its constructive policy of détente and peaceful coexistence. All the positive results that had so far been achieved in the struggle for the benefit of the peoples should be preserved and improved upon. Experience showed time and again that dialogue and negotiations were the only reliable means for settling controversial questions in international relations. Far-reaching proposals on how to achieve this had been put forward by the socialist countries. In the endeavour to reinforce or broaden the principle of the non-use of force in international relations embodied in the Charter of the United Nations the German Democratic Republic was guided by the consideration that in the final analysis such a renewed obligation under international law served the recognized objective of eliminating the threat and use of force forever from inter-State relations. The German Democratic Republic, with its sensitive location in the centre of Europe on the dividing line between the two most powerful military-political groups, took a special interest in a universal international treaty on the prohibition of the use of force. Such an internationally effective instrument would counteract the danger of war and facilitate efforts for arms limitation and disarmament. A prohibition of the use of military force, notably of nuclear weapons, should be the core of an internationally binding accord of that kind.

209. The delegation of the German Democratic Republic considered that the Special Committee, in accordance with its mandate as defined in paragraph 2 of resolution 36/31, should concentrate on the preparation by the earliest possible date of a

world treaty on the non-use of force. It hoped that those who had so far delayed or obstructed the elaboration of such a treaty would review their position and find themselves ready for a businesslike discussion of the documents currently before the Committee. The discussion of the substantive issues under consideration should be at the centre of the Committee's activities. Fruitless polemics and slander were a burden that hindered all progress. Such practices were designed to prevent the Committee from fulfilling the main task entrusted to it. In view of the fact that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had succeeded, within a relatively short period, thanks to the constructive co-operation of all parties involved, in drawing up a draft declaration on the peaceful settlement of disputes between States, the Special Committee on Enhancing the Effectiveness of the Principle of Non-use of Force in International Relations, too, should be in a position to achieve substantial progress in elaborating a world treaty on the non-use of force. The draft treaty submitted by the USSR and a number of proposals supplementing it as contained in the revised working paper of a group of non-aligned States provided a sound and adequate basis for drawing up a uniform document in the foreseeable future.

210. Commenting on the working paper of a group of non-aligned States, the representative of the German Democratic Republic pointed out that the paper confirmed its view that in the current conditions, the further elaboration of the prohibition of force was a primary concern and that the Special Committee should draw up a legally binding document to that end. The paper was another proof in that the further elaboration of Charter principles in an international treaty was not tantamount to undermining the Charter but rather to strengthening it.

211. The sixth speaker at the 70th meeting, the representative of Cuba, said that the Special Committee was again meeting in very difficult times for the community of nations. The international situation was currently so complex and its short-term prospects so uncertain that there was deep concern among countries such as that represented by her delegation, which were persisting in the search for ways and means of enhancing the effectiveness of the principle of non-use of force in international relations.

212. In recent years, some representatives of imperialist circles had accelerated their arms race in an unprecedented manner, undermining the very foundations of détente and sabotaging the efforts made by peace-loving countries to promote international co-operation.

213. The growing trend towards the use of force and interference in the internal affairs of other States was manifest, inter alia, in the constant violation of the inalienable rights of the Palestinian people by the Zionist régime of Israel, which continued illegally to occupy the West Bank of the Jordan, and in the stubborn insistence of South Africa on impeding self-determination for the people of Namibia. In addition, the peoples of Central America and the Caribbean were not only subjected to constant political and economic pressure, but in many cases had been threatened, recently with the possibility of military aggression. Such was the case of her own country and of Nicaragua. It was common knowledge that the latter had been forced to go to the Security Council as a result of the certain danger of an armed attack which had been an attempt to violate the right of that people freely to decide its destiny. The draft resolution submitted to the Council in that case had constituted an appeal to strengthen and respect principles

inherent in the Charter of the United Nations, such as non-intervention and non-interference in the internal affairs of States, self-determination of peoples, non-use of force, territorial integrity and political independence of States and peaceful settlement of disputes. That draft resolution, which would have been a means of reaffirming those principles, had unfortunately been vetoed.

214. The situation she had described, and many others, made it essential to adopt a universal, legally binding instrument which would oblige States to respect the principle of non-use of force in international relations. It was only by elaborating a document of that nature that the Special Committee would be able to co-operate in meeting the pressing needs of the international community in that regard and, in particular, those of the smaller countries which were also, in general, the victims of the violation of that principle.

215. Her delegation resolutely supported the adoption of a treaty which, in her opinion, would help to improve the international situation and to reduce the current tension, and which would be a contribution to international peace and security.

216. Although the principle of non-use of force in international relations constituted a rule of jus cogens broadly recognized by modern international law, it must be the subject of codification that would make it possible to determine its content and scope and would prevent certain States from using force and intervening in the internal affairs of other States. The only effective means of attaining that end was a legal instrument of universal validity that would reaffirm that principle and guarantee its application.

217. In the opinion of her delegation, the treaty to be prepared should refer not only to military force but also to political and economic pressure. Such a legal instrument should also leave clearly established the right of peoples to fight for their self-determination and independence.

218. The Special Committee, established on the initiative of the Soviet Union, had gained firm support among the member countries of the Non-Aligned Movement, which, at their recent meetings, and especially at the Summit Conference held at Havana in 1979, 16/ had established in the Final Declaration, the need duly to systematize abstention from recourse to the threat or use of force in international relations. Furthermore, a group of 10 non-aligned countries had submitted a document of which all members of the Committee were fully aware. The Committee could therefore count on at least two documents which had won the acceptance of a large number of States. On the one hand, the Soviet draft treaty contained very valuable elements which should be taken especially into account in preparing the instrument that would permit the successful completion of the mandate from the General Assembly. The Committee also had before it the revised working paper of the 10 non-aligned sponsors. Both documents had very interesting aspects which should be taken into consideration.

219. Her delegation shared the view that a comparative approach should be taken; that would make it possible to use the best parts of both documents in elaborating a universally acceptable treaty. It was essential that the work should begin immediately so that by the end of the current session the Committee would have truly positive results to report to the General Assembly.

220. The seventh speaker at the 70th meeting, the observer for Argentina, speaking in exercise of the right of reply, noted that the Chairman's appeal to delegations not to introduce extraneous elements in the Committee's debate should be heeded. However, the representative of the United Kingdom had uttered a series of inexactitudes and accusations which the delegation of Argentina must categorically refute. The position of Argentina on the question of the Falkland Islands (Malvinas) was reflected in document S/14940 and had been stated at length in the Security Council by the Argentine Minister for Foreign Affairs. As to the United Kingdom's supposed preparedness to negotiate, referred to by that representative, the observer for Argentina, having participated directly in the latest negotiations on the question of the Malvinas, could testify that the United Kingdom delegation had systematically and obstinately refused to respond to Argentine proposals: it had refused despite the commitment it had made to respond immediately to such proposals.

221. The observer for Argentina had no desire to continue diverting the Committee's attention to that issue.

222. The eighth speaker at the 70th meeting, the representative of the United States, said that he would refrain from using his right of reply in relation to countries which were not free to speak for themselves because they were de facto under foreign domination or because they received assistance in the amount of 8 million dollars a day to sustain their sagging economy. Nor would he reply to the representative of that successor State to the Third Reich which continued the repressive system of its predecessor. He wished, however, to ask two questions in relation to Afghanistan, namely, why the actions which had been taken had not been brought to the knowledge of the Security Council - a step which would have had a far less destabilizing effect than the invasion by the Soviet Union - and whether the Soviet invaders had been invited by the persons who had been subsequently murdered by those invaders or by a clique broadcasting from Soviet territory while the Soviet troops were crossing the border.

223. The ninth speaker at the 70th meeting, the representative of the United Kingdom, speaking in exercise of the right of reply, pointed out that contrary to the claim of the observer for Argentina, the United Kingdom had been willing to negotiate, and he referred to the agreed communiqué which had been published after a round of negotiations that had taken place in New York in February of the current year. In his opinion, the question was not whether the representative of Argentina accepted or rejected the views expressed by the delegation of the United Kingdom but whether Argentina was prepared to implement Security Council resolution 502 (1982).

224. The tenth speaker at the 70th meeting, the observer for Argentina, speaking in exercise of the right of reply, said that while he noted with satisfaction the readiness of the United Kingdom to negotiate, the sending of a fleet in a way reminiscent of the Victorian era could hardly be viewed as indicative of such a readiness.

225. The first speaker at the 71st meeting, the representative of Japan, said that as declared in its Constitution, Japan had renounced forever the threat of force or use of force as a means for settling international disputes. It also fully supported the principle of non-use of force as embodied in Article 2, paragraph 4, of the Charter of the United Nations, and favoured the strengthening of the effectiveness of that principle. Indeed, the principle of non-use of force had been a pillar of Japan's foreign policy. It had stressed its importance on various occasions as, for instance, during deliberations in connexion with the situations in Afghanistan and Kampuchea and, more recently, during the Security Council debate on the situation of the Falkland Islands (Islas Malvinas), the Permanent Representative of Japan had emphasized that the Japanese Government rejected any use of force, undertaken anywhere in the world, for whatever purpose, in contravention of the Charter of the United Nations.

226. The Government of Japan welcomed all initiatives that would contribute to the prevention of the use of force in international relations and to the maintenance of international peace and security. The Government of Japan had thus participated with a constructive spirit in the deliberations on such questions as the review of the Charter, the strengthening of the Organization, disarmament and peace-keeping operations. Regarding the Soviet Union's proposal for drafting a world treaty on the non-use of force, however, the Government of Japan had expressed serious doubts as to whether the conclusion of such a treaty would really contribute to the maintenance of international peace and security and to the building of confidence among States. This position had been made clear in the comment submitted to the Secretary-General in 1977, and had been repeated several times in the Committee and other forums. This basic position remained unchanged. Indeed, the Government of Japan had reaffirmed its stance against the Soviet proposal following the military intervention by that country in Afghanistan in 1979. The continued military intervention in Afghanistan despite the strong condemnation of the international community had damaged even further the credibility of the Soviet Union in its effort to advance its proposal of drafting a world treaty on the principle of non-use of force.

227. In the view of the delegation of Japan, the Committee would not be effective as long as the drafting of a treaty was its primary, let alone only approach. The lack of progress during its past sessions clearly demonstrated that fact. In order to achieve positive results, the Committee should seek and agree on some other approaches. The Government of Japan believed that it would be most useful for the Committee to study, in a specific and pragmatic way and from various angles, the ways and means for enhancing the principle of peaceful settlement of disputes, which was a corollary of the principle of non-use of force, rather than to tamper with the latter principle itself. The principle of non-use of force was not only clearly stipulated in the Charter, it was indeed considered a peremptory norm of general international law.

228. The Government of Japan was convinced that if the international community had better mechanisms for settling disputes peacefully at as early a stage as possible, many of them could be resolved without their parties resorting to the use of force. In other words, observance of the principle of non-use of force could be secured by resorting successfully to mechanisms of peaceful settlement of disputes. It also considered as useful to examine further methods to strengthen and improve the peace-keeping operations of the United Nations as a means for preventing the use of force by States. Since it became clear that the universal collective security system as envisaged in the Charter could not be materialized,

peace-keeping operations had been utilized as a realistic alternative in the maintenance of international peace and security. They had an important role as a deterrent to the use of force in certain areas of tension. Therefore the strengthening of those operations would also enhance the principle of non-use of force.

229. In the light of those considerations, the Japanese delegation considered it useful to study, in a more detailed and concrete manner, the working paper submitted by five European Community countries at the 1979 session. The newly-revised working paper of the non-aligned countries submitted in 1981 also contained various interesting elements, and deserved close examination as well. Each of these two working papers contained elements which had already been incorporated into the draft Manila Declaration on the Peaceful Settlement of International Disputes, which had been recently adopted by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, however, could focus its study on those elements in the working papers which were not already covered by the draft Manila Declaration. It could also examine specific ways and mechanisms for implementing the provisions contained in the draft Declaration, since most of those provisions were cast in the form of broad, general statements. To give only a few examples, the Committee could explore concrete procedures and mechanisms for strengthening the fact-finding functions of the Security Council and for better utilizing the provisions of Chapter VI of the Charter. The Japanese delegation considered it desirable to proceed in the Working Group with the examination of the elements in the above-mentioned two working papers, making comparisons, as appropriate, with the draft Manila Declaration.

230. The second speaker at the 71st meeting, the representative of France, emphasized that the prohibition of the threat or use of force, in its most extensive form and endowed with a binding and general character, derived from Article 2, paragraph 4, of the Charter, an essential provision contained in a basic text, of which any new document could only be a reflection. The *raison d'être* of the Committee was, therefore, not to add a text to those already existing but to find means of enhancing the effectiveness of an already established principle and to urge States to apply it, in all circumstances and whatever the importance of the national interests at stake. France, for its part, denounced all undertakings of force against any people and any State, as well as any illegal occupation of territory against the wish of the population. It believed that violence could not create law and that, whatever the situations and their motivations, all acts of violence and all use of force observed on all continents must be similarly condemned. In that spirit, France considered the pressures and intimidations to which Poland was subjected inadmissible. Violence must be banished from international society by strict respect for the principle of non-use of force and by the application of the means of peaceful settlement of disputes and the utilization of the peace-keeping machinery provided for by the Charter of the United Nations.

231. As called for by its title, the Committee should, without any spirit of polemic and in a constructive manner, seek the means of enhancing the effectiveness of a principle which was contested by none but which, unfortunately, was too often the subject of serious violations. Such an approach meant setting aside the idea of the conclusion of a treaty on the non-use of force, which would be useless if it merely repeated the Charter and dangerous if its object was to attempt indirectly

to revise the Charter or if, although recapitulating all the provisions of the Charter, it was not accepted by all Member States, thus resulting in a diminution, if not, of course, of the legal value, at least of the prestige of Article 2, paragraph 4, of the Charter. If, on the other hand, the object of the proposed treaty was to prohibit the use of certain weapons, the French delegation could only recall that disarmament questions were under consideration in other forums (General Assembly, First Committee, Committee on Disarmament, Disarmament Commission) and did not come within the competence of the Committee, which must devote itself to Article 2, paragraph 4, of the Charter, strict respect for which, together with respect for the other principles of the Charter, constituted a prerequisite for any progress towards disarmament and arms control. As the representative of Botswana had stressed in his written comments (A/AC.193/4), "what the international community lacks in reality is not a mere treaty enjoining or binding States to respect each other's territorial integrity but, rather, it is the will and honest determination by States to live in peace with one another and to shy away at all times from the use of force in the settlement of interstate disputes".

232. For the rest, the Committee could make a significant contribution to the enhancement of the effectiveness of the principle of non-use of force by proceeding in the direction of the development of recourse to peaceful settlement of disputes. To that end, it should reflect on the reasons for which States used force, rather than having recourse to the peaceful settlement procedures provided for by the Charter and, on the basis of that study, try to imagine ways of encouraging better utilization of existing machinery. In that regard, it might profitably refer to the draft Manila Declaration drawn up by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization but should also take into consideration all the proposals which had been submitted in the Committee and in the General Assembly and, in particular, the paper submitted in 1979 by five European countries, including France, and the more recent proposal of certain non-aligned States, which, while not entirely acceptable, nevertheless constituted a positive contribution. With regard to future work, account must be taken of the close link which existed, as the representative of Egypt had stressed in his written comments (A/AC.193/4/Add.1), between the work of the Committee and that of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

233. The third speaker at the 71st meeting, the representative of Iraq, said that, although the prohibition of the use of force was a fundamental principle under the Charter and international law and was an essential condition of the maintenance of international peace and security, it was often violated owing to the very wording of the provision of the Charter on self-defence which lent itself to interpretations incompatible with the Charter. The claim could therefore be made that international law as it existed prior to the Charter had not been overtaken by Article 2, paragraph 4 - which allowed for interpretations posing a threat to the territorial integrity and political independence of States. Such interpretations which made it possible for States to use force in their relations with other States and opened the door for illegal use of force cast doubts on the prohibition of the use of force. The fact that the prohibition was already contained in the Charter did not therefore mean that efforts should not be pursued in terms of the progressive development of international law with a view to making clearer the principle set forth in Article 2, paragraph 4, and eliminating the possibility of the dangerous interpretations referred to above.

234. Because of divergences in ideologies, progress would of necessity be slow but the fact remained that the conclusion of a treaty was necessary in order to define the scope of the principle of non-use of force. Such a treaty should reaffirm the jus cogens character of the principle, deal with the various forms of the use of force, including the occupation by force of foreign territory, and reaffirm the obligation of States not to interfere in the internal affairs of other States. In order to strengthen the principle of non-use of force, it should include elements contained in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Definition of Aggression and other documents. It should also deal with disarmament, self-determination and human rights and take into account the close links existing between the non-use of force, the peaceful settlement of disputes and the collective security systems. The consolidation of those ideas in a binding instrument was fully compatible with the codification and progressive development of international law.

235. The delegation of Iraq had consistently co-operated with other non-aligned countries to help the Committee achieve concrete results. Most of the ideas which it felt should be included in the envisaged treaty were present in the document by 10 non-aligned countries, which should be placed on an equal footing with the Soviet draft of a world treaty and the document presented by five European countries. All those proposals should be discussed in a unified framework. Such an approach would enable the Committee to move away from the controversies which have hampered its work and, by carrying out a study of the substantive elements coming within its mandate, to make progress towards elaboration of a treaty.

236. The fourth speaker at the 71st meeting, the representative of Cyprus, said that the work of the Special Committee was among the most important tasks being carried out by the United Nations. The principle of non-use of force in international relations, embodied in Article 2, paragraph 4 of the Charter, formed the cornerstone upon which the United Nations rested. The principle was a peremptory norm of jus cogens from which no derogation was allowed. Yet new acts of aggression took place, indigenous peoples were expelled from their homes, attempts were made to change the demographic character of countries through the use of force, territories and countries continued to remain under foreign occupation. Such situations obliged the international community to intensify its efforts even more for the enhancement of the principle of non-use of force in international relations. It should be added, however, that it was the non-aligned and developing countries that had suffered the most from the violation of the principle. In many cases repeated United Nations resolutions of the General Assembly and, in particular, of the Security Council, justly redressing the situations created by the principle's violation, were flouted and remained unimplemented. One clear example was that of his delegation's country, Cyprus.

237. Towards the purpose of enhancing the principle of non-use of force in international relations, the delegation of Cyprus believed that the elaboration of a draft treaty would be a most worthy achievement. The delegation of Cyprus believed that its task here in the Special Committee would be better accomplished by taking account of the assessment of the Sixth Committee's debate at the thirty-sixth session of the General Assembly to see how best the Committee might carry out, in a practical way, its work in accordance with its mandate. It was true that the Special Committee, in its four sessions held so far, had made little progress towards the fulfilment of its mandate. Past debates in the Sixth Committee and in the Special Committee had not been productive; they dealt with

technical and procedural issues. At its last two sessions, the Special Committee had had before it a working paper (revised at its last session), submitted by 10 non-aligned members, including the delegation of Cyprus. The document contained principles relevant to the principle of non-use of force which would, inter alia, close the gaps and loopholes which in the past had been used as pretences for the illegal use of force. It had been submitted in a constructive spirit to facilitate the work of the Special Committee, and in order to steer it away from the difficulties of the past and to lead it to a substantive debate on the principles involved. As such, it formed an important and constructive document and, in his delegation's view, if the Special Committee could use it as a basis for its discussion without the prejudices of the past, that would be a most valuable accomplishment leading to the furthering of the Special Committee's task.

238. With reference to certain points contained in the revised non-aligned working paper, the representative of Cyprus pointed out that it reiterated that the principle of non-use of force was one of jus cogens from which no derogation was allowed, reaffirmed the right to legitimate national liberation struggles and of self-defence under Article 51 of the Charter of the United Nations, as well as enforcement action taken under Chapter VII of the Charter. Principle 4 of the paper was of particular importance. The paper also referred to full recourse to Chapter VII of the Charter in the discharge by the United Nations of its responsibility for effective maintenance of international peace and security. There was also a reaffirmation of the implementation of the principle of good faith, as well as respect of treaty obligations, valid under the generally recognized principles and rules of international law and in full conformity with Article 103 of the Charter. It also stated that the peaceful settlement of disputes was a necessary corollary to the principle of non-use of force in international relations.

239. He welcomed the results of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization in reaching general agreement on the draft Manila Declaration on the Peaceful Settlement of International Disputes, a matter which would be before the General Assembly at its thirty-seventh session for adoption and which, in his delegation's view, satisfied the mandate of the Special Committee in respect of the peaceful settlement of disputes.

240. In order to facilitate the work of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations and to find an acceptable basis for future work, the Chairman, at the previous session, had put forth certain proposals and it was to be hoped that those would be reconsidered at the current session of the Committee. Rather than slackening or misdirecting its efforts towards the legal regulation of the use of force in international relations, the Committee should intensify its efforts in order to bring its work to a successful conclusion. Whether it resulted in a legally binding instrument on the principle of non-use of force - which would be the preference of the delegation of Cyprus - or in some other form of document, the work of the Special Committee would stand as a confirmation of the international community's commitment to the principle of non-use of force in international relations.

241. In order to achieve the desired goals, namely, the non-use of force by Member States, the United Nations should be given the possibility for enforcement action in the maintenance of security and peace through the availability of a United

Nations force. A provision to that effect was contained in Article 2, paragraph 5, and in Article 43 of the Charter.

242. The fifth speaker at the 71st meeting, the representative of Morocco, recalled that his delegation had outlined, both within the Special Committee and the Sixth Committee, its position on the enhancement of the effectiveness of the principle of non-use of force and that it would therefore merely comment on some aspects of the debate. The Moroccan delegation considered it regrettable that, four years after the establishment of the Committee, the scope of its mandate and the appropriateness of a world treaty were still at the centre of the debate. The Committee, taking advantage of the flexibility of the mandate conferred on it by the General Assembly, should, at its early sessions, have embarked on a discussion of the working papers which had been submitted to it, with a view to retaining the elements likely to obtain the support of all its members, instead of which it had, as its reports testified, become bogged down in controversies which rather came within the competence of other bodies. The Moroccan delegation would have wished that the members of the Committee had been invited to present their points of view in writing and that the general debate had been abridged, so that the Committee could have proceeded directly to consideration of the working papers, and particularly those which had been insufficiently studied at the previous session.

243. When dealing with a cardinal principle of the Charter of the United Nations, it was essential to be guided strictly by concern to enhance its effectiveness and to take into consideration all approaches, without ruling out anything and without preconception. It was not merely a matter of reproducing the provisions of the Charter, even less of establishing a different régime, but of identifying new manifestations of the use of force in international relations and adapting the applicable law accordingly. Such adaptation was not only desirable but necessary, because coercion - was it necessary to recall the fact? - was not always expressed through direct armed aggression but tended to assume increasingly disguised and dangerous forms, a fact which was duly reflected in the first paragraph of the revised working paper submitted by the group of non-aligned countries represented in the Committee. Unquestionably, several of the forms of coercion mentioned in that paragraph were themselves mentioned in other existing international instruments (the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty (General Assembly resolution 2131 (XX)), the Definition of Aggression and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations) or in documents in preparation (a convention against the activities of mercenaries or a Code of Offences against the Peace and Security of Mankind) but, in view of the compartmental character of that codification and the lacunae still left by those instruments, the mandate of the Committee retained all its importance.

244. It went without saying that the form of the instrument was of less importance than the political will to use it and that laws were only as good as the men who applied them, but a new legal instrument, at a high level in the hierarchy of norms, could, by setting forth specific obligations, contribute to the enhancement of the principle of non-use of force in international relations, particularly amid the turbulence of the contemporary world, where peace was no longer a common property of all peoples but the exclusive faith of the few who could pay the price for it. Morocco, which had been a preferred target of colonialism, had resolutely embarked, upon independence, on a policy of peaceful coexistence and had made the principle of peaceful settlement of disputes a constant in its foreign policy. Its

attachment to international peace and security was equalled only by its determination to safeguard the attainment of its independence. Its participation in the Committee was an expression of its belief in an international community with fewer conflicts and greater solidarity, which favoured co-operation over confrontation in order to meet the challenges of the contemporary world, inter alia, hunger and illiteracy. He hoped that the important issue under consideration would be dealt with in greater depth and with greater seriousness and determination, with a view to healthier inter-State relations and qualitative improvement of the machinery provided for by the Charter.

245. The sixth speaker at the 71st meeting, the representative of Italy, said that on a number of occasions in the Sixth Committee, the Italian representatives had exposed Italy's basic position on the proposal which, in 1976, was at the origin of the creation of the Special Committee. The fundamental approach was that no new normative instrument was needed to enhance the effectiveness of the principle embodied in Article 2, paragraph 4, of the Charter of the United Nations. There were very few provisions of the Charter that spelled out in such a clear-cut and uncompromising way a fundamental obligation of the Members of the United Nations. Resort to force or the threat thereof by States was already absolutely forbidden, the sole exception being the exercise of the right of self-defence as referred to in Article 51 of the Charter itself.

246. In such a situation it would not make sense to restate the principle in a new treaty, which would inevitably create doubts and confusion, owing to the fact that the number of its contracting parties would probably differ from the membership of the United Nations. Without repeating once again the criticism voiced in the past on the wording included in the text proposed by the Soviet Union, a criticism which, thus far, had received no answer, the Italian delegation wished to reiterate its basic opposition to a duplication of formulae which, on such an important issue concerning international relations, could only cause harm. No one, so far, had advanced even a single argument which indeed demonstrated that a new normative proclamation of the principle of non-use of force could serve any useful purpose.

247. The insistence of the proponents of this item in stressing the importance of drafting a treaty had heavily influenced, during the years, the language of the various resolutions adopted thereon by the General Assembly. That had forced the Italian delegation, to its deep regret, to cast a series of negative votes on the resolutions calling for a renewal of the mandate of the Special Committee. Although recognizing that some improvement was noticeable in resolution 36/31 vis-à-vis resolution 35/50, the Italian delegation thought that that was still insufficient precisely because of the insistence on the unsound idea of drafting a treaty as well as because of the misleading reference to the draft proposed in 1976 by the Soviet Union. The Committee, if it had to work efficiently, should have complete freedom in reaching a conclusion, whatever it was, based on general agreement. That corresponded to a correct understanding of the Committee's mandate and delegations should realize that general agreement around the idea of drafting a treaty on the non-use of force was simply impossible because of the inherent danger that, in the view of a sizeable number of States Members of the United Nations, such a treaty would cause to the Charter itself. Therefore different avenues should be explored.

248. The view just expressed by the Italian delegation should not be construed as denying the importance of enhancing the effectiveness of the principle of non-use of force in international relations. On the contrary, it was the view of the

Italian Government that the regrettably numerous cases, currently and in the past, where States had not abided by such a clear prohibition, called for an urgent study of appropriate measures intended to secure a more efficient functioning of the United Nations machinery and, in particular, of the Security Council, which, according to Article 24 of the Charter, had the primary responsibility for the maintenance of international peace and security. That, of course, did not imply reviewing the Charter. What was involved was rather the adoption of a set of practical arrangements coupled with bona fide compliance with the Charter and the decisions of competent United Nations organs.

249. On the other hand, the enhancement of the principle of non-use of force should be pursued in the perspective of a parallel enhancement of methods and procedures for the pacific settlement of international disputes. To that end, one should go beyond the rather timid language of the draft Manila Declaration on Peaceful Settlement of International Disputes, recently adopted by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization and proposed for adoption by the General Assembly. Of course, only certain points of the draft Manila Declaration were pertinent to the problem at stake in the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, namely, the interrelationship between the principle of non-use of force and the principle of pacific settlements of disputes. But those parts of the Declaration which were pertinent to its work should now be viewed in the perspective of the mandate of the Committee and broadened according to the needs of its tasks. In so doing, the Italian delegation still believed that a good source of inspiration could be found in the document submitted three years ago by five European countries, including Italy, a document which had not been thoroughly discussed so far. The Italian delegation also believed that another good source of inspiration could be found in some of the proposals contained in the revised version of the document submitted by non-aligned members of the Committee towards the end of last year's session. He looked forward to detailed discussion of those useful contributions during the meetings of the Working Group.

250. Any useful discussion of elements to be retained should be carried on with an open mind and without prejudice to the format of the final product. However, such discussion presupposed a serious investigation of the causes or, as some preferred to say, of the manifestations of resorting to force, an investigation conducted in the light of past and current experience. The fact that those States that, during the 36 years of existence of the United Nations, had illegally resorted to force, had none the less invariably tried to find some justification, thereby expressing their conviction about the continuing validity of Article 2, paragraph 4, of the Charter, should lead the Committee to investigate, without restraint, the reasons why the contradiction between reaffirmation of that fundamental obligation and the actual behaviour of some States so frequently occurred. It was quite possible that that could help the Committee to discover appropriate ways for curing the malfunctioning of the United Nations machinery. The research was all the more necessary since cases of illegal resort to force continued to occur, with alarming frequency, all over the world. As a representative of a State which committed itself in its own Constitution never to resort to war as an instrument of aggression against any country, the Italian delegation had no difficulty in condemning resort to force not based on self-defence wherever it occurred. In recent times, Italy had raised its voice against bloody attacks carried on by South Africa against its neighbours in the foolish attempt to counter the course of history, which demanded total and definitive elimination of colonial régimes.

Italy had, for the same reasons, condemned the illegal annexation by Israel of Arab-occupied territories (an act which, in its opinion, was null and void) as well as unjustified surprise attacks against neighbouring countries, as had been the case in the destruction of the Iraqi nuclear plant in Tamuz last year. Italy condemned resort to force for settlement of international disputes wherever it occurred as had been shown by the most recent joint statement of the 10 member States of the European Community on the seizure by Argentina's military forces of the Falkland Islands/Islas Malvinas, an issue which should be solved by the parties through peaceful means. Italy condemned attempts to suppress the self-determination of peoples wherever they occurred, whether in the West or the East, the North or the South.

251. In the more than 34 years of the Italian Republic, born after the struggle of the Italian people against Nazi-Fascist invaders and their supporters, Italy had never used its armed forces to threaten anybody. On the contrary, it had often put them at the service of the United Nations and, in general, for the cause of peace wherever Italian assistance proved useful.

252. With the clean record of its country, the Italian delegation could not refrain from denouncing, once again, the intervention, in defiance of repeated resolutions of the General Assembly, conducted by the very proponent of the draft treaty on the non-use of force, against a small neighbouring country, Afghanistan, where a régime rejected by the overwhelming majority of the Afghan people was kept in power only thanks to the support of the arms of the invaders. The same condemnation applied to the Vietnamese occupation of Kampuchea, an act which could not be justified by the sins of the rulers of that unfortunate country but which evidenced the fact that disregard for basic human rights quite often attracted outside violence.

253. For all those reasons, the Italian delegation could not remain silent before the events which had occurred in a noble European nation, Poland, where aspirations to more freedom and justice had been suppressed after repeated pressures from a powerful neighbour. The evolution of the Polish situation since last December sharply contrasted with the understanding reached at Helsinki in 1975 and constituted a serious element of instability in the very heart of Europe. Without daring to interfere in the internal affairs of Poland, the Italian delegation expressed its fervent hope that the process of liberation which had aroused so many hopes two years ago might, as soon as possible, resume its course.

254. Normative formulations without effective measures of enforcement would have only an hortatory effect and their result would only cloud the sad reality of current episodes of violence. On the contrary, a serious endeavour towards practical measures for defusing crises and for an honest clarification of the problems at stake in each international dispute would make a real contribution to the cause of maintenance of peace and mutual understanding among peoples to which all should be committed.

255. The seventh speaker at the 71st meeting, the observer for Viet Nam, pointed out that while discussion in the Special Committee concentrated on the question of whether or not it was necessary to conclude a world treaty on enhancing the principle of non-use of force in international relations, Viet Nam remained subject to a constant threat by the Peking expansionists in collusion with the United States. After having used 600,000 troops to do what they called "teach Viet Nam a lesson" - and naturally they were defeated - the Chinese authorities had continued to deploy along the northern borders of Viet Nam 20 divisions which had been

ceaselessly carrying out military activities in gross violation of the territory, airspace and waters of the Socialist Republic of Viet Nam. In the last three months, the Chinese expansionists had stepped up preparations for another large-scale aggression against that country. To name just a few: in seven districts of five provinces near the northern border, Chinese troops had made 29 incursions, killing people and looting property. Chinese aircraft meanwhile made thousands of sorties, penetrating from three to five kilometres inside Viet Nam over Lang Son, Ha Tuyen, Cao Bang and Quang Ninh provinces. In collusion with China, the United States had also carried out dozens of reconnaissance missions by air along the coast from Nghe Tinh to Phu Khanh province during that period. In particular, from 2 to 9 March 1982, more than 40 Chinese armed vessels had been sent deep into Vietnamese waters off Binh Tri Thien and Quang Nam-Da Nang provinces to carry out acts of provocation.

256. There were also other hotbeds of tension in the world. The recent exacerbation of the situation in the Middle East and southern Africa caused by the threat and use of force, and the explosive situation in Central America had become the prime concern of peace-loving peoples all over the world. The United States administration had preached in the last few years the so-called "doctrine of limited nuclear war" and increased the military build-up, thus whipping up the cold war and poisoning the international political climate. That was why millions of people had taken to the street to demonstrate their opposition to the designs of the warmongers. Such international situations had made it all the more necessary and imperative to conclude a world treaty on the non-use of force in international relations.

257. Evidently, the imperialists and international reactionaries had not given up their dream of world hegemony by means of force, of bringing the peoples to their knees and of maintaining their colonial interests. Though it was made clear in Article 2, paragraph 4, of the Charter that Members of the United Nations should refrain in their international relations from the threat or use of force, the imperialists and international reactionaries had barbarously resorted to force of arms to trample under foot the sovereignty and territorial integrity as well as the desire for peace of many nations thus undermining their stability. The recent United States and Chinese wars of aggression against Viet Nam needed no further elaboration. Undoubtedly, that constituted a serious challenge to recognized international law and made hollow their outcry for peace and freedom.

258. For that reason, most of the members of the Special Committee had expressed their great interest in enhancing the effectiveness of the principle of non-use of force in international relations with a view to creating legally binding obligations to prevent the use of force by the imperialists and international reactionaries. It was the belief of the delegation of Viet Nam that such a positive outcome would certainly contribute to the preservation of peace and the deepening of détente in the world.

259. The delegation of Viet Nam believed that in order to bring about concrete progress at the current session, it was high time to start practical work with a view to formulating elements of the principle of non-use of force. The draft treaty submitted by the Soviet Union, containing practical and constructive proposals, and the revised working paper of the group of non-aligned countries embodying a number of positive suggestions, offered common ground for business-like deliberation. Unfortunately, certain people still held to the view that the conclusion of such a treaty was not only unnecessary but dangerous. They had

resorted to delaying tactics and exposed themselves as opponents of the principle of non-use of force in international relations. While they had allowed themselves the right to speed up the arms race, to carry out military intervention and economic blockade and even to use food as a weapon against various countries, they had arbitrarily violated the sacred right to national independence and self-determination of other peoples. In other words, they stuck to the role of a world gendarme and international terrorist. It should be pointed out that all nations, no matter how big or small, economically developed or under-developed, were now conscious of their sacred and inviolable right to national sovereignty, to live in independence, peace and stability, and to choose their own path of development for social progress.

260. As many of the previous speakers had done, the delegation of the Socialist Republic of Viet Nam, which had more than once affirmed its support for the initiative of the Soviet Union on enhancing the effectiveness of the principle of non-use of force in international relations, sincerely expressed its desire to see tangible results in the work of the Committee.

261. In the last 30 years, the Vietnamese people had never been able to enjoy peace in its full sense. The colonialists, imperialists and international reactionaries had taken turns in carrying out wars of aggression and expansionist designs by means of force against Viet Nam. The Vietnamese people had had no other choice but to fight for the survival of the nation although, as ever, they remained unswervingly committed to the settlement of international disputes by peaceful means. In spite of the fact that the Peking authorities had pursued a hostile policy "to bleed Viet Nam white" as they put it, the people and Government of Viet Nam had always demonstrated their goodwill for international peace and security. In its note of 10 January 1982, addressed to the Foreign Ministry of the People's Republic of China, the Foreign Ministry of the Socialist Republic of Viet Nam had proposed to put an end to all hostile military activities in the border areas between the two countries and to resume the third round of talks to ensure peace and stability and to discuss issues of mutual benefit. On 28 January 1982, together with the Lao People's Democratic Republic and the People's Republic of Kampuchea, the Socialist Republic of Viet Nam had once again proposed the signing of a treaty of peaceful coexistence with the People's Republic of China. Unfortunately, so far China had just turned a deaf ear to that constructive proposal.

262. With respect to South-East Asia, the Socialist Republic of Viet Nam had made repeated efforts to promote the dialogue between the two groups of Indo-China and the Association of South-East Asian Nations (ASEAN), to discuss and find together a solution to questions related to peace and stability in the region. That obviously represented the consistent position of the Socialist Republic of Viet Nam on enhancing the effectiveness of the principle of non-use of force in international relations. Viet Nam remained confident that it met the aspirations of the people of the world as well and its conduct was in conformity with the basic principles of the Charter of the United Nations.

263. The eighth speaker at the 71st meeting, the representative of Nicaragua, said that, in the light of so important a provision of the Charter as Article 2, paragraph 4, there were some who regarded the work of the Special Committee as redundant and questioned its aim. As a member of the Non-Aligned Movement, Nicaragua could not share that view since sister nations in Africa, Asia and the Middle East were the victims of aggression and one of the great Powers was holding

up the Committee's work and threatening international security by raising the possibility of nuclear war and deploying new types of weapons, including the neutron bomb.

264. Recent events connected with the explosive situation in Central America highlighted the urgent need to reach a consensus concerning the means and instruments for effectively guaranteeing the implementation of the principle of non-use of force or the threat thereof in international relations. Nevertheless, on 2 April 1982, the United States had vetoed a resolution in the Security Council which merely reminded all Member States of their obligation to respect the principles of the Charter and in particular those relating to the use or threat of force. The resolution had also appealed to all the parties concerned to have recourse to dialogue and negotiation as contemplated in the Charter.

265. The veto was easy to explain, though not to justify, given that Washington had opposed a peaceful negotiated settlement of the Salvadoran conflict and at the same time disregarded the many appeals of Nicaragua and other countries in favour of a dialogue that would replace the threats and gunboat diplomacy which could only increase the already acute tension in the region and lead to the outbreak of general war in Central America.

266. The United States veto must inevitably reawaken alarm among the peoples and the international community by demonstrating once again the reluctance of the United States Government to renounce the use of force against Nicaragua or to engage in serious negotiations with that country in response to the initiative of the Government of Mexico.

267. The veto thus represented yet another threat to Central America since it confirmed previous threats, as well as Nicaragua's well-founded anxiety about the aggressive intentions which it had just denounced and which had led it to resort to the Security Council for a restatement of the principles of the Charter.

268. Clearly, the United States' attitude in the Council was evidence of the seriousness of the threats to Nicaragua.

269. Nicaragua's insistence on the fact that the Reagan Administration was directly involved in the acts of aggression and plans for aggression against it had a strong foundation. Apart from the information in the possession of the Nicaraguan Government, it was common knowledge that the United States Government did not deny that its Central Intelligence Agency (CIA) was carrying out covert operations against Nicaragua and that it was supporting the paramilitary activities of Nicaraguan counter-revolutionaries, on United States territory. The Secretary of State, Mr. Haig, himself had said, on 15 November 1981: "The possibility of military action against Nicaragua cannot be ruled out". On 22 November, the Presidential Adviser, Mr. Edwin Meese, had referred to options consisting of "pressure on Nicaragua from other countries in the area, and other steps it would be unwise to talk about". On 14 February and 9 March 1982, The Washington Post had revealed that President Reagan had approved a plan of covert operations which envisaged the instigation of acts of sabotage.

270. A few days later, terrorist commandos had dynamited two bridges situated near the frontier with Honduras. When he was asked whether the CIA had had anything to do with the blowing-up of those strategic bridges, Mr. Meese replied that he was not in a position to affirm or deny CIA participation in those acts.

271. The investigations of the Nicaraguan Government had revealed the complicity of sectors of the Honduran army, an army which had United States military advisers.

272. Nor could the aggressive plans of the United States be separated from the repeated attacks by terrorist bands against Nicaragua from Honduran territory.

273. There were 17 counter-revolutionary encampments in Honduras with 4,000 armed men, spaced along the frontier with Nicaragua: so much had been revealed by various sectors of the United States press and confirmed by the Nicaraguan information services. Those bands were receiving reinforcements and material from United States territory.

274. There was a direct relationship between the increase in United States threats and the criminal attacks from Honduran territory with the connivance of that country's military authorities. For example, on the previous day, about 100 counter-revolutionaries had simultaneously attacked two frontier posts; in addition, 21 Nicaraguan citizens had been seized on 4 April by Honduran soldiers.

275. In March alone, there had been 23 armed attacks, 28 violations of Nicaraguan air space and 5 violations of its territorial waters. All must be seen as part of a global plan to destabilize Nicaragua.

276. That was the context in which the United States Government had vetoed a resolution that reiterated the obligation to respect the principles of non-intervention and non-use of force in connexion with the political independence of States and the peaceful settlement of disputes. He wondered how the United States could speak in the debate about its readiness to enhance the effectiveness of the prohibition of the use of force, when less than a week before it had vetoed a resolution in the Security Council, paragraph 4 of which ran: "Appeals to all Member States to refrain from the direct, indirect, overt and covert use of force against any country of central America and the Caribbean".

277. The United States opposition to the Committee's mandate to prepare a treaty embodying the principle of non-use of force was therefore not to be wondered at. Nor was it to be wondered at that Nicaragua and the non-aligned countries should insist on making more specific the obligation of all States to refrain from the use or threat of force in any form and to reaffirm solemnly the right of all States to defend their unity, territorial integrity and independence, while recognizing that the peaceful settlement of disputes was an indispensable corollary of the principle of non-use of force in international relations.

278. The critical situation in Central America demanded the implementation of those rights and duties.

279. The ninth speaker at the 71st meeting, the representative of Greece, stated that the General Assembly had shown the importance Member States of the Organization rightly attached to the enhancing of the effectiveness of the principle of non-use of force in international relations by extending once more the mandate of the Special Committee. Its mandate was of paramount importance, for the world, unfortunately, continued to be governed by the realities of power rather than by law and the principles of the Charter. There was an increasing and spreading disposition of Governments to resort to force for the settlement of political issues. Independent and sovereign States had been invaded and their territories were illegally occupied by foreign troops in defiance of urgent calls to withdraw.

280. Other States had been intimidated by subversion or interference in their domestic affairs with the ultimate aim of influencing the course of their policies. Furthermore, there were still peoples victims of colonial and racial domination and exploitation and who were denied the right to self-determination.

281. If such trends were left unchecked, peace and security in the world would be in mortal danger. Therefore, it was more urgent than ever to do everything possible to enhance the principle of non-use of force in international relations. That principle was a cornerstone of the Charter of the United Nations, which, in Article 2, paragraph 4, not only prohibited the use but the threat of force against the territorial integrity and political independence of any State.

282. His Government had made that principle the very foundation of its foreign policy and supported every effort aimed at ensuring its world-wide application.

283. In the Committee's deliberations due account should be taken of the fact that the principle of non-use of force was closely related to other fundamental principles of the Charter such as the principle of the peaceful settlement of disputes and the collective security system, the principle of non-interference in the internal affairs of other nations, the right of self-determination, and respect for human rights.

284. The Committee should concentrate its discussions on the substance of the issues, leaving aside, for the moment, the question of what form the result of its work should take. The question of form was premature and should not be allowed, at the current stage, to stand in the way of the Committee's efforts to reach consensus on the substantive issues.

285. His delegation offered its constructive participation in the work of the Committee and hoped that positive results would be reached during its current session.

286. The tenth speaker at the 71st meeting, the representative of the Union of Soviet Socialist Republics, said that the reason for his intervention in the general debate at that point was to clarify once again the meaning and significance of the Soviet proposal concerning the conclusion of a world treaty on the non-use of force in international relations and to show how relevant the conclusion of such a treaty was in the current, complicated international situation where recourse to force and force alone had become the central component of the foreign policy of the leading imperialist Power - the United States of America - and where, as a result of the mindless adventurist policy of the aggressive imperialist groups who determined United States foreign policy, the prospect of the use of nuclear weapons was becoming increasingly real.

287. In its statement to the Special Committee on 31 March 1982, the Soviet delegation had focused attention on the fact that the further build-up of the already enormous arsenals of nuclear weapons contained the seed of a fatal catastrophe for all mankind - hence the task of taking appropriate steps to save mankind from the threat of a nuclear catastrophe. That purpose would be achieved by agreed and mutually acceptable measures to ensure the security of States, one of which could be a world treaty on the non-use of force containing a prohibitory, contractual and legally binding provision not to use any type of weapon, including nuclear weapons. The Soviet delegation stressed once again that that was the main content of the world treaty that it was proposing. Appropriate provisions to that effect were contained in the draft treaty before the Committee.

288. To its knowledge, there was no General Assembly decision directing the Special Committee to omit from the document it was formulating a provision for the prohibition of the use of any kind of weapon, including nuclear weapons. On the contrary, the discussion at sessions of the General Assembly of questions concerning the ways and means to ensure world peace showed that the overwhelming majority of countries were deeply concerned at the threat of a world-wide nuclear catastrophe, resolutely supported the prohibition of nuclear weapons and considered it genuinely possible, as a first step, to settle in treaty form the question of the inadmissibility and the illegality of the use of nuclear weapons in the context of a general prohibition of the use of any type of weapon. The position of the States Members of the United Nations on that issue had been reflected in numerous Assembly resolutions. It was stated with the utmost clarity in resolution 2936 (XXVII) of 29 November 1972 in which the Assembly solemnly declared, on behalf of the States Members of the Organization, their renunciation of the use or threat of force in all its forms and manifestations in international relations, in accordance with the Charter of the United Nations, and the permanent prohibition of the use of nuclear weapons.

289. When it came to the question of prohibiting nuclear weapons, the United States set itself against the will of the United Nations, as embodied in decisions of the General Assembly. That fact could not be hidden, whatever verbal tightrope act the United States representative might resort to in the Special Committee, as he endeavoured to discredit directly or indirectly the very essence of the Soviet initiative. Having listened to the statement made by the United States representative in the Committee, the Soviet delegation could not fail to note, with regret, that the United States approach to the substance of the question of the non-use of force had not changed. That approach remained a negative one. Blinded by the grandeur of empire and turning into a cult the use of force in international relations, the United States refused to move towards agreement on limiting the use of any kind of weapon, including nuclear and other weapons of mass destruction; it still believed that in a nuclear conflict it would be possible to confine a war to a war "up to the last European", thereby avoiding retaliation in the event of a nuclear strike at targets in the territory of the USSR or its allies. Reliance on such force, on the attainment of military supremacy, was the credo of those who determined the attitude of the United States to the idea of taking new steps within the United Nations to turn the principle of non-use of force into a rule of international life. They were besides themselves at the fact that that anti-popular, free-booting line of conduct in world politics was opposed by the countries of the socialist community, the USSR, countries that had won their freedom and had an interest in avoiding war, which were putting forward specific, constructive proposals for procuring peace and security and eliminating or alleviating the threat of war. Militaristic circles in the United States evidently did not want to have their hands tied by a ban on the use of force. Any international legal norms limiting or prohibiting the use of armed force were anathema to them, as were the singling out for prohibition of the most barbarous methods of killing and a limitation on the use of weapons according to whether combatants or non-combatants were involved. One could not but recall that, on 6 August 1981, Hiroshima Day, the United States took the decision to commence deployment of the neutron weapons it was producing, which, as everyone could see, were certainly not being manufactured for use in United States territory but might turn up any day in Europe or any other region which the Pentagon saw fit to declare a "sphere of vital United States interest".

290. As was to be expected, American diplomacy, although successful in twisting the arm of its closest allies, was incapable of preventing the General Assembly at its thirty-sixth session from adopting a resolution demanding a ban on the barbarous neutron bomb, which could escalate the nuclear arms race and significantly lower the "threshold to nuclear war". Still further down the perilous road to the expansion of arsenals of weapons of mass destruction, in February 1982 the United States announced a multi-billion dollar "chemical rearmament" programme. The enormous stocks of poisons - another monstrous means of exterminating people en masse - already at the Pentagon's disposal were not enough, it seemed, for the United States Government. Now there were plans to equip United States armed forces with several million shells loaded with a new and still more deadly paralysis-inducing nerve-gas mixture: devices known as binary shells. There was evidently nothing accidental in the telling fact that the United States was the sole country among the 157 Member States of the United Nations to vote at the thirty-sixth session of the General Assembly against the resolution calling upon all States to refrain from producing and deploying new types of chemical weapons or stationing them in States where there were none already. Finally, it was appropriate to point out that the United States and its allies found themselves isolated at the thirty-sixth session of the General Assembly when they voted against the Declaration on the Prevention of Nuclear Catastrophe, adopted by the Assembly (resolution 36/100) which stressed that States and statesmen that resort first to the use of nuclear weapons would be committing the gravest crime against humanity.

291. The common denominator of the overwhelming majority of statements in the Special Committee had been concern at the current state of affairs on the international scene, characterized by the growth of international tension, explosive situations that seriously threaten international peace and security. The policy of imperialist meddling in the domestic affairs of sovereign States and armed suppression of struggles for liberation by peoples denied the right to independent existence as States and of the fight against eradication of the shameful remnants of colonialism were typical features of the policy of imperialist circles.

292. As representative of the State which first suggested a world treaty on the non-use of force, the Soviet delegation was grateful to the countries that had supported that initiative, which sought to procure undeviating compliance with the principle of non-use of force, making it an immutable law in international relations. While calling for the conclusion of a world treaty on the non-use of force, it did not, of course, consider that the conclusion of such a treaty would vitiate the possibility or value of concluding regional or bilateral treaties on the non-use of force. The implementation of the proposal by Mongolia (see para. 59) to draw up and conclude a convention on mutual non-aggression and non-use of force in relations among States in Asia and the Pacific, would be consistent with the purposes of buttressing the principle of non-use of force in international relations. The Soviet delegation supported that proposal and considered that the conclusion of such a convention would represent a contribution to the security of States in the Asian and Pacific Ocean regions.

293. The statements in the general debate by the representatives of the United States and its closest military and political allies took a very different tone. They did not so much as allude to objectivity in analysing how Member States were fulfilling the requirements of the Charter not to use force or threaten to use force. Yet there had been much hankering after the days when colonialists and imperialists could direct the fortunes of entire peoples, making unrestrained use

of armed force to enslave and subjugate them. Among that group of States, virtually nobody had seriously addressed the problem the Soviet delegate had raised in his statement last week - the inadmissibility of using nuclear weapons, which, of course, was becoming a more and more topical issue in view of the new twist imparted to the arms race by the United States and its unconcealed ambition to destroy at any price the existing equality in military potential between the NATO countries and the States members of the Warsaw Treaty. The position of the United States and its closest military and political allies, as expressed in the statements of those countries' representatives was typified by the urge to produce artificially a difficult climate in the Committee and distract it on contrived grounds from accomplishing its mandate. They said virtually nothing about those Governments or régimes which acted as though the Charter were a mere scrap of paper and did not accept the prohibition of the use of force. Their aggressive acts of plunder were posing a real threat to international peace, as was recognized in numerous decisions adopted by United Nations organs. Did any of the aforementioned countries single out Israel or South Africa, for example, with their policy of terror, armed assaults and systematic, unprovoked acts of aggression against other countries and peoples? No, they did not. If they had, they would have had to single out the United States as an accessory to the crimes committed by the white minority régime in South Africa against the country's indigenous population, which had been completely deprived of its rights, and against neighbouring States; they would have had to single out the United States as an accessory to the crimes of the Israeli war machine against the Arab peoples. Needless to say, without the political, material and military support of the United States, the explosive situations in southern Africa and the Middle East would have been defused long ago.

294. The representatives of that group of countries had nothing to say about such barbarous and large-scale uses of military force in the current era as aggression carried out by the United States in Viet Nam and other countries of Indo-China, where the United States war machine had committed the gravest crimes against humanity.

295. Also passed over in silence were the very recent crimes against humanity in Cambodia, where 3 million Cambodians had been wiped out by force.

296. At the same time, the representatives of the NATO bloc had not failed to resort once more to demagogic, provocative and defamatory attacks on the Soviet Union, because of its assistance to the fraternal people of Afghanistan in repulsing acts of foreign aggression which even now were being openly directed, organized and supported in every way possible, primarily by the United States.

297. The insinuations made concerning events in Poland could be described as nothing more than a confused misrepresentation of the facts, reflecting a strong desire to engage in wishful thinking. In its statement at the 67th meeting, the Soviet delegation had adequately disposed of the insinuations made by the United States representative on that score. That statement fully applied to the insinuations made in the Committee by the major military and political allies of the United States, which were committed to the NATO line.

298. It was fitting to quote the following excerpt from the joint Soviet-Polish communiqué concerning the official friendly visit to the USSR on 1 and 2 March 1982 of the Party and Government delegation of the Polish People's Republic headed by W. Jaruzelski, First Secretary of the Central Committee of the Polish United Workers' Party and Chairman of the Council of Ministers of the Polish People's Republic:

"The USSR and the Polish People's Republic firmly condemn and reject interference by the United States and other capitalist countries in Polish internal affairs. That is a most flagrant violation of the universally accepted standards of international law, the United Nations Charter, the Final Act of Helsinki, and existing treaties and agreements. The two sides regard the discriminatory measures vis-à-vis Poland and the Soviet Union and the declaration by the United States and some of its allies as outright blackmail and pressure, as an attempt to destabilize the structure of peaceful intergovernmental relations and as a threat to peace and security in Europe."

299. Many important proposals of the socialist countries providing for the mutually acceptable and just solution of the problems concerning the maintenance of peace and involving the vital interests of all countries and peoples, were encountering a hostile reception from the United States. Washington's negative reaction to the peaceful proposals of the USSR for the maintenance of peace and security of nations was typified by the statement made in the Special Committee at the 67th meeting by the United States representative, who, unable to restrain his natural sarcasm, had with feigned annoyance pounced for the umpteenth time on the Soviet proposal for concluding a world treaty on the non-use of force. For him, the Soviet proposals, which were receiving ample support in the world, were all nothing but propaganda and agitation.

300. It was regrettable that the United States representative, in referring to the Soviet delegation, had used abusive expressions to which his Government usually resorted in United Nations organs in order to distract attention from the crimes being committed by its masters, the representatives of the Pol Pot clique, the South African racists and the Israeli aggressors, as well as outside the confines of the United Nations - such as the not-entirely-unknown Kahane, leader of the fascist Jewish Defense League.

301. In addition to those attacks, inspired by base political motives, the United States representative had sought for the umpteenth time to base his country's unconstructive approach to the conclusion of a world treaty on the non-use of force on assertions about the alleged incompatibility of such a treaty with the Charter of the United Nations. In addition, in order to discredit the idea of concluding a world treaty on the non-use of force, he had gone so far as to assert that the world treaty would even weaken the rule pacta sunt servanda.

302. The Soviet delegation had already explained repeatedly and at great length its position in that regard. The conclusion of a world treaty on the non-use of force would in no way undermine the Charter. On the contrary, the conclusion of such a treaty would immeasurably strengthen the prohibitory provisions of Article 2, paragraph 4, of the Charter by supplementing them with a specific international legal obligation regarding the inadmissibility of the use of nuclear weapons, or the use of other types of force, the victims of which would be the countries confronted by the imperialist policy of threats, intimidation, blackmail, aggression and annexation.

303. The Soviet delegation wished to emphasize once again the urgent need to adopt rules of international law, which would directly provide for the inadmissibility of the use of nuclear weapons, particularly as the American strategies embodying the doctrine of carrying out limited, pre-emptive and other nuclear strikes were apparently based on the conviction that, since those who had used nuclear weapons against Hiroshima and Nagasaki had escaped responsibility for that act - for which

there was no military necessity - it would also be permissible now to resort to the use of nuclear weapons. Here, then, there was no - to use the words of the United States representative - "sloppy legal thinking".

304. The expression "sloppy legal thinking" could, at the very least, be applied to the assertion of the United States representative in the above-mentioned statement to the effect that, "up to 1945, conquest was an acceptable means of acquiring territories".

305. The aim of the doctrine formulated by the representative of the United States was to justify and legalize the colonial seizure of territories at a time when the imperialist Powers were waging a struggle to divide and parcel out the world. To accept such a doctrine was to acknowledge the legality of the bastions of colonialism that still existed and to justify the aggression of fascist Germany or militarist Japan in the period up to 1945 to achieve territorial conquests.

306. Obviously, in the capitals of the colonialist Powers, seizing someone else's territory was "acceptable".

307. As far as the USSR was concerned, immediately after the October Socialist Revolution, and thus a long time before 1945, Lenin's Peace Decree had proclaimed the illegality of the seizure of alien territories and designated imperialist wars of aggression as an international crime.

308. In an effort to prevent the Special Committee from successfully discharging its mandate, the United States representative in his statement had resorted to the favourite method of political provocateurs in their choice of calumnies against the USSR, uttering a stream of concoctions put out by the Washington propaganda machine, which sought to poison the international atmosphere, exacerbate Soviet-American relations and use any international forum for confrontation with the countries of the socialist community, primarily the Soviet Union.

309. It was regrettable that the United States representative had descended to a crude and insulting distortion of elementary facts, obviously hoping on the one hand to blacken the history of the Soviet people while on the other hand using that old standby of the imperialists, setting one nation against another and instigating conflict, and warming their hands at the resulting blaze.

310. In the Soviet Union, memories of the Second World War remained vivid. The Soviet people had paid a heavy price to ensure the victory of mankind over fascism. It had not only upheld its own freedom and independence, it had also freed the peoples of Europe from the threat of physical extermination.

311. It was appropriate to remind the United States representative that in the soil of Poland alone lay buried 600,000 Soviet soldiers who had given their lives in the struggle against the fascist aggressors and for the freedom of Poland. Not a single American soldier lay there.

312. In areas occupied by Hitler's forces there were many cases when those forces had annihilated the entire peaceful population of a given village. In the Byelorussian SSR there was a monument to the peaceful inhabitants of the village of Khatyn, where the Nazis had burned alive in barns all the women, old people and children of the village.

313. There were similar monuments in other countries: Lidice in Czechoslovakia, Oradour in France.

314. There were no such monuments in the United States. But there was My Lai in Song My province, known to all the world as a graphic symbol and reminder of the crimes of the United States in Viet Nam. The photograph of that ravine, filled with hundreds of bodies of women and children shot by a company of American troops, had travelled the globe.

315. In vain had the American representative, in exercising the right of reply at the 67th meeting, attempted to represent the affair as a case of the aberration of Lieutenant Calley. The evidence in the trial of the lieutenant showed that he was acting on orders from above.

316. The Soviet Union venerated the monuments to the dead. It would therefore not let those who directed at it slanderous and insolent attacks, borrowed from Goebbels' exclusive preserve, think that they would not receive an appropriate response, especially in the case of a Power whose policy toward the USSR and other Eastern European countries had always been characterized by attempts to provoke confrontation, foment discord, incite hatred, whip up nationalistic prejudices, create sources of tension, and so on.

317. The representative of the United States was at great pains to affirm that the references by the Soviet delegation to the fact that in the years of the civil war, the Soviet people had repelled the intervention of 14 foreign States and made a decisive contribution to the rout of fascism at the expense of the lives of 20 million people were only "a few historical anecdotes".

318. The Soviet delegation vigorously rejected as untrue and unfounded the statements made by the representative of the United States which were falsified, tendentious and prompted by base political motives, and in which, distorting the facts of the case, he had attempted to vilify the Soviet Union in connexion with the events preceding the outbreak of the Second World War.

319. Facts were straightforward, not the stuff of a Hollywood film script. And all the known facts irrefutably demonstrated that in the pre-war period the capitalist groupings of States, while fighting among themselves, had simultaneously sought to destroy the USSR.

320. The emergence of a hotbed of war in Europe in the form of Hitler's Germany was a deadly threat to other peoples, but it was primarily aimed at the USSR. The Soviet leaders of that period had no doubts whatsoever that it was only a matter of time until Hitler's Germany attacked the USSR. The very existence of the USSR as a State was at stake.

321. The USSR had pursued a policy of curbing the aggressor and creating a reliable system for preserving the peace, so that the aggression could be halted through joint efforts.

322. The policy of the ruling circles of the so-called Western "democracies", in which they had sought to deflect the fascist threat from themselves, putting their stakes on a deal with Hitler at the expense of the USSR, was different - it was a policy of deliberately channelling the aggression toward the East. This had been the purpose of the policy of appeasement, the policy of Munich, whereby Czechoslovakia had been sold and the Fascists' hands freed for their aggression against the East.

323. The 1939 Moscow negotiations with the representatives of policy-makers in the Western "democracies" had been of decisive importance. Those representatives had not signed the agreement proposed by the USSR for a combined war against the aggressor, calculating that the USSR would be drawn into single combat with Germany.
324. The USSR had been faced with the dilemma of being isolated before the threat of attack from fascist Germany or of signing the non-aggression pact proposed by that country, thus averting the threat of war.
325. The situation made the second choice unavoidable. By concluding the non-aggression pact on 23 August 1939, the USSR had gained time to strengthen its military potential: contrary to the calculations of Western politicians, the war had broken out within the capitalist world. The pact was a desperate step dictated by the highest concern for the very existence of the people. The country's leaders had taken that step when it became blatantly obvious that neither the Western "democracies" nor the United States, which stood behind them, would sign an agreement on joint repulsion of the aggressor. Clearly, one must assume a complete lack of honesty to allege, as the representative of the United States had done, that the Soviet Union had provided Nazi Germany with some matériel and that there were even more far-reaching understandings between them. The speculation of the representative of the United States about some kind of design on the part of the USSR to expand, indeed with the consent of the Nazis, towards the Indian Ocean could only be characterized as malicious ravings.
326. The history of the rise of German fascism, as evidenced by published facts, indicated that the United States had largely facilitated the growth of fascism's economic and belligerent potential. After the First World War, it was actually the American monopolies which, acting on the principle that "money doesn't smell", had invested billions of dollars in the restoration and development of the German war industry, fully aware of the probable first target of the military potential of fascism - that shock force of the imperialist bourgeoisie and militarism.
327. The representative of the United States ought to be reminded that after the rout of fascism, a great many war criminals - those who had collaborated on Soviet soil with the invaders, participating in mass shootings of Soviet citizens - had found asylum in United States territory. And, in violation of war-time obligations, the American authorities had refused to grant extradition of these criminals for trial where they had committed their crimes.
328. Apparently, the schoolbooks which the representative of the United States used did not mention the fact that the United States was among those imperialist Powers which had invaded the Soviet Republic in the years of the civil war, that the boots of American soldiers had trampled on Russian soil at that time, that American regular troops had taken part in military operations against the Red Army and that the United States had organized the White Guards. It was worth remarking that towards the end of 1918, nearly 200,000 foreign interventionists were in the territory of the Soviet Union.
329. And the fact that as a result of foreign military intervention hundreds of thousands of Soviet citizens had perished was, judging by the statement by the representative of the United States, also a "historical anecdote".
330. Speaking of foreign intervention in the Soviet Union after the October Revolution, it should be noted that the imperialist Powers which had attempted to

partition and cut off from the Soviet Republic territories that rightfully formed part of Russia had partly achieved their goal at that time.

331. With the support of foreign invaders and American subsidization, violence had been unleashed, inter alia, against Soviet authorities in Estonia, Latvia and Lithuania, and bourgeois nationalistic Governments, which did not reflect the interests of the masses and which had become pawns in the anti-Soviet game of the imperialist Powers, had been installed there.

332. Those bourgeois dictatorships had come to a natural end. In 1940, they had been swept away by the masses, which had voluntarily chosen reunification with the country of which they had formed part for centuries and with which they were linked by a perpetual joint struggle against foreign invaders and czarism. In this way, the imperialist intrigues against the Baltic republics had been ended once and for all and the opportunity for the imperialist forces to use those countries as a beach-head for aggression against the Soviet State had been curtailed.

333. The attacks indulged in by the United States representative concerning territorial settlement in Europe apparently reflected the irritation of reactionary Western circles over the fact that at the 1975 Conference on Security and Co-operation in Europe, held at Helsinki, as a result of the constructive policy of the socialist, the neutral and the non-aligned countries of Europe and the realistic politicians of the Western Powers, an agreement had been reached on the inviolability of frontiers in Europe.

334. In the Final Act of the Helsinki Conference, section III of the Declaration on Principles Guiding Relations between Participating States reads as follows:

"The participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers.

"Accordingly, they will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State." 17/

The Final Act also bore the signature of the United States.

335. And by no process of reasoning, however provocative and convoluted it might be, was it possible to alter the fact that the question of the frontiers of States in Europe had been finally and justly settled.

336. As to the matter of using, and increasing the effectiveness of, the United Nations to carry out its mandate for the maintenance of international peace and security, the position of principle of the Soviet Union was quite clear: as a Member of the United Nations and a permanent member of the Security Council, the USSR conscientiously fulfilled its obligations under the Charter, including those concerned with the system of collective security, the master link of which was the Security Council.

337. In its view, the United Nations machinery and the possibilities which it offered should be used to prevent aggression and acts of tyranny. In the document under preparation it would be possible to include appropriate formulations on the role of the United Nations in maintaining international peace and ensuring

observance of the principle of the non-use of force, something which would have to be done in strict conformity with the Charter. The Soviet Union was prepared to take part in that work. At the same time, it could not leave unanswered a number of false, unfounded and, as always, unproven assertions by the representative of the United States who had used every shade of black to show in as dark a light as possible the policy of the USSR regarding United Nations action against aggression, and the use of armed force in the name of the United Nations.

338. Despite the assertions of the representative of the United States, the Soviet Union had always supported and would continue to support United Nations efforts for the just settlement of explosive crisis situations threatening international peace and security, and for resisting aggression. The USSR supported the strengthening of the United Nations system of collective security and had many times spoken in support of just demands for the use of the measures provided under Chapter VII of the Charter against those who resorted to the illegal use of force, thereby threatening international peace. When the need arose, the USSR supported peace-keeping operations, including the financial implications.

339. On the basis of the universally recognized principle of international law that the aggressor should bear material responsibility for his aggressive actions, the Soviet Union considered that when United Nations peace-keeping operations had been approved by the Security Council in relation to a particular act of aggression, the United Nations expenses in conducting the operation should be borne by the aggressor State or those supporting it. Was it possible in all seriousness to reproach the USSR for not having shared the expenses of the ill-starred United Nations Operation in the Congo from 1960 to 1964, an operation which had been set in motion by Belgian aggression against that African State. It was worth recalling that the telegram of 12 July 1960 from the President and the Prime Minister of the Republic of the Congo to the Secretary-General, which was the basis for the Security Council decision on sending United Nations forces to the Congo contained the following paragraphs:

"The Government of the Republic of the Congo requests urgent dispatch by the United Nations of military assistance. This request is justified by the dispatch to the Congo of metropolitan Belgian troops in violation of the treaty of friendship signed between Belgium and the Republic of the Congo on 29 June 1960. Under the terms of that treaty, Belgian troops may only intervene on the express request of the Congolese Government. No such request was ever made by the Government of the Republic of the Congo and we therefore regard the unsolicited Belgian action as an act of aggression against our country.

"... The essential purpose of the requested military aid is to protect the national territory of the Congo against the present external aggression which is a threat to international peace. ..." 18/

In the telegram therefore it was clearly and specifically stated that the reason for requesting the dispatch of United Nations forces to the Congo was the aggression of Belgium.

340. That operation had been used as a cover for the efforts of imperialist monopolies to get at the mineral resources of the Congo. In fact, the operation was mounted by the notorious "Congo Club", consisting of representatives of Western Powers whose monopolies were implicated in plundering the riches of the Congo. Patrice Lumumba, at whose request the United Nations Operation in the Congo had

been initiated, had been killed. Finally this ill-fated operation had been concluded by the payment to Belgium from the United Nations budget of some \$2 million, supposedly for damage done by United Nations forces to the property of Belgians in the Congo. Another United Nations operation involving the use of armed forces, the United Nations Emergency Force in the Middle East, had come into being, as a result of armed aggression by three Powers against Egypt. The Soviet delegation rejected as without any foundation the accusation levelled by the representative of the United States concerning some kind of overpowering disdain on the part of the USSR for the system of collective security.

341. The United States was certainly not over-modest in representing itself as a defender of the system of collective security. And yet was it not the United States which systematically blocked measures adopted by the Security Council under Chapter VII of the Charter concerning South Africa and Israel, measures which were supported by the overwhelming majority of States Members of the United Nations and which could be an effective means of influencing the Governments of those countries? How could one reconcile the idea expressed by the representative of the United States about the desirability of encouraging countries to submit their problems for consideration by the United Nations with the fact that the United States had most recently twice used its veto on two thorny problems threatening peace in two sensitive regions of the world?

342. With regard to the effectiveness of the United Nations system of collective security, the representative of the United States should be reminded that it was his country which was in breach of its direct obligations under the Charter when, despite the mandatory nature of Security Council decisions regarding sanctions against Southern Rhodesia, it began importing from that country consignments of chrome ore under the so-called Byrd amendment.

343. The representative of the United States had mentioned the desirability of some kind of unofficial consideration of particular situations involving breaches of the principle of non-use of force which, according to him, might lead to agreement on general principles regarding the nature of the problem. The delegation of the Soviet Union did not think that by considering such "situations", the Special Committee could achieve general understanding or a general position. This was a manoeuvre designed to divert the Committee from fulfilling the task given to it by the General Assembly.

344. The eleventh speaker at the 71st meeting, the observer for Argentina, referred to the remarks made by the representative of Italy in connexion with the statement of the 10 countries members of the European Economic Community on the question of the Falkland Islands (Malvinas). After recalling the historical, cultural and demographic ties which united his country to Italy, the observer for Argentina stated that the actions undertaken by his Government in the Malvinas found its basis on historical and legal reasons to which he had had occasion to refer at previous meetings of the Committee.

345. The twelfth speaker at the 71st meeting, the representative of the United Kingdom, speaking in the exercise of the right of reply, said that his delegation refuted the statement of the delegation of Argentina. The position of the United Kingdom in respect to the Falkland Islands had been clearly expressed on various previous occasions, particularly at the 70th meeting. In view of the lateness of the hour, the delegation of the United Kingdom would merely say that it had no doubt concerning the United Kingdom sovereignty over the Falkland Islands. It

could not accept that the clear wishes of the inhabitants of these Islands, who by blood and nationality were British subjects, should be denied.

346. The first speaker at the 72nd meeting, the representative of Peru, in reaffirming the consistent and unchanging position which his delegation had maintained concerning the non-use of force at past sessions of the Special Committee and also in the General Assembly, informed the Committee of his country's intention to co-operate in the Committee's work towards the elaboration of an international instrument designed to develop and strengthen the effectiveness of the principle of non-use of force in international relations, reaffirming that that principle should be reinforced. Fears, real or imaginary, lack of dialogue, attack and diatribe, adventurism and arrogant posturing were creating in the world today an explosive mixture of circumstances with incalculable consequences for mankind, and even for its every existence. The countries of the third world, especially those which, like his own country, were identified with real and genuine non-alignment, saw with dismay the apparent collision course on which the super-Powers had irrationally embarked. When international peace and security were at stake, the task of strengthening the machinery for prohibiting the use or threat of force in international relations and its obvious close corollary, peaceful settlement of disputes, should be undertaken by everyone, without exception. If the idea was positive, the obligation of Member States was to support it. If it was mere propaganda, it would be interesting to see similar "pieces of propaganda" coming from the country or group of countries which held different opinions. Only through dialogue and constructive discussion on specific drafts could one obtain beneficial results, not only for the United Nations but for mankind as a whole.

347. The support which his delegation extended to the Special Committee's work should not be regarded as support for or deliberate overlooking of the practical and specific problems which oppressed the international community or as an endorsement of acts that flouted the principle of non-use of force. During the general debate, attack and defence, accusation and rebuttal had been heard in connexion with events with which all Member States and their delegations were well acquainted. There was no need of classes in contemporary diplomatic political history in order to know whose was the aggressive hand.

348. As a non-aligned country, his country neither believed in nor had ever supported arguments or theses such as the ill-named "defence of vital interests" or its equivalent, "fraternal aid". Whenever it was in its power to do so, his country denounced oppression and tyranny, whatever their source.

349. His delegation was prepared to initiate proceedings in the Working Group at the point at which they had been suspended at the past session, which would mean embarking on the discussion and study of the revised version of the document submitted by a group of non-aligned countries members of the Special Committee.

350. The second speaker at the 72nd meeting, the representative of the United States, speaking in exercise of the right of reply, pointed out that the hour-and-15-minute Soviet tirade at the 71st meeting revealed the agitation propaganda purposes which dominated the Soviet delegation view of that exercise. It was so revealing that that delegation never even tried to relate the tirade to the work before the Committee. The Soviet tirade was an exercise of the right of reply masquerading as a general debate statement - an effort in bad faith to circumvent rules concerning rights of reply to which the Soviet Union had agreed. No wonder the Soviet delegation was unhappy when the delegation of the United States mentioned pacta sunt servanda.

351. Again, as in prior statements, the Soviet Union had opened up avenues of historical inquiry and given the Committee its very particular view of history. Slogans were heard about disarmament which further revealed the Soviet view of that exercise as a propaganda platform. While on the subject of disarmament, could anyone imagine what would have happened had the Nazi régime or the Soviet Union held an atomic monopoly in the 1940s instead of the Western democracies of the United States and the United Kingdom? The United Kingdom did not use its power to acquire territory but instead divested itself of empire and permitted the self-determination of peoples. The United States acquired no territory but put forward the Baruch Plan - a system of international control of energy calling for effective safeguards in order to provide security from nuclear warfare. The Soviet Union, during the same period, consolidated its military occupation of Eastern Europe, continued the destruction of all elements in Eastern Europe opposed to the installation of Soviet puppet régimes and rejected the Baruch Plan.

352. The Soviet delegation accused the delegation of the United States of sloppy legal thinking when it noted that the non-acquisition of territory by the use of force was an important innovation of the Charter régime. If the principle applied before the Charter, how could one explain the great differences in the map of Europe between 1936 and today? Or between 1936 and 1906 for that matter? How did that most Prussian of all cities, Königsberg, fall into Russian hands, how did parts of Finland become Russian, etc.? The delegation of the United States might not challenge all these territorial boundaries, but neither did it forget how they got the way they were. It agreed with the Soviet Union that the Helsinki accords were relevant in the context of those boundaries. But the Helsinki accords were equally relevant in other contexts as well and one could not cite part of that package and succeed in ignoring the remainder. To listen to the Soviet Union mention the Helsinki accords and the current situation in Poland in one breath, was like hearing a clock strike 13 - it destroyed the credibility of all its other utterances. A more sweeping violation of the Helsinki accords than what had happened with Poland was hard to imagine unless it would be to turn de facto Soviet control into a purported de jure further expansion of the formal boundaries of the Soviet Union.

353. If the Soviet Union was at last prepared for an honest and systematic examination in the Working Group of uses of force since 1945 in order to try and find ways to enhance the effectiveness of the norm, it would be considered positively by the delegation of the United States. If not, it might facilitate the Committee's work if the Soviet Union would stop trying to propound propaganda in the form of their view of history and then pose as injured innocents when others corrected the record. There were many other gross distortions in the Soviet tirade - sins of omission and of commission - relating to positions taken at the thirty-first session of the General Assembly, peace-keeping and other matters, but the delegation of the United States doubted anyone was fooled by any of it and, for its part, did not wish to violate the letter and spirit of the rules concerning the right of reply. That was being left to the Soviet delegation.

354. The third speaker at the 72nd meeting, the representative of Belgium, speaking in exercise of the right of reply, recalled that during his statement at the 71st meeting the representative of the Soviet Union had referred to United Nations peace-keeping operations and, in particular, to that which had taken place in the Congo in 1960 at the request of the Congolese Government. 19/ Following the Congolese initiative, the Security Council, at its 873rd meeting, on 14 July 1960, had adopted, as resolution 143 (1960), a draft resolution submitted by Tunisia (S/4383), after having rejected three amendments proposed by the Soviet Union, one

of which had sought to introduce in the draft resolution a paragraph referring to aggression.

355. The dispatch of United Nations troops had had the effect of prolonging the action decided on by the Belgian Government, which had been motivated solely by its concern to ensure the safety of the Europeans and to protect human life in general, taking into account the fact that the police forces had ceased to be an instrument for the maintenance of order in the hands of the new Congolese State, to the point where the United Nations had had to send 12,000 men to the Congo. The rescue mission had been exceptional and temporary: from the outset Belgium had wished to be relieved by the United Nations troops and had continued to maintain that there was no question of jeopardizing the independence of the new State, an assertion which had been fully borne out by subsequent developments.

356. Regrettably, the same could not be said of the States which had received military "assistance" from the Soviet Union, and which now had been completely absorbed or were in the process of being absorbed, despite the existence of friendship treaties guaranteeing respect for independence and the existence of the right of full secession contained in the successive constitutions of the Soviet Union.

357. In that respect, the Belgian delegation wished to recall that the Soviet-German non-aggression pact of 23 August 1939, of which the Soviet delegation had provided the official explanation, had been followed, on 28 September 1939, by a Soviet-German treaty on friendship and on the border between the Soviet Union and Germany. Everyone knew who had borne the costs of that friendship. It was indicative in that respect that the Chairman of the Council of People's Commissars, also People's Commissars for Foreign Affairs had described, on 31 October 1939, the events taking place between the two Soviet-German treaties in the following terms: "One little push against Poland first by the German Army, then by the Red Army, was enough to destroy this ugly offspring of the Treaty of Versailles living off the oppression of non-Polish national groups".

358. The fourth speaker at the 72nd meeting, the representative of the Soviet Union, speaking in exercise of the right of reply, stressed that a discussion of specific instances of the use of force was obviously pointless and would merely distract the Committee from the accomplishment of its tasks as defined in General Assembly resolution 36/31. He wished to recall that, as clearly appeared from its first statement, his delegation had not taken the initiative of a political discussion and had merely explained the position of the Soviet Union on the issues which had been referred to by the delegation of the United States in a way which distorted historical truth and involved gross attacks on the foreign policy of the Soviet Union. Such attacks had always been and would always be rejected by the delegation of the Soviet Union in whatever forum they took place.

359. The fifth speaker at the 72nd meeting, the representative of the United States, speaking in exercise of the right of reply, pointed out that if the representative of the Soviet Union chose to lecture the Committee on the so-called 60-year peaceful policy of his country, he presumably recognized the need for an analysis of historical facts and thereby exposed himself to having others come to a different conclusion as to the record of the Soviet Union during that 60-year period. If, on the other hand, the representative of the Soviet Union felt that another approach might be more conducive to progress, he should stick to a discussion of legal issues and refrain from foisting on the Committee less than credible interpretations of the facts of the last 60 years.

360. The speaker at the 73rd meeting, the representative of Poland, said that since the General Assembly had adopted 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, the Committee had held four sessions. For five consecutive years the Assembly had reaffirmed the need for universal and effective application of the principle of the non-use of force and decided that the Special Committee should 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. The renewal of the mandate of the Committee and the urgency which the Assembly attached to the completion of its work were not the results of behind-the-scene manoeuvres of certain States as some tried to describe it. It stemmed from the recognition by the overwhelming majority of States Members of the United Nations of the worsening of the international situation, which had indeed greatly deteriorated during recent years. There were heightened tensions in the relations between the great Powers and an unprecedented increase in the arms race, especially in the field of nuclear weapons. States had failed to observe the Charter principles. As a result there had been numerous small-scale wars and conflicts, and threats of use of force coming from the circles of imperialistic, military-industrial complexes. New doctrines of limited nuclear conflict, including on the European continent, had been openly voiced. Infringements of sovereignty had taken various forms, including unprecedented sanctions constituting interference in the internal affairs of other countries and an exertion of pressure to influence their domestic policies. Attempts had been made to use even the forum of the United Nations for those purposes. Tension continued to mount in various parts of the world, threatening international peace and security. The hotbeds of conflict, such as the Middle East or South Africa's illegal occupation of Namibia, armed attacks against neighbouring countries as well as the most recent explosive situations, constituted an alarming increase in the use of force and brought into sharp focus the work of the Committee.

361. The principle of the non-use of force was a well-recognized principle of international law, incorporated in the Covenant of the League of Nations and the Kellogg-Briand Pact of 1928. 20/

362. The Charter of the United Nations contained mandatory provision in Article 2, paragraph 3, that all Members should settle their international disputes by peaceful means in such a manner that international peace and security were not endangered. It was also the prohibitory injunction as contained in Article 2, paragraph 4, of the Charter that all Members should refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Therefore, there was no doubt that, within the system of the Charter and contemporary international law, the principle of non-use of force occupied a central place, although the history of the world, past and current, bore witness to many instances of aggression and resort to force. It was undeniable that the principle enunciated in paragraph 4 of Article 2, 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 ensure effective application of the system of international peace and security, which was the primary objective of the Charter as set out in its Article 1, and had been violated time and again with impunity despite the prohibitory injunction against the use of force. With such manifestation of international lawlessness, there had emerged a constrained need for the universal application through the United Nations of the prohibition to resort to force in international relations.

363. The ever-increasing danger to international peace and security made it necessary, currently more than ever before, to enhance the principle of non-use of force in international relations, particularly through the United Nations. That was why the drafting of a world treaty on the non-use of force to outlaw the use of force in inter-State relations was so important. It would serve to highlight in a more pronounced and defined way the inherent obligation contained in the Charter for the strict observance of that fundamental principle and to enhance its effectiveness.

364. The argument that, being jus cogens, the principle did not require reaffirmation or elaboration, was false. It should be noted that when the principle had been enshrined in Article 2, paragraph 4, of the Charter in San Francisco, it had already become a peremptory norm of international law. However, since that time, the principle had been reaffirmed in many international instruments adopted by the United Nations and other international organizations such as the Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the United Nations Charter, in 1970 General Assembly resolution 2625 (XXV); the Declaration on the Strengthening of International Security Assembly resolution 2734 (XXV), also in 1970; other positive developments such as Assembly resolutions 2936 (XXVII) of 29 November 1972 on the non-use of force in international relations and permanent prohibition of the use of nuclear weapons and 3314 (XXIX) of 14 December 1974 containing the Definition of Aggression; and last but not least, finalization by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization of the draft Manila Declaration on the Peaceful Settlement of International Disputes. All those developments of international law, however, had never culminated in the adoption of legally binding norms and provisions, since, irrespective of their value, they were of an intermediary character and, at the time they were adopted, the belief was expressed that the results obtained should be fully utilized in the process of elaborating legally binding instruments in that field of international law, in the future. And the future was now. In the view of his delegation, the wealth of jurisprudence accumulated over years in the drafting of non-binding documents formed a valid basis for drafting a comprehensive binding legal instrument prohibiting the use of force or threat thereof in international relations.

365. The Polish delegation considered that the attainment of the goal of enhancing the effectiveness of the principle of non-use of force or threat of force in international relations consisted in strengthening the international security and consolidating peace which was one of the most important of the Committee's objectives.

366. It was with great satisfaction that the Polish delegation had found in the general debate many constructive elements which permitted it to look optimistically into the future, regardless of some difficulties and problems as well as of different approaches. It had always supported the utmost need and urgency to work on the draft treaty in spite of the difficulties of the current international situation. The more tensions increased, the greater the need for such an international instrument.

367. Reaching an agreement lay within the Committee's hands, as evidenced by the results achieved in the last session of the Special Committee on the Charter of the United Nations and the Strengthening of the Role of the Organization regarding the draft Manila Declaration on the Peaceful Settlement of International Disputes. His

delegation, however, had also noted with regret and distaste some attempts which constituted indirect interference in his country's internal affairs. His delegation had categorically rejected such attempts. Taking up matters within the exclusive competence of the Polish State was impermissible; it led to useless polemics; it built up unnecessary tension and, as such, it was counter-productive. Furthermore, such attempts also failed to yield the political and propagandistic effects envisaged by other sponsors.

368. The codification of the principles relating to the non-use of force in international relations should not be considered in isolation. It should be an integral part of the measures aimed at strengthening the system of international security. The noble goal of achieving lasting peace and security could only be reached through the elaboration and strengthening of both legal and material guarantees.

369. An encouraging development was the positive and constructive role played by the non-aligned countries which had submitted a number of principles aimed at reaffirming, elaborating and developing the principle of non-use of force. That working paper, which had received a favourable reaction from a majority of delegations, should, together with the Soviet Union proposal, create a firm basis for the future world treaty. In the opinion of the Polish delegation, such an instrument should contain, inter alia, the following basic elements: prohibition of the use of force or the threat thereof in international relations; an affirmation of the sovereignty, independence and integrity of States; non-recognition of acts or gains resulting from the use of force; reaffirmation of the inherent right of self-defence as stipulated in Article 51 of the Charter, and reaffirmation of the legitimacy of the right to self-determination of all peoples under colonialism and apartheid.

370. To sum up, in the view of the Polish delegation, the elaboration of the world treaty on the non-use of force was a matter of crucial importance to the world community as a whole, to the maintenance of international peace and security, to the conduct and promotion of peaceful international relations, to the promotion of the rule of law, to global disarmament including in particular nuclear disarmament, and to the progress of development of the international community.

B. Statement of the Chairman

371. At the 74th meeting of the Special Committee, the Chairman, after indicating that the Working Group had devoted nine meetings to the consideration of the revised working paper submitted by Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda, stated that the efforts which had been made in the course of informal consultations on the further work of the Committee had unfortunately failed. He had, however, been encouraged by some delegations to propose a set of ideas which he knew could not be endorsed by all as a whole but reflected a general approach that was to a large extent acceptable and might be considered as proposals from the Chairman embodying a common denominator and aimed at facilitating the reconciling of the various views both on conceptual issues and practical measures related to the enhancement of the effectiveness of the principle of non-use of force in international relations in accordance with the Committee's mandate under General Assembly resolution 36/31.

372. The proposal of the Chairman read as follows:

"I. Acting within the mandate contained in General Assembly resolution 36/31 and in the light of the debate that took place in the Special Committee, and taking into account the interest manifested by all speakers in enhancing the effectiveness of the principle of non-use of force in international relations, the Chair deems it appropriate to state that, in its view, progress could best be attained through the elaboration of elements with a view to enhancing the effectiveness of the principle of non-use of force.

"II. The Chair considers that it would be desirable that future work continue on the following lines:

"1. Group the proposals and suggestions submitted and stated in the Special Committee under the following headings: 21/

"A. Manifestations, scope and dimensions of the threat or use of force;

"B. General prohibition of the threat or use of force;

"C. Consequences of the threat or use of force;

"D. Legitimate use of force;

"E. Peaceful settlement of disputes;

"F. Role of the United Nations;

"G. Disarmament and confidence-building measures.

"2. Explore whether the attached very informal working paper, which does not commit any delegation, could serve to facilitate the further elaboration of the elements.

"3. The attached very informal working paper is drawn mainly from the provisions of the Charter and certain General Assembly resolutions that commanded general agreement. The Chair realizes that it requires further development and elaboration in order to reflect an agreed consensus.

'Very informal working paper - an anonymous proposal

'This very informal working paper, which does not commit any delegation, is circulated to explore whether it can serve to facilitate the further elaboration of the elements.

'I. Manifestations, scope and dimensions of the threat or use of force.

'II. General prohibition of the threat or use of force.

- '1. All States shall refrain in their international relations from the threat or use of force directly or indirectly 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 disputes.
 - '2. All States shall refrain from all manifestations of the threat or use of force.
 - '3. All States shall refrain in their international relations from any act of reprisal by force.
 - '4. All forms of coercion, inconsistent with the purposes and principles of the Charter, constitute a violation of international law and the Charter of the United Nations.
 - '5. Intervention in the domestic affairs of States in any manner or form is prohibited.
 - '6. All the above-mentioned acts of the use or threat of use of force in contravention of the Charter give rise to international responsibility.
 - '7. States shall strive for the realization of the goal of general and complete disarmament under strict and effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.
 - '8. Nothing in the foregoing could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)) particularly peoples under colonial and racist régimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration.
 - '9. No consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle.
 - '10. Nothing in the foregoing is to be construed as enlarging or diminishing in any way the scope of Article 51 of the Charter and the relevant resolutions concerning cases in which the use of force is lawful.
- 'III. All consequences that ensue from the threat or use of force shall not be recognized.

'IV. The enhancement of the effectiveness of the principle of the non-use of force in international relations necessitates that the United Nations take effective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

'V. In order to assist the United Nations to effectively discharge its responsibilities in the maintenance of international peace and security, States are called upon to:

'1. Settle any dispute, the continuance of which is likely to endanger the maintenance of international peace and security in accordance with the relevant provisions of the Charter and taking into account the pertinent General Assembly resolutions, and in particular 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 draft Manila Declaration.

'2. Carry out the decisions of the Security Council (Article 25 of the Charter).

'3. Join in affording mutual assistance in carrying out the measures decided upon by the Security Council (Article 49 of the Charter).

'4. Strengthen the ability of the Security Council to ascertain facts in accordance with the relevant provisions of the Charter (Article 34 of the Charter).

'5. Support the United Nations peace-keeping operations and facilitate their proper functioning.

'6. Comply in good faith with their obligations under the generally recognized principles and rules of international law.'"

373. The second speaker, the representative of Cyprus, after expressing the satisfaction of his delegation at the way the revised version of the working paper of the 10 countries had been received, and after pointing out that the Special Committee could now look forward to the fulfilment of its mandate, said that his delegation welcomed the proposal of the Chairman which was directed at facilitating the work of the Committee. He would not make substantive comments on the Chairman's proposal, but wished to point out with respect to its second part that it could be further improved and supplemented with some of the principles contained in the above-mentioned working paper. He expressed his appreciation for the useful work carried out by the Chairman.

374. The third speaker, the representative of Egypt noted with satisfaction that, compared with previous sessions, the current session had yielded good results. The Working Group had opened a very constructive debate and dialogue on the revised working paper of the 10 countries, which had indicated special interest in the

pragmatic approach adopted in that paper, an approach which avoided discussion of the form which the final product of the work should take. The Chairman of the Special Committee had been guided by the same approach in submitting his proposal. The first part of that proposal would provide an appropriate framework for considering the proposals before the Committee, co-ordinating them and formulating ideas on which general agreement could be reached so as to serve as a basis for any text which might represent the final outcome of the Committee's work. In that connexion, the Egyptian delegation supported renewal of the Committee's mandate. The second part, however, did not entirely satisfy the Egyptian delegation although it was acceptable as a formula for reconciling the substantive proposals discussed in the Committee.

375. The fourth speaker, the representative of Romania, after congratulating the Chairman on his initiative, which was a step forward desired by the majority of the members, stressed that the identification of a series of headings under which factors aimed at enhancing the effectiveness of the principle of non-use of force could be discussed would enable all delegations to have their views, proposals and concerns on the question taken into account. He added that the very informal working paper was very useful because it guided the Committee towards a discussion of factors for strengthening that principle. He thought it was a good idea to include the Chairman's proposal in the report so that the Assembly could consider it when it came to decide about the continuation of the Committee's work.

376. The fifth speaker, the representative of Finland joined the previous speakers in expressing his appreciation to the Chairman for the proposal he had just submitted and for the efforts he had made to informally consult beforehand all interested delegations. Finland had consistently stressed the need to work towards the establishment of a rational international order from which the use of force as a means of policy would be eliminated. It therefore supported the continuation of the work and felt that the Chairman's proposal would be very useful in this respect.

377. The sixth speaker, the representative of Mongolia pointed out that the discussion within the Working Group of the working paper of the 10 countries - which he described as an important contribution to the work of the Committee - demonstrated that the positions of delegations with regard to the question under consideration remained essentially the same. The debate, in the course of which views had also been expressed on the various other documents before the Committee, had clarified positions of principle as well as opinions on specific issues of relevance to the prohibition of the use of force in international relations. The Committee had now reached the stage where it should determine the next step to be taken towards the implementation of its mandate. International practice showed that the drafting of any international legal instrument involved two main stages: the holding of a general exchange of views and the actual drafting on the basis of specific documents. The Special Committee had now concluded the first stage and should embark on the drafting stage, as provided for in its mandate. The Chairman deserved thanks for his constructive efforts to organize the work of the Committee: the idea of elaborating seven elements of the future legal instrument, which had been rejected at the previous session due to the reluctance of some delegations, was a technical device that could facilitate the actual drafting work in the Committee and give a more concrete turn to the discussion. With respect to the very informal working paper, his delegation, although it had definite views on the mandate of the Committee and on the results to be expected from its work - namely, a legally binding document - could, however, agree to the Chairman's suggestions - notwithstanding the omission therein of some of the above-mentioned

elements and the imprecision of some of its provisions - as well as to its inclusion in the Committee's report.

378. The seventh speaker, the representative of Mexico, said that her delegation fully shared the views expressed by the representatives of Cyprus and Egypt. The substantive discussion on how to enhance the effectiveness of the principle of non-use of force in international relations had already begun. The Mexican delegation was in favour of the Committee continuing its work in conformity with the mandate laid down in General Assembly resolution 36/31. It appreciated the efforts made by the Chairman of the Committee and supported his proposal, which had been presented with a view to facilitating the work of the Special Committee.

379. The eighth speaker, the representative of Iraq, said that the seven points outlined by the Chairman in his proposal could serve as a useful basis for work. The very informal working paper, while it did not cover the entire question, contained positive elements in some parts and could be considered as a complementary document and point of departure for developing the ideas in the first part. The Iraqi delegation remained convinced of the importance of the Committee's mandate, which should be aimed at elaborating an international convention based primarily on the work accomplished during the session.

380. The ninth speaker, the representative of the United States paid tribute to the Chairman for his proposal, adding that if the spirit in which it had been prepared was more prevalent, there would be less need for enhancing the principle of non-use of force in international relations. His delegation, however, did not regard itself as bound by any portion of that proposal nor did it consider it any way as a conclusion of the discussion. By concentrating on normative issues, the proposal wrongly suggested that there was a need to elaborate some kind of document on the principle under consideration, even though that principle was already set out with admirable clarity in the Charter. It would be far more productive to focus on the obstacles which stood in the way of effective respect for the principle of non-use of force. The delegation of the United States disagreed with the view that progress had been made, it shared the opinion that positions remained essentially the same and that the detailed discussion of the revised working paper of the 10 countries was nothing more than a repetition of long-standing, well-known and, to a very large extent, divergent points of view. The United States could not be a party to misleading the membership of the Organization into believing that the debate of the Committee had moved the world one step closer to enhancing the effectiveness of the principle of non-use of force. In its opinion, the way towards that goal was to explore ways of ensuring a wider acceptance of third party settlement of disputes, improving the fact-finding capacity of the United Nations and promoting respect for and observance of human rights. The mandate which had been imposed on the Committee was not useful in that regard.

381. The tenth speaker, the representative of the United Kingdom, while welcoming the spirit in which the Chairman's proposal had been presented, said that his delegation had not supported the submission by the Chairman of his proposal and did not consider itself bound by it. Although favourable comments on that paper had been made by several delegations, his delegation was of the view that no progress had been achieved on any substantive issue. The mandate of the Special Committee did not serve any useful purpose. The delegation of the United Kingdom was of the view that far from enhancing the effectiveness of the principle of non-use of force, an additional normative instrument was undesirable and might have a destabilizing effect.

382. The eleventh speaker, the representative of the Soviet Union expressed his appreciation to the Chairman for the efforts he had made to have the Committee move from the stage of the exchange of views to the next stage of the work, namely, in accordance with General Assembly resolution 36/31, the completion at the earliest possible date of its mandate on the basis of the proposals submitted to it. The proposal of the Chairman was a step in the right direction since it might facilitate the work of the Committee and the fulfilment of the task entrusted to it. The Soviet delegation agreed that in the future the Committee should concentrate on formulating the elements of the principle of non-use of force and start concrete work on the basis of the proposals before it. The seven points listed by the Chairman could encompass all the proposals before the Committee. The wording of those points was, however, of a compromise character and should not prejudice the positions of States. Furthermore, the proposal of the Chairman should not be regarded as undermining the mandate of the Committee as formulated in General Assembly resolutions 32/150, 33/96, 34/13, 35/50 and 36/31. Progress in the implementation of the mandate, which still remained unfulfilled, could be achieved through the elaboration of the elements of the principle of non-use of force. The Committee had held a very useful discussion but the General Assembly did not expect it to confine itself to a general debate only. As to the foot-note to the proposal, the Soviet delegation understood that it should not be construed as undermining the provision of the relevant General Assembly resolution concerning the basis of the work of the Committee, namely, the official proposals before it and the written comments submitted by Governments, and hoped that that foot-note would not be taken advantage of for the purpose of delaying the completion of the Committee's mandate. As to the second part of the proposal, it could be borne in mind at the subsequent stage of the work as a way of facilitating the further elaboration of the document to be prepared, but it should not be contrasted with the proposals officially made by States. The Soviet delegation's reserved attitude towards the very unofficial working paper was first and foremost owing to the fact that it did not mention the obligation of States to refrain from the use or threat of armed forces involving any types of weapons including nuclear or other types of weapons of mass destruction, nor did it reflect the Soviet view that the problem of the prohibition of the use of force hinged to a large extent on the inadmissibility of the use of nuclear weapons. The delegation of the Soviet Union supported the renewal of the Committee's mandate.

383. The twelfth speaker, the representative of the Federal Republic of Germany, pointed out that the discussion in the Working Group had been very useful and the atmosphere very businesslike, something for which the Chairman of the Special Committee should be praised. His delegation welcomed the Chairman's proposal as a basis for discussion which should help the reaching of a consensus on the future programme of work of the Committee. Efforts should be made towards final approval of that programme at the thirty-seventh session of the General Assembly in connexion with the drafting of a new resolution on the renewal of the mandate of the Committee was very interesting although it needed further study. His efforts aimed at facilitating the task of the Special Committee were worthy of all praise.

384. The thirteenth speaker, the representative of Bulgaria, after congratulating the Chairman for his initiative, pointed out that at the current session, the Committee had concluded its consideration of the revised working paper submitted by 10 countries and that the process of exchanging general views and ideas had thus been completed. The Committee had, therefore, made some progress and was about to enter a new phase. The proposal of the Chairman was in his view merely aiming at providing guidelines for the future work of the Committee. The elaboration of the

seven points would help to create a basis for the future work. As to the second part of the Chairman's paper, it should expressly mention the obligation of States to refrain from the use of all military force and especially from the use of nuclear weapons and other weapons of mass destruction.

385. The fourteenth speaker, the representative of Belgium, after pointing out that the need to enhance the effectiveness of the principle of non-use of force was obviously still a matter of urgency, said that the debate on the revised working paper of the 10 countries had been useful even though it had not perceptibly advanced a cause for which all States Members had declared their support. He did not think it appropriate at that stage to speculate about the continuation of the work; that was a question which the Assembly would have to decide in the light of the results of the discussions. On the status of the Chairman's proposal, the Belgian delegation was taking a cautious approach. It felt that agreement on the various parts of the proposal could only be reached after a detailed discussion. However, it recognized that the Chairman's initiative was useful and could be reflected in the report.

386. The fifteenth speaker, the representative of France, observed that, five years after the establishment of the Committee, positions still remained as divergent as ever. The French delegation felt compelled to reiterate that it considered it pointless, and even dangerous, to attempt to draft a treaty since the principle of non-use of force was clearly stated in the Charter and the Charter was binding on everyone and took precedence over any other treaty. It was, however, aware that the principle was not sufficiently respected and would therefore endorse efforts to enhance its effectiveness, but it would not support the drafting of a binding instrument which would compete with the Charter. It wished to thank the Chairman for his efforts to break the deadlock in the Committee and took note of the fact that he took full responsibility for his proposal.

387. The sixteenth speaker, the representative of Italy, after joining in the appreciation conveyed to the Chairman for his unflagging patience, competence and wisdom, noted that, after five years of work, the only point on which all delegations agreed was that it was necessary to enhance the effectiveness of the principle of non-use of force. On all other aspects, there were differences of opinion: on the procedure to be followed, on the forum in which the issue should continue to be discussed, on the selection of pertinent factors or on the form of a document describing the result of the work. That situation was all the more regrettable as in that field, as in everything relating to the Charter, consensus was essential. Although the Chairman's proposal was interesting, it was far from reflecting general agreement and could not commit any delegation. The Italian delegation maintained its position on the procedure to be followed and the goal to be attained: it was opposed to continuing the Committee if its mandate remained unchanged and it continued to be against any normative approach to the issue because it considered that the principle stated in Article 4, paragraph 2, required no amplification or reinterpretation. It hoped that an agreement could be reached on effective practical measures for enhancing the effectiveness of the two fundamental principles of international relations, namely, the prohibition of the use of force and the peaceful settlement of disputes.

388. The seventeenth speaker, the representative of Cuba, pointed out that the discussion in the Working Group on the revised paper of the non-aligned countries had been very useful and very valuable ideas had emerged for the elaboration of the document which the Special Committee was expected to produce. The document would

be the richer for the various views expressed in the Working Group. His delegation thanked the Chairman for his efforts and felt that his proposal encompassed many of the suggestions put forward in the Special Committee, although the second part was weak. However, generally speaking, the proposal fulfilled the objective of expediting the Committee's work, a task on which his delegation was always prepared to co-operate. His country supported renewal of the mandate of the Special Committee.

389. The eighteenth speaker, the representative of Hungary, also congratulated the Chairman for his efforts and pointed out that the working group had concluded the first stage of its work. With respect to the second phase, he could agree with the Chairman's approach. The substance of the Chairman's proposal did not commit any delegation and its aim was merely to facilitate further work. Both the first part of the proposal and the very informal working paper should be the subject of further consideration and elaboration. The proposal omitted certain elements, particularly the obligation of States to refrain from the use or threat of armed force involving any types of weapons, including nuclear or other types of weapons of mass destruction. The Hungarian delegation regarded the Chairman's initiative as a substantial contribution to the fulfilment of the mandate of the Special Committee.

390. The nineteenth speaker, the representative of Greece, expressed his delegation's appreciation to the Chairman for the efforts he had made to conduct and organize the work of the Committee. He welcomed the Chairman's proposal, which he hoped could be the basis for reaching a consensus for future work. He added that fruitful work had been done during the session and expressed his appreciation to the authors of the working paper of the 10 countries for their valuable contribution.

391. The twentieth speaker, the representative of Morocco, noted with satisfaction that the work of the Special Committee had largely focused on the working paper of the non-aligned countries, and areas of agreement had emerged from the discussion which were reflected in the Chairman's proposal. The proposal was a new element to be taken into account. The Moroccan delegation fully supported the first part. While it had a few comments to make on the second part, it would not press them at that stage. It was generally agreed that the principle of the non-use of force continued to be violated time and time again and that respect for it must be strengthened, but opinions differed on the means of achieving that end. The Committee provided an appropriate framework for the presentation of all views on the issue. The Moroccan delegation could not support the argument that a new instrument on the principle of non-use of force would either be identical with the provisions of the Charter and therefore superfluous, or different from the provisions of the Charter and therefore dangerous. Like any legal system, international law was constantly evolving and should be adapted to the needs of the international community. One of the advantages of the Special Committee was that it was not bound by any decision regarding the final form of the outcome of its work. The Moroccan delegation was of the view that the Committee's mandate should be renewed.

392. The twenty-first speaker, the representative of Ecuador, thanked the Chairman for his efforts and pointed out that in his delegation's view, the work of the session had been constructive. The discussions had elicited new ideas which would lead to the elaboration of an instrument dealing both with the principle of non-use of force in international relations and with the peaceful settlement of disputes

between States. His delegation felt that the Chairman's proposal represented a great effort and that the mandate of the Special Committee should be renewed.

393. The twenty-second speaker, the representative of the United States, said that the claim that special emphasis should be placed on the prohibition of the use of nuclear weapons and other weapons of mass destruction corresponded to a national strategic policy but could not be viewed as conducive to a strengthening of the effectiveness of the principle of non-use of force. He wished to recall that the chilling effect which violations of the principle had had on disarmament talks suggested that progress in that field depended on the strict observance of the prohibition of the use of force. He pointed out that respect for Article 2, paragraph 4, in conjunction with other confidence-building measures could establish a climate for general and complete disarmament under effective international control. The disappearance of totalitarian régimes, which needed force to repress their own people, was also a prerequisite to steps towards general and complete disarmament.

394. The twenty-third speaker, the observer for Yugoslavia, expressed support for the proposal of the Chairman which, although it was not perfect, offered a useful way out. That proposal struck a realistic balance and could meet the basic concerns of all. It could encourage the members of the Committee to work more constructively towards the fulfilment of the mandate.

395. The twenty-fourth speaker, the representative of the Soviet Union said that the debate clearly indicated who, in disregard of the wishes of the overwhelming majority of the Member States, was attempting by a provocative attitude to divert the Committee from its task as defined by the General Assembly. The Soviet delegation did not find it necessary to refute the fantastic inventions of the delegation concerned because everyone knew who relied on force above all in its international relations, who had stepped up the nuclear arms race to an unprecedented degree and who prevented the United Nations and other bodies from adopting measures aimed at putting an end to a senseless nuclear-arms race. In order to enhance the effectiveness of the principle of non-use of force, the Committee should not merely repeat legal norms, it should make them more specific, in particular by placing special emphasis on the obligation to refrain from using nuclear weapons and other weapons of mass destruction. It was clear from the debate that majority of delegations wished the Committee to be reconvened with its existing mandate; attempts to obstruct the discussion of substantive issues would not succeed.

III. REPORT OF THE WORKING GROUP

396. As stated in paragraph 9 above, the Special Committee decided, at its 65th meeting, to reconstitute a working group whose bureau would be the same as that of the Committee. The Working Group devoted itself to a consideration of the revised version of the working paper by the delegations of Benin, Cyprus, Egypt, India, Iraq, Morocco, Nepal, Nicaragua, Senegal and Uganda, which had been submitted in the final stages of the preceding session by those delegations 22/ and which, owing to lack of time, had not been considered in depth at that session. The Working Group held 9 meetings between 12 and 19 April 1982.

397. At the outset of the debate, one of the sponsors stated that the revised document, which had been drawn up on the basis of the 17 principles originally submitted to the Working Group at the Special Committee's third session, was not intended to replace the two other documents before the Committee and, leaving aside the question of the form of the final document, dealt solely with the substance of the problem. As to the structure of the paper, he said that paragraph 1 contained a definition of the use of force and threat of force, paragraph 2 set forth the prohibition of the use and threat of force, and paragraph 3 listed the forms of coercion which the sponsors regarded as coming under the head of the use of force; paragraphs 4 and 5 dealt with the consequences that ensued from the use and threat of force, and paragraphs 6, 7 and 8 defined the duties of States in the case of recourse to force vis-à-vis the United Nations, on the one hand, and the victim State, on the other; paragraphs 9, 10 and 11 dealt with exceptions to the prohibition of the use of force, namely, the cases in which a State could legitimately resort to force under the Charter or other rules of international law; paragraphs 12, 13 and 14 concerned the links between the principle of non-use of force and other related principles, namely, disarmament, peaceful settlement of disputes and non-interference in the internal affairs of States. Paragraphs 15 and 16 stated general principles which the sponsors considered it advisable to refer to in that context. It was observed that the sponsors had not intended to submit a perfect or finished document. Their proposal, while based on the Charter, reflected the ideas of the non-aligned countries, and they were quite willing to review it in the light of the debate in order to come up with a text which was acceptable to all.

398. All the delegations which spoke on the document thanked the sponsors for their important contribution to the proceedings and said that it constituted a useful basis for discussion in the discharge of the Special Committee's task. Some of the speakers stressed that the developing countries, which were all potential victims of the use or threat of force, had a vital interest in seeing the work of the Special Committee bear fruit and lead to an absolute prohibition of the use of force, without any loophole, except in the case of self-defence as provided in the Charter. It was also stated that the paper reflected the non-aligned countries' determination to help bring about the adoption and application of norms designed to eliminate the danger of war and such practices as intimidation, pressure, blackmail and blind terrorism, which were contrary to the principles set forth in the Charter.

399. A number of delegations considered that one of the great merits of the document was that it left aside the idea of a treaty, to which they were resolutely opposed, and afforded the Special Committee an opportunity of discussing the substance of the issues with which it was concerned without prejudging the form of

the final result of its work. Others recalled, however, that at the 1979 Havana Conference the non-aligned countries had welcomed the establishment of the Special Committee and had expressed the hope that its work would lead shortly to the conclusion of a treaty. They regarded the document under consideration as a useful contribution to the endeavour to specify the elements of the prohibition of the use of force in a binding treaty.

400. With regard to the general thrust of the document under consideration, some delegations expressed the view that the normative elements continued to receive too much weight in relation to the institutional elements, even though the revised version of the paper was an improvement over the original version in that respect. It was felt that to embark on normative work would be pointless, since the norm was already established by Article 2, paragraph 4, of the Charter, and might even be risky in so far as the formulation of a new norm could weaken the first one. It was added that it would be better, as the Committee's name suggested, to concentrate on enhancing the effectiveness of the principle considered, which was already well established, and to strengthen the institutional aspects of the document by reflecting the ideas suggested in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. Attention was drawn in that connexion to the working paper submitted by five Western countries 23/ which, it was maintained, placed greater emphasis than the document under discussion on specific areas of activity, such as peace-keeping operations, fact-finding and disarmament, and on the practical measures to be taken in those areas. The relevance of enhanced respect for human rights to the effectiveness of the norm was also stressed by some speakers.

401. Other delegations noted with satisfaction that the normative aspects of the strengthening of the principle of non-use of force in international relations played an important part in the document under study, which contained some useful suggestions and practical ideas aimed at clarifying it on the basis of the provisions of the Charter and such other instruments as the Declaration on friendly relations and the Definition of Aggression, which reflected the efforts made to enunciate rules of international law designed to safeguard international peace and security. It was stressed that the operation of existing institutional machinery was being studied in other forums and that, in order to avoid possible contradictions, it would be preferable to refrain from examining it in the Special Committee.

402. Yet other delegations observed that the general debate had highlighted the necessity of taking measures to strengthen the principle of non-use of force in both its normative and its institutional aspects and welcomed the fact that the document under consideration met that dual requirement.

403. As far as the structure of the document was concerned, some delegations considered that the balance achieved between its various elements, although more satisfactory than in the original version, was still imperfect. Reference was made 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 (resolution 2625 (XXV), annex), which, in the first subparagraph of paragraph 2 of the section entitled "General part", reflected a more felicitous approach by stating that each principle should be construed in the context of the other principles. It was also felt that the document failed to deal with the peaceful settlement of disputes in sufficient depth, thus not taking into account the place which the question occupied in the Committee's mandate and the fact - duly

recognized in the five-country document - that the peaceful settlement of disputes was the surest means of avoiding recourse to force. In the same context, the remark was made that article II of the Soviet draft world treaty, 24/ like the five-country working paper, duly recognized the importance of the peaceful settlement of disputes, which, by promoting international détente, the elimination of points of tension and conflict between States and the development of peaceful international co-operation, was capable of greatly furthering respect for the principle of non-use of force. It was added that it was appropriate to specify, as did the second paragraph of article II of the Soviet draft world treaty, the means designed to assure the peaceful settlement of disputes, including negotiation, mediation, conciliation, arbitration, judicial settlement and recourse to regional agencies and arrangements. The more detailed comments made on this point are reflected below under the subheading "Paragraph 14".

404. The remark was made that the document under consideration failed to take sufficient account of the close links that existed between the non-use of force, the collective security system and self-defence as defined in Article 51 of the Charter. With regard to the relationship between the concept of individual or collective self-defence and that of collective security, it was stressed that Article 51 of the Charter governed the former concept but not the latter, which implied, on top of purely defensive measures, recourse to coercive measures aimed not simply at re-establishing peace but at re-establishing it on a durable basis. Those measures could be adopted only by the Security Council or by regional agencies with the prior authorization of the Council, such authorization not being necessary in the case of purely defensive measures. While recognizing that the document under preparation, which in their view should take the form of a treaty, could not overlook the role of the United Nations in the strengthening of international peace and security - and in particular, the role of the Security Council, which was the basic component of the machinery established by the Charter - some delegations considered it essential that that strengthening should be effected in strict conformity with the provisions of the Charter.

405. Other delegations, referring to the remarks made concerning the balance to be achieved between the various relevant principles and between non-use of force and the collective security system, commented that the document under consideration referred to a whole series of principles connected with the prohibition of the use of force, including the principle of peaceful settlement of disputes referred to in paragraph 14, the principle of non-interference contained in paragraph 13 and the principle of good faith in international relations referred to in paragraph 15. They also remarked that it was logical, since the name of the Committee referred expressly to the principle of non-use of force, to place special emphasis on that principle in the document under consideration. They then drew attention to paragraphs 6 and 7, which were aimed at strengthening the machinery of the collective security system.

406. With respect to the relationship between the document under consideration and the norms of international law as set forth, for example, in the Charter, some delegations, referring to a number of paragraphs, stressed the necessity of not deviating from the established norms of international law. Other delegations observed, however, that any system of law should be adapted to developments in the society in which it was applied and that international law could not remain static in a world where international relations were continuously evolving and States were becoming increasingly interdependent. It was also stated that, while it was certainly important to take account of existing documents and, in particular, the

Declaration on principles of international law concerning friendly relations, the definition of Aggression and General Assembly resolutions 2160 (XXI) and 936 (XXVII), it was necessary to go further and to look at the current state of international relations in order to define the concept of non-use of force, the obligations of States and the practical means of enhancing the effectiveness of the principle under examination. In that perspective, it was added, it would be a mistake to reduce the scope of the analysis to aggression.

07. On the question of the method to be followed in analysing the document, some delegations considered it appropriate to make a comparison of the various proposals submitted to the Committee, namely, the Soviet draft world treaty, the five-country document and the ten-country document. It was noted in that regard that such a comparison revealed numerous similarities between the three documents. Other delegations considered that such comparisons were misleading: three documents that dealt with the same question and were based on the same sources inevitably presented similarities, but a single idea could be of widely varying scope depending on the context in which it was placed.

08. Also on the subject of the method to be followed in considering the document, it was remarked that an over-technical and unduly rigorous approach must be avoided. It was pointed out that the intent of the sponsors had merely been to submit to the Committee various ideas on which, in their opinion, it was appropriate to concentrate in order to grasp the nature of the substantive issues before the Committee and that the document under consideration was not final in nature.

Paragraph 1

09. The debate focused on, first, the principle of a definition of the concept of the threat or use of force and, secondly, the list of elements contained in paragraph 1.

10. With respect to the principle of a definition, some delegations expressed serious doubts as to the advisability of the exercise contemplated, which they thought might lead to interminable and sterile discussions. It was stated that consensus on so complex an issue would be difficult to achieve and that a definition would inevitably create the dual problem of knowing whether specific conduct not referred to in the definition should be regarded as lawful and whether all the acts listed in it would automatically be of an unlawful character even if they had been carried out in accordance with the Charter. A further comment was that neither the Charter nor the Declaration on principles of international law concerning friendly relations contained a definition of the use of force.

11. Other delegations, without rejecting the method whereby an exhaustive definition would be given, in the form of an enumeration, of the concept of the use of force or threat of force, stressed that such a task, in addition to being extremely complex, ran the risk of leading the Committee away from its mandate and considered that it would be preferable to replace the first two paragraphs of the document under consideration by a reference to the prohibition of the use of force, as contained in Article 2, paragraph 4, of the Charter, together with the obligation to renounce the use of nuclear weapons. It was pointed out, in that respect, that the Charter represented the culmination of a long process the outcome of which was that the international community had agreed on the necessity of prohibiting, not only the use of force, as in the Kellogg-Briand Pact, but also the

threat of force. As to the way in which such reference might be formulated, attention was drawn to article I of the Soviet draft world treaty. At the same time, doubts were expressed concerning the first subparagraph of article I, paragraph 1, of the Soviet draft world treaty: it was noted that that subparagraph referred to an "undertaking", whereas the Charter spoke of an obligation, and to the "mutual relations" of the High Contracting Parties, while the Charter spoke of "international relations"; that might give the impression that the principle of non-use of force applied only to the States parties to the treaty, not to all Member States, and amounted to the questioning of the peremptory nature of the principle in question.

412. In response to the above it was explained that the Committee could not hope to enhance the effectiveness of the principle of non-use of force in international relations unless it was able to reach an agreement on what was meant by the use of force, and they considered that a definition of that concept should therefore be developed. Such an approach was normal and had been adopted, for example, in the case of the Definition of Aggression and within the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which had devoted a great deal of time to definitions.

413. With regard to the list of elements contained in paragraph 1, some delegations considered that an extensive interpretation of the concepts of force and threat would be inadvisable. As to the concept of force, it was recognized that there was a lack of consistency in the terminology employed in the Charter - since some of its provisions (Article 2, paragraph 4, and Article 44) used the term "force", which could be interpreted as covering all forms of force, and others (the seventh preambular paragraph and Articles 41, 43, 45, 46 and 47) referred to "armed force", which seemed to mean that it was solely the use of armed force which was prohibited in the case of Member States, but not in that of the Organization - although it was nevertheless observed that a proposal by Brazil to insert in Article 2, paragraph 4, a reference to the threat or use of economic measures had been rejected at San Francisco. It was also pointed out that the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States had rejected a proposal aimed at including economic and political coercion among unlawful forms of the use of force, thereby dismissing an approach which was countenanced by other instruments, for example, the Charter of the Organization of American States in its articles 18 and 19.

414. The remark was made that the concept of threat was also open to more or less extensive interpretations, since some held the view that the threat of force encompassed only such acts as ultimatums or demonstrations of force for the purpose of intimidation, whereas others considered that a general mobilization or the arms race were covered by the concept of threat.

415. While being aware of the fact that the non-aligned countries often regarded economic and political pressure as a more dangerous threat to their political independence than armed attack, those delegations emphasized that the codification and progressive development of international law within the meaning of Article 13 of the Charter and article 15 of the statute of the International Law Commission had their limits and that a too extensive interpretation of Article 2, paragraph 4, might create a duality of régimes and, consequently, weaken the existing law, instead of strengthening it. They insisted, therefore, that the consequences of the attempt at progressive development reflected in paragraph 1 should be weighed carefully, and pointed out that the reaffirmation of a principle could prove more

beneficial than its progressive development. The remark was also made that an extensive interpretation of Article 2, paragraph 4, might result in a dangerous broadening of the scope of self-defence. In that regard, it was considered that both Article 51 - which could be legitimately invoked only in the event of armed attack - and the constant practice of the Security Council - which qualified as use or threat of force only the use or threat of armed force - led to the conclusion that the concept of force should be understood in the sense of armed force. Lastly, attention was drawn to the impression of some of the concepts mentioned in paragraph 1, which might give rise to uncertainty as to the scope of the obligations set forth in the Charter or deriving from international customary law and lead to erroneous interpretations which might weaken the principle under consideration, instead of strengthening it. The delegations in question nevertheless declared themselves willing to discuss the questions raised by the different elements enumerated in paragraph 1 and pointed out that some of the forms of coercion mentioned in that paragraph might be considered within the framework of the principle of non-intervention.

416. Other delegations felt that the idea of broadening the concept of threat or use of force beyond the military context was very constructive, because such broadening would permit swift detection of types of conduct dangerous for world peace and security and immediate adoption of the necessary measures to defuse a conflict situation and prevent recourse to military force. It was emphasized that hostile propaganda and economic pressure were often the prelude to the use of force and that swift detection of those disturbing symptoms would certainly contribute to a better functioning of the collective security system. The remark was also made that States whose foreign policy had the use of force as its keystone tended to have recourse, when their freedom of action was hampered by obstacles relating to military balances, to ideological or economic aggression or blockade in order to attain their objectives and that it was therefore important to exclude coercion in whatever form it was applied, from international relations. It should, however, be recalled, it was added, that some measures of an ideological or economic nature came under the head of individual or collective self-defence and that the normative instrument under preparation should clarify that point, in order to avoid arbitrary interpretations and any derogation from the relevant provisions of Chapter VII of the Charter.

417. Yet other delegations recalled that all forms of use of force and not only military intervention constituted a grave threat for the non-aligned countries. They emphasized that a definition of the use of force could not, without disregarding the realities of contemporary international life, be restricted to armed force alone and should cover every act - political or economic coercion, embargo, etc. - which might entail serious consequences for those countries which were the victims of it. Reference was made to an inhuman blockade which had lasted for more than 20 years, and to constant manoeuvres aimed at disturbing the balance of national economies. It was added that the classic form of use of force was, undoubtedly, that of armed force but that international relations had developed and that international law should reflect that development. In that regard, mention was made of General Assembly resolution 2160 (XXI), which referred to direct or indirect coercion, and it was pointed out that, in paragraph 1 of the document under consideration, the sponsors had tried to define the concept of indirect coercion. Some delegations however remarked that resolution 2160 (XXI), which had not been adopted by consensus and had given rise to many reservations, had no legal force.

418. With regard to the argument that any definition might sin by omission, it was emphasized that the purpose of paragraph 1 was not to enumerate exhaustively all the possible manifestations of the use of force but to provide a general framework. In response to the remark that concepts for which there was no precise definition were out of place in a legal document, attention was drawn to the existence of precedents to the contrary, including the International Convention against the Taking of Hostages (resolution 34/146, annex), which referred to international terrorism, although there was no generally accepted definition of that notion. With regard, lastly, to the statement that the Charter did not contain any definition of the use of force, it was pointed out that Article 2, paragraph 4, referred back to the purposes and principles of the Charter defined in Article 1, which included the maintenance of international peace and security, and that, consequently, the concept of the use of force was not restricted to armed force but extended to all economic and political threats and pressures which constituted a threat to international peace and security. The remark was also made that it was very necessary to take into account the last part of the seventh paragraph of the Preamble of the Charter under which "armed force shall not be used, save in the common interest". In that regard, one delegation suggested that paragraphs 1 and 2 of the document under discussion should be replaced by the following text:

"In accordance with general international law and the pertinent provisions of the Charter, the use or threat of force includes not only the prohibition of the violation of the territorial integrity or political independence of any State but also the prohibition of all forms of the use or threat of force which directly or indirectly endanger international peace and security."

419. With regard to the reference to military force in paragraph 1, some delegations emphasized that the most effective means of strengthening peace lay in the scrupulous implementation by States of the principle of non-use of armed force, and particularly nuclear weapons, and that the prohibition of the use of armed force, and primarily of nuclear weapons, should be the essential element of the legal document which the Committee was called upon to elaborate. Reference was made to resolution 2936 (XXVII), wherein the General Assembly had solemnly declared the renunciation by Member States of the use or threat of force in international relations and the permanent prohibition of the use of nuclear weapons. It was recalled that nuclear weapons, conceived from the outset as the most powerful means of annihilation ever available to mankind, were now a thousand times more powerful than at the time of their conception, that the advances of science and technology made it possible to develop increasingly destructive weapon types and systems and that there was a daily increasing risk of seeing local conflicts degenerate into a nuclear world war. Those delegations, therefore, supported the approach reflected in the first subparagraph of article I, paragraph 1, of the Soviet draft world treaty - an approach which, in their view, was in harmony with the above-mentioned resolution of the Assembly and with the Final Document of the Tenth Special Session of the General Assembly (resolution S-10/2 of 30 June 1978), the first special session devoted to disarmament - but said, nevertheless, that they were willing to consider the other elements contained in paragraph 1 of the document under discussion.

420. Some delegations noted that the concept of economic coercion raised the complex question of whether an oil embargo, the increase of the prices of an essential raw material in implementation of a deliberate policy of a group of

States or even refusal of financial assistance to developing countries could be assimilated to the use of armed force. Other delegations pointed out, in reply, that the purpose of the fixing of oil prices was not to exert economic coercion but to correct prices; it was added that measures such as the fixing of the price of raw materials or the imposition of import restrictions did not come under the heading of the use of force and were in conformity with article 1, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights (resolution 2200 A (XXI)). The remark was, however, made that any form of economic or political pressure could be justified on the basis of that provision, which was thus not very helpful in the current context. While the importance of the problems in question was recognized, it was deemed imprudent to deal with them within the framework of the prohibition of the use of force. The possibility was mentioned of proceeding to a general analysis of the circumstances in which a State considered it necessary to have recourse to economic pressure, but in order to work out rules of conduct which States might be invited to follow and not for the purpose of the formulation of a definition of the use of force.

421. The notion of political coercion was considered difficult to pinpoint by some delegations. It was emphasized, in particular, that any international relationship involved some degree of pressure by one party on the other and that, provided that it did not resort to unlawful forms of pressure, a State had the right to use its influence to promote its interests or to incite another State to pay greater heed to the interests of others.

422. The concept of hostile propaganda was considered out of place in a definition of the use of force. It was said that that was an eminently subjective notion which might lead to the complete suppression of freedom of expression, because hostility expressed in words was perceived differently from one system to another, from one country to another and from one individual to another. It was added that paragraph 1 went much further than the corresponding provision of the Declaration on principles of international law concerning friendly relations, which referred to "propaganda for wars of aggression". More detailed comments were made on that question in connexion with paragraph 3 (e), and are reflected under that provision.

423. Some delegations expressed doubts with regard to the reference to the use of mercenaries. It was recalled that the question was under consideration elsewhere, and it was stressed that the use of mercenaries was not necessarily and in all circumstances a violation of Article 2, paragraph 4. In that regard, mention was made of the hypothetical case of a small State which called upon mercenaries in exercise of the right of self-defence, and it was emphasized that, provided that it respected the limits set by the 1907 Convention and the 1949 Geneva Conventions and their Additional Protocols, the State in question could not be considered to have acted in violation of international law. The remark was also made that mercenaries usually acted in an individual capacity and that there were therefore no grounds for mentioning them in a document concerning the conduct of States. It was recognized that States might be involved in the activities of mercenaries, but it was emphasized that the same was true with regard to the taking of hostages and all acts coming under international criminal law and that it was therefore better, if the Committee did not wish to be led to broaden excessively the concept of the use of force, to avoid referring to mercenaries.

424. Other delegations pointed out that the use of mercenaries was recognized as a form of the use of force in article 3, subparagraphs (f) and (g), of the Definition of Aggression and in Security Council resolution 405 (1977), which had been adopted

by consensus. It was added that the fact that a convention on the question was under preparation did not mean that the use of mercenaries should not be included in a list of forms of the use of force in international relations. The view was expressed that the activities of mercenaries were not exclusively the acts of individuals. Operations such as those which had taken place in Benin in 1977 and in the Seychelles in 1981 required planning, financial means, weapons and training camps and were thus inconceivable without the participation or, at least, the complicity of State authorities. It was thus legitimate, it was concluded, to mention the problem of mercenaries in the document under consideration.

425. At the end of the debate on paragraph 1, it was recalled that the sponsors had no objection to deferral of the question of definition until later.

Paragraph 2

426. Some delegations supported the paragraph which, setting forth a principle of jus cogens from which no derogation was permitted, constituted an important element of any legal document which might be prepared on the question. The view was, however, expressed that, although the paragraph was acceptable in principle, it did not adequately reflect the universal character in space and time of the application of the norm, which was valid for all States, independently of any historical or other consideration. It was pointed out that it was legitimate to set forth in that paragraph the principle of total prohibition of the use of force, since mention was made in other paragraphs of cases of the unlawful use of force. The view was also expressed that it was desirable in the document under consideration to formulate the principle of non-use of force in even more categorical terms than the Charter, because, as the general debate had abundantly proved, the prohibition of the use of force was often violated, in spite of the fact that it was a fundamental norm of the Charter and of international law. It was recalled that some upheld the theory that Article 2, paragraph 4, and Article 51 had not entirely replaced the previous international law, which permitted the use of force, and that some States had availed themselves of that interpretation, which was contrary to the spirit of the Charter, to threaten regional peace and the security of other States. In those conditions, it was concluded, a precise rule excluding the possibility of such an interpretation should be formulated so as to further the advancement of international law.

427. Paragraph 2, however, gave rise to reservations on the part of some delegations. It was felt that it revealed a general defect of the document, in that it accorded privileged treatment to the principle of non-use of force to the detriment of two other elements essential for the enhancement of the effectiveness of that principle, namely, the collective security system and the peaceful settlement of disputes, and had an exclusively normative character, while, in the case of each of the above-mentioned elements, an appropriate balance should be achieved between the normative aspects and the institutional aspects, the latter being frequently a decisive condition for the effectiveness of the former. It was noted also that it paraphrased Article 2, paragraph 4, of the Charter, instead of strictly following its wording and that such an approach might lead to a duality of régimes, a defect which was not found in the five-country document, which followed Article 2, paragraph 4, faithfully and thus presented a clearer and fuller picture. The remark was also made that the paragraph was drafted in excessively categorical terms and disregarded the fact that the Charter and customary law authorized the use of force in certain circumstances, namely, in the case of self-defence and action undertaken pursuant to a decision of the Security Council

in conformity with the Charter. It was suggested, in that regard, that the word "unlawful" should be inserted before the word "use". The reference to general principles of international law was, moreover, considered dangerous. It was recalled that the words "inherent right" in Article 51 had sometimes been interpreted by some States as permitting the pre-Charter general international law to remain in force and authorizing the exercise of the right of self-defence in the case of imminent attack or for preventive purposes and independently of the existence of an armed attack - which reduced to naught the norm set forth in Article 2, paragraph 4. It was concluded, consequently, that the paragraph should adhere strictly to the wording of the Charter.

Paragraph 3

428. This paragraph was described as a very important provision, enumerating activities that could threaten the maintenance of international peace and security.

429. Some delegations were of the view, however, that it was dangerous to list forms of use of force and, while noting that the sponsors had referred to the precedent of the Definition of Aggression, although they had departed from it on numerous points, stressed that the difference of context made it dangerous to simply transpose provisions: to define aggression was a different matter from defining the unlawful use of force, for while all aggression constituted unlawful use of force the reverse was not always true. It was added that article 3 of the Definition of Aggression had to be read subject to the provisions of article 2, in other words, acts listed in article 3 constituted acts of aggression if they were recognized as such by a body competent to decide in each specific case whether an act of aggression had in fact been committed: the Definition of Aggression was at most a guide for the Security Council and left the latter completely free to decide in the light of all the relevant circumstances whether an act covered by article 3 should or should not be qualified as aggression. The document under consideration was general in nature and tried to define rules of conduct independently of any institutional control. Care must therefore be taken not to draw spurious parallels between the two documents.

430. Other delegations, while endorsing the view that the method of listing acts from which States should refrain could create difficulties and take the Committee beyond its mandate, expressed the view that if delegations were none the less determined to embark on such an undertaking, it would be preferable to follow closely the list given in the Definition of Aggression, a document which had been adopted by consensus. It was noted that the list contained in paragraph 3 of the document under consideration was incomplete as compared with that in article 3 of the Definition of Aggression: for instance, it did not include subparagraph (c) on the blockade of the ports or coasts of a State by the armed forces of another State, subparagraph (e) on the use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement, or subparagraph (f) on 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.

431. With regard to the introductory sentence, it was suggested that the words "doivent s'abstenir" in the French version and "deberán abstenerse" in the Spanish should be replaced by "s'abstiendront" and "se abstendrán" respectively, and that

the words "In accordance with the provisions of the preceding paragraph" should be inserted at the beginning of the sentence.

432. Some delegations considered subparagraphs (a) and (b) to be acceptable. In particular, it was noted that the reference in subparagraph (a) to the possibility of invasion was of particular relevance in the current international situation.

433. Other delegations, however, believed that the universally accepted text of subparagraph (a) of article 3 of the Definition of Aggression was preferable to the formulation of the first part of subparagraph (a) of paragraph 3 of the document under consideration and that the second part of that subparagraph and also subparagraph (b) might usefully be replaced by subparagraphs (b) and (d) respectively of article 3 of the Definition of Aggression.

434. With regard to subparagraph (c), it was noted that the subparagraph related to both intervention and reprisals and that these two matters should be dealt with in separate subparagraphs.

435. With regard to the question of intervention, delegations wondered whether it was wise and justified to confuse intervention and use of force. Attention was drawn to the need to take due account in that connexion of General Assembly resolution 2131 (XX) and the Declaration on principles of international law concerning friendly relations. It was also suggested that subparagraph (c) should be combined with other subparagraphs dealing with acts not connected with the use of armed force (i.e., subparagraphs (e), (f), (g) and (i)) in a single subparagraph, duly supplemented by elements of the Definition of Aggression omitted by the sponsors.

436. With regard to the question of reprisals, it was recalled that the Declaration on principles of international law concerning friendly relations regarded as force only reprisals involving the use of armed force, and attention was drawn to the relevant decisions of the Security Council. Reference was also made to the final sentence of the final paragraph of section II of the Declaration on Principles Guiding Mutual Relations between Participating States contained in the Final Act of Helsinki. 25/

437. Some delegations considered subparagraph (d), to be acceptable, subject to drafting changes. Delegations none the less wondered whether the subparagraph really belonged in the document under consideration. In that connexion, it was noted that the introduction of martial law in a given country and the massive imprisonment of individuals were questions which by rights came within the mandate of the Commission on Human Rights and that unless there had been outside pressure aimed at forcing the sovereign will of the State in question, it was unwise to speak of the use of force within the meaning of Article 4, paragraph 2, in such cases. It was added that massive violations of human rights could be a threat to peace and security and hence be within the competence of the Security Council but that, although illegal, they did not constitute a violation of Article 4, paragraph 2.

438. Conversely, the comment was made that, if it was really essential to differentiate between acts involving the use of armed force and other forms of the use of force, the actions referred to in subparagraph (d) belonged in the first category and the subparagraph should therefore be combined with subparagraphs (a), (b) and (h).

439. It was also stated that the text should be supplemented by the mention that a people had the option in exercising its right to self-determination to choose not independence but such solutions as free association. Finally, it was asked why the subparagraph referred to territorial integrity when that was dealt with elsewhere.

440. Subparagraph (e) gave rise to serious reservations. It was said that the concept of hostile propaganda did not belong in a study of the legal aspects of the principle of non-use of force because it was imprecise and lent itself to extremely subjective interpretations. For instance, it was asked whether a State which expressed its concern at serious violations in another State could be considered to be engaging in hostile propaganda. Several delegations affirmed their attachment to the principle of the free circulation of ideas and attention was drawn to article 19 of the Universal Declaration of Human Rights, article 19 of the International Covenant on Civil and Political Rights and the provision of General Assembly resolution 381 (V) in which the Assembly declared that "measures tending to isolate the peoples from any contact with the outside world, by preventing the press, radio and other media of communication from reporting international events, and thus hindering mutual comprehension and understanding between peoples" were propaganda against peace. It was also observed that, in democratic countries, the Government was not able to control all the communication media and the latter were, within certain limits, free to express whatever views they liked without government censorship. Finally, the view was expressed that the definition and legal regulation of an activity such as hostile propaganda created such complex problems that it would be difficult to arrive at a consensus on the subject when a consensus was the condition sine qua non for the implementation and observance of the document under preparation.

441. Other delegations observed, however, that hostile propaganda was a form of intervention in the internal affairs of States and that, even if it was not the direct cause of the use of force, it could, as experience showed, serve to aggravate the situation. The comment was made that human rights and democratic principles were one thing and that the ideological subversion of a people was another.

442. With regard to subparagraph (f) it was observed that the possibility of changing one's government formed part of the right to self-determination. The subparagraph was deemed acceptable, provided that it was clearly understood that it referred to acts attributable to States. The expression "covert attempts" was considered vague. Finally, it was suggested that discussion of the issue should be deferred until the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries had drafted the corresponding provisions of the draft convention with which it had been entrusted.

443. Some delegations were of the view that subparagraph (f) should be combined with those dealing with acts involving the use of armed force. Others, however, believed that the idea contained in subparagraph (f) derived from the principle of non-interference.

444. Subparagraph (g) was considered vague and it was deemed unwise to place military force on a par with economic or political pressure. It was suggested that this subparagraph should be considered in the light of the Declaration on principles of international law concerning friendly relations and that it should be combined with the first part of subparagraph (c).

445. Delegations that commented on subparagraph (h) generally confined themselves to referring to their observations on the reference to mercenaries in paragraph 1. The general comment was none the less made that subparagraph (h) should be supplemented in the light of the corresponding provision of the Declaration on principles of international law concerning friendly relations. It was also suggested that it might be combined with the first part of subparagraph (a). Another suggestion was to combine subparagraphs (h) and (i) in a single subparagraph, the wording of which would be the same as that of subparagraph (g) of article 3 of the Definition of Aggression. Finally, the view was expressed that consideration of the question should be postponed until the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries had submitted its conclusions.

446. It was said that subparagraph (i) would not give rise to any objections, provided that it was clearly understood that it referred to acts attributable to States, a remark which also applied to subparagraph (h). It was also suggested that the text should be considered in the light of the Declaration on principles of international law concerning friendly relations and that it should be combined with paragraph (g) and the first part of subparagraph (c).

Paragraph 4

447. Several delegations supported paragraph 4 and did not find it controversial, since it referred to situations of fait accompli resulting from violations of norms and principles of international law. As such, those situations could not be recognized by States. It was also stated that the paragraph contained a number of important ideas which should be retained, although they might be set forth in separate paragraphs and reformulated. Other delegations, while recognizing that it was appropriate to have in the text the idea that a State that resorted to the unlawful use of force should not derive any benefit from its conduct, noted that paragraph 4 brought together heterogeneous elements and that the time it would take for a legally satisfactory elaboration of each element could no doubt be better used.

448. It was noted that the first part of the text tended to limit the principle of effectiveness by applying the maxim ex injuria non jus oritur. It was also stated that the question of the validity of treaties concluded by the threat or use of force was referred to in articles 52 and 53 of the Vienna Convention on the Law of Treaties, 26/ and that it would be wiser not to deal with that question in the current context; above all, it should not be dealt with in such elliptical terms, which could lead to legally questionable results. It was noted that the words ab initio were vague and could be misinterpreted: it should be made perfectly clear that the principle stated applied to cases in which, as a result of the natural process of the development of international law, there was a violation of the principles of international law laid down and recognized in the Charter.

449. Other delegations, however, expressed opposition to the deletion of references to treaty law, which, to them, appeared highly important in the current context. It was stated that it was necessary to include clauses relating to treaties which had been concluded by the threat or use of force or which contained provisions in violation of peremptory norms of international law, given the gross abuse (as in a recent case) of provisions of anachronistic treaties recognizing the right of States to use force against others. It was also noted that the use of force could not be justified by the provisions of treaties concluded during periods of military

occupation; such treaties were invalidated by lack of consent and proved the existence of aggression. Finally, it was pointed out that there was no contradiction between the first part of the text and article 53 of the Vienna Convention on the Law of Treaties.

450. As to the second part of the text, the question was whether the list was exhaustive or illustrative. It was added that, by going into too much detail, the proposed text impaired the clarity and force of the principle of non-recognition of territorial acquisitions resulting from the use of force. It was felt that that principle was well established, but better formulated in the tenth paragraph of the relevant section of the Declaration on principles of international law concerning friendly relations, and even better formulated in article 5, paragraph 3, of the Definition of Aggression. In that connexion, it was pointed out that the territorial rights of the Latin American countries should be based on the 1810 basic legal principle of uti possidetis juris. It was added that the occupation, however long-standing, of territories legitimately belonging to those countries gave the occupier no legal title and amounted to nothing more than usurpation of territory.

451. It was stated that the obligation not to change the demographic or other characteristics of territories under occupation should be considered in the light of the Hague Convention of 1907 27/ and the Geneva Conventions of 1949 28/ and the additional Protocols, 29/ assuming that the question should be dealt with in the current context, which was not certain.

452. Some delegations stressed the existing links between paragraph 4 and paragraph 15. Their comments in that regard are reflected under the heading "Paragraph 15".

Paragraph 5

453. While recognizing the importance of the idea contained in paragraph 5, some delegations took the view that such a blunt and rudimentary formulation was not enough. It was stated that the current text was either totally superfluous, if it referred to the unlawful use of force - for it went without saying that an unlawful act gave rise to responsibility - or erroneous, if it was to be read literally: the use of force did not always give rise to international responsibility because it was not always unlawful. It was also noted that the question was currently before the International Law Commission and that it would be better to defer consideration of the very complex issues involved until the Commission's work had progressed further.

454. Other delegations, while recognizing that paragraph 5 should be made more explicit and that the relevant work of the International Law Commission should be taken into account, were of the view that a reference to the responsibility of States in the event of the use of force was absolutely indispensable in the instrument being prepared. It was suggested that the text should include a reference to the threat of force. It was also suggested that, in response to the criticisms concerning the excessive bluntness of the current text, the words "in accordance with international law" should be added at the end of the sentence or that the word "unlawful" should be inserted before the word "use". There were objections to the latter suggestion, on the grounds that it could create confusion. It was noted, in that connexion, that Article 2, paragraph 4 of the Charter prohibited not the unlawful use of force, but any use of force that was inconsistent with the purposes of the United Nations.

455. Certain additions to paragraph 5 were suggested. It was suggested that it should be made clear, on the one hand, that aggression constituted a crime against humanity and, on the other hand, that States were politically and materially responsible for all acts of aggression, which entailed the responsibility of the persons committing them. It was also considered most desirable, with regard to responsibility for the use of force, that the instrument being prepared should refer to the provisions of the Declaration on the Prevention of Nuclear Catastrophe (resolution 36/100 of 9 December 1981), according to which States and statesmen that resorted first to the use of nuclear weapons would be committing the gravest crime against humanity.

456. It was pointed out in reply that paragraph 5 envisaged, inter alia, the use of armed force; reference was made to the concepts of compensation and restoration of the status quo, which could be elaborated upon in the light of the work of the International Law Commission.

457. With a view to ensuring effective application of the provisions of the instrument being prepared, which some delegations felt should take the form of a treaty, there was a suggestion to insert, after paragraph 5, a text that would call on States to take, to that end, the action referred to in article IV of the draft world treaty submitted by the Soviet Union, as well as other internal measures intended, for example, to make respect for the universally recognized principles of international law mandatory under their constitutions, in particular, the principle of non-use of force, and to ensure the implementation of a foreign policy conducive to general and complete disarmament, the establishment of peaceful coexistence between States with different social systems and the strengthening of international security and inter-State co-operation.

Paragraph 6

458. Several delegations took the view that paragraph 6 opened interesting prospects for improving the system established within the framework of the United Nations for the maintenance of international peace and security. It was pointed out that many of the ideas in the paragraph were also to be found, in more felicitous language, in the five-country paper, particularly in paragraphs 3, 4, 6, 7, 8 and 9 of the second part. It was stated that, in both cases, the Committee had before it basic elements on which to build with concrete ideas. It was noted that, by stressing the strengthening of institutionalized international co-operation, the paragraph tended to bridge the gap between the ineffectiveness of the United Nations and a plethora of resolutions that were not complied with in practice; in that way, the paragraph echoed some of the concerns apparent within the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. In that connexion, it was noted that, although certain elements were under consideration elsewhere, the instrument being prepared could not just contain a set of normative provisions and pass over in silence the role of the United Nations in implementing those provisions.

459. With respect to paragraph 6, the view was expressed that the instrument being prepared should emphasize normative rather than institutional aspects, inasmuch as the functioning of the mechanisms established to guarantee international security was already regulated in detail by the Charter. It was also stated that some of the subparagraphs were vague and likely to pose difficulties of interpretation; they should therefore be carefully examined.

460. It was felt that the introductory sentence should be drafted in stronger language and that the paragraph should focus on States, since the ability of the United Nations to discharge its functions in preventing the use of force depended on States. It was noted that paragraph 6, as it stood, gave the impression that responsibility for the violations of the principle under consideration lay with the United Nations, whereas it was States that were to blame. The point was made, however, that it was legitimate to speak of a United Nations responsibility, since the General Assembly and the Security Council undoubtedly had a role to play, irrespective of the individual positions of States.

461. Also in connexion with the introductory sentence, it was stated that it would be better to speak of the responsibility of United Nations organs (particularly the Security Council and the General Assembly) and the responsibility of Member States: under Article 24 of the Charter, the Security Council had primary, but not exclusive, responsibility; under Articles 10, 11, 12, 13 and 14 and according to the decisions of the International Court of Justice, the General Assembly had a judicial responsibility. Attention was therefore drawn to the need for a compromise formula for the functioning, on the basis of the necessary political and institutional balances, of an institutionalized mechanism for the maintenance of international peace and security. As to the responsibility of Member States, it was noted that Articles 4, 24 and 25 of the Charter had to be taken into account.

462. Subparagraph (a) was criticized on the grounds that it failed to reflect the institutional balance established by the Charter. It was noted that the reference to the role of the Assembly, in the enumeration of a series of Charter articles (from which Article 12, which held the key to the system set up by the Charter, had, curiously, been omitted), was not accompanied by a parallel reference to the role of the Security Council, although the Council did bear primary responsibility, under the Charter, for the maintenance of international peace and security. It was none the less recognized that, as the International Court of Justice had declared, the General Assembly had a subsidiary role to play (for instance, when the Security Council was unable to act) and that the Assembly enjoyed broad enough powers, as evident from Article 14, to be able to make an effective contribution to the maintenance of international peace and security. In that regard, the reference to what was vaguely described as "relevant" General Assembly resolutions and to the Assembly's rules of procedure prompted objections on the grounds that the Assembly derived its competence from the Charter, not from its own resolutions. In that connexion, attention was drawn to the proposal circulated by France in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. 30/ It was also stated that the articles of the Charter, the resolutions of the Assembly and the Assembly's rules of procedure should not be placed on an equal footing, since those three types of instruments had neither the same legal character nor the same binding force.

463. With respect to subparagraph (b), it was stated that the Security Council and the General Assembly should more effectively discharge their fact-finding functions and that an appropriate link should be established in that area between the Council and the Assembly.

464. Subparagraph (c) was supported by some delegations. Other delegations, however, wondered why it referred to only one part of Article 34 and failed to mention Article 33, Article 37 (an important gain of 1945) and Article 35 (which assigned a very precise role to the Security Council). In that regard, it was stated that only Article 34 was referred to in subparagraph (c) because the

subparagraph was concerned with the role of fact-finding as a means of preventing the use of force. It was also stated that the other provisions of Chapter VI were envisaged in paragraph 14 of the document.

465. In connexion with subparagraphs (b) and (c), reference was made to a working paper submitted by Japan in the Special Committee on the Charter 31/ and to document A/10289.

466. With regard to subparagraph (d), some representatives recommended a prudent approach; the Security Council should be allowed the necessary latitude. Other representatives observed in reply that the subparagraph was useful, inasmuch as the provisions of Chapter VII had been applied on only a very limited basis, as the Legal Counsel of the United Nations had stated at the 1980 and 1981 sessions of the Special Committee on the Charter.

467. It was noted that subparagraphs (e), (f) and (g) dealt with questions that also came under the mandate of the Special Committee on Peace-keeping Operations.

468. Some representatives felt that subparagraph (e) was vague because it failed to indicate whether it referred to peace-keeping operations or to the application of Article 43. The view was expressed in reply that the subparagraph was useful because it sought to give effect to Charter provisions that had remained dead letters despite the efforts of the first Secretary-General of the United Nations. In that connexion, reference was made to Assembly resolution 377 (V).

469. Some representatives found the idea behind subparagraph (f) acceptable. Others noted that the effect of the subparagraph could be to subject to the principle of unanimity among the permanent members of the Security Council a question not currently subject to that principle. It was also noted that the difficulties that had prevented full implementation of Article 43 still remained and that the subparagraph was therefore unrealistic.

470. It was noted that subparagraph (g) did not make it clear whether a permanent peace-keeping force was envisaged; if it was, there were reservations concerning the subparagraph. Some representatives took the view that useful work could be done in that area, which they felt was better dealt with in the five-country paper. Other representatives held that the United Nations had proved very effective in peace-keeping operations, as demonstrated by the United Nations Emergency Force (UNEF) and the United Nations Interim Force in Lebanon (UNIFIL), and that the question perhaps did not require much attention.

471. It was noted that subparagraph (h), if taken too literally, could imply that the Secretary-General was to blame for not fully discharging his responsibilities under Article 98. Such being the case, it was suggested that the current formulation should be replaced by a much more precise text. It was noted that the responsibilities referred to in Article 99 were optional and that the Secretary-General had recently made encouraging statements on that score.

Paragraph 7

472. While recognizing that the paragraph dealt with an extremely important question, some delegations wondered whether it was useful for the Committee to focus on an issue which was known to be highly complex and which the Committee of 33 and the Special Committee on the Charter had been considering for a very long

time. They wondered whether, by focusing on that question, the Committee did not risk diverting attention from the main aspects of its mandate. The view was also expressed that some of the subparagraphs were vague and therefore dangerous.

473. Other delegations supported the paragraph and drew attention to the corresponding proposals in the five-country paper. Some representatives supported subparagraph (a) and said that it dealt with an area that should be explored. It was noted that the Scandinavian countries and other countries had already adopted measures of the type envisaged in subparagraph (a). Reference was also made to a working paper submitted by the United States to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization 32/ and specifically to section C, paragraphs 1, 2 and 3.

474. Other delegations, however, called for more flexible language and stressed that each State should be able to preserve its freedom of choice, whether it earmarked contingents in advance or designated, at the last minute and in the light of circumstances, the unit to be provided; it would be enough to call on States to adopt the measures envisaged in paragraphs 8 and 9 of the second part of the five-country paper.

475. Subparagraph (b) was also supported by delegations which referred to it. It was suggested that the subparagraph should reflect the fact that respect for all aspects of the collective security system presupposed the renunciation of warfare, the existence of means of peaceful settlement of disputes and a punitive and preventive mechanism for collective action. It was also stated that the reference to Article 51 should take into account the various components of that provision.

476. Subparagraph (c) was considered important by some representatives, but also prompted reservations. It was felt that the appeal in the subparagraph was superfluous so long as Article 43 had not begun to be implemented. It was considered unwise to lay too much emphasis on Article 43; it was pointed out that the lack of agreement regarding that article was not preventing the Security Council from acting, but could be used by some States as a pretext for impeding action by the Council. Some delegations stated that their criticisms concerning paragraph 6 (f) also applied to paragraph 7 (c).

477. It was noted, in connexion with subparagraph (d) that it could not be said that the collective security system provided for in the Charter had failed; the truth was that the system had been unable to thrive primarily because of the principle of unanimity among the great Powers and because none of the agreements referred to in Article 43 had been concluded. The arguments adduced in support of paragraph 6 (e) were repeated in connexion with paragraph 7 (d). It was noted, in addition, that to improve the system provided for in the Charter would ultimately be to strengthen that system.

Paragraph 8

478. Some delegations endorsed paragraph 8, which was said to contain a reaffirmation of an existing norm, rather than a new idea. In that connexion, attention was drawn to article 7 of the Definition of Aggression; it was pointed out that the paragraph should be read in the light of the purposes and principles of the Charter, in particular, Article 2, paragraph 5.

479. Other delegations, while recognizing that the paragraph reflected a laudable concern, noted that it was dangerous to encourage States to intervene in conflicts and thereby aggravate them. It was also pointed out that the paragraph raised legal problems with regard to the Charter: in addition to the fact that the proposed formulation could have implications for Article 50 and disregarded the fact that collective self-defence was an option, not a right, it would be a better response to the concern reflected in the paragraph to encourage States to lend their support to the United Nations. In that regard, reference was made to Article 49 of the Charter which stated: "The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council". It was noted that if the sponsors wished to envisage the case in which the Council would adopt measures on behalf of a State victim of the use of force, which would entail an obligation on the part of Member States to render assistance, that should be more clearly indicated.

480. Finally, it was asked whether the paragraph did not run counter to existing law. It was stated that, while the sponsors no doubt had in mind the victim of an unlawful use of force, the sentence, if applied to a case of acquisition of territory, could lend itself to an contrario interpretation. That would be contrary to contemporary international law, which permitted no acquisition of territory by force, whether lawful or unlawful.

Paragraph 9

481. Several delegations firmly supported that paragraph. Certain of them reiterated their opposition to all forms of neo-colonialism, imperialism and racial discrimination and stated that the maintenance of colonial enclaves well into the twentieth century was inadmissible. It was deemed inconceivable that a people denied self-determination and threatened with extermination should be denied the right to defend themselves by all the means at their disposal. The remark was made that the concept contained in paragraph 9 also appeared in the draft world treaty submitted by the USSR. It was stressed that nothing in the treaty which would finally be drafted should call in question the legitimacy of the struggle being waged by colonial peoples to attain independence or restrict the right of peoples still subjected to colonial and racist régimes to pursue, by all the means available to them, their struggle to free themselves from the yoke of oppression. That right was, moreover, set forth in the Charter and in the Declaration on the Granting of Independence to Colonial Countries and Peoples and had been confirmed by many General Assembly resolutions, in particular the Definition of Aggression.

482. Other delegations expressed serious reservations on paragraph 9. While proclaiming their support for the principle of equal rights and self-determination of peoples, they stressed that that principle applied to all peoples and not only to those in the situations referred to in that paragraph. They added that they could not support a text which, while recognizing the general and unrestricted right of such peoples to use force, had the effect of increasing the range of exceptions to the principle the effectiveness of which it was the Committee's mandate to enhance. It was emphasized in that regard, that the reference to "armed struggle" would lead to an excessive extension of the concept of self-defence, going far beyond Article 51, and might entail a substantive amendment to the Charter. Feeling that it was difficult in such an emotionally charged context to define what was lawful and what was not, they advocated a negative obligation whereby States would refrain from using force against self-determination in accordance with the precedent established in the Declaration on principles of

international law concerning friendly relations, in which the section on the principle of equal rights and self-determination of peoples reflected an effort towards progressive development of the Charter and not just codification. Attention was also drawn to article 7 of the Definition of Aggression and the compromise formula used in the draft Manila Declaration.

Paragraph 10

483. Some delegations said that they had no serious objections to that paragraph, except that the reference to the concept of unity might restrict the right to self-determination, and more precisely the right of a people to determine their own system within a particular State framework. Reference was made in that regard to States in which regions or ethnic or linguistic minorities enjoyed a certain degree of autonomy, allowing them to retain their sociological or historical characteristics.

484. Other delegations expressed serious reservations on that paragraph which, it was stated, was not in conformity with the current state of the law.

Paragraph 11

485. All the delegations which referred to that paragraph approved the principle contained therein. It was noted with satisfaction that the right of self-defence was recognized in the three documents before the Committee. Certain delegations thought that the wording of the paragraph should follow the wording of Article 51 more closely. In that connexion, it was recalled that the use of the adjective "inherent" raised the question of the relationship between the Charter and general international law. Other delegations suggested expanding the paragraph by referring to the inherent right of self-defence against an external armed attack.

486. The insertion after paragraph 11 of an additional paragraph covering the case of action undertaken in accordance with a Security Council decision under Chapter VII was suggested. Attention was also drawn in that regard to the range of measures provided for in Articles 41 and 42 of the Charter.

Paragraph 12

487. Certain delegations considered it important to introduce provisions concerning the question of disarmament in the document under preparation. Reference was made to article IV, paragraph 12, of the Soviet draft world treaty. It was deemed of paramount importance for the strengthening of peace and international security to make progress towards disarmament, and it was stressed that the stockpiling of conventional and nuclear weapons, in addition to subjecting the world to a constant threat of war, indeed of nuclear conflagration, hindered efforts to promote international security and represented a colossal waste of material, technological and human resources.

488. Other delegations, while recognizing that the principle of non-use of force and disarmament were linked, inasmuch as the one was a pre-condition for establishing the climate of confidence required by the other, stressed that there was no reason to examine in the Committee a question which was under consideration in many other forums, particularly on the eve of the inauguration of the second special session of the General Assembly devoted to disarmament.

489. With regard to the various elements contained in the paragraph, it was suggested that general and complete disarmament should be dealt with separately from the use of nuclear weapons.

490. The first sentence was regarded by some delegations as conceptually erroneous, since strict respect for Article 2, paragraph 4, was a prerequisite for all progress towards disarmament, because it was the sine qua non for the establishment of the necessary climate of confidence. It was stated, in that regard, that the invasion of a Member State by an army of 90,000 men was not unrelated to the lack of success registered within the framework of the SALT negotiations.

491. With regard to the question of the negative security guarantees to be given to non-nuclear States, one delegation stated that it would not object if the future treaty dealt with the prohibition of the use of nuclear weapons against non-nuclear States but would like it, in that case, to be stipulated that all States should undertake not to use such weapons against countries which had renounced their manufacture and stockpiling or on whose territory such weapons were not stationed. Other delegations recalled, however, that the question was under consideration in an ad hoc working group of the Committee on Disarmament, whose conclusions should not be prejudged. It was suggested that paragraph 59 of the Final Document of the Tenth Special Session of the General Assembly, the first special session devoted to disarmament, should be followed. The second sentence was considered unacceptable by some delegations, because it implied that the use of certain types of force violated the principle of non-use of force to a lesser degree than the use of other types of weapons. The third sentence of the paragraph gave rise to reservations, because it did not take account of the strategic policy of certain countries and might be interpreted as preventing co-operation between States in nuclear activities for peaceful purposes. The fourth sentence also gave rise to reservations. It was noted that it did not correspond to positive, international law and took up a proposal on which no consensus had emerged, because it was contrary to the security policy of many States. It was deemed dangerous to establish, in the prohibition of the use of force, a hierarchy based on military methods used which would imply, a contrario, that certain forms of the use of force, for example, conventional means, were acceptable in other than the circumstances provided for in the Charter.

492. The view was expressed that the paragraph had the defect of omitting any mention of confidence-building measures and measures to reduce tension. It was suggested that the paragraph should be replaced by a text stating that stricter respect for Article 4, paragraph 2, and the adoption of confidence-building measures would facilitate work in the field of disarmament and arms control.

Paragraph 13

493. The importance of the principle of non-interference and of the right of all peoples to find a solution to their problems without any form of direct or indirect foreign intervention was reaffirmed. It was, however, asked whether consideration of the concept of non-interference did indeed fall within the mandate of the Committee. Some delegations maintained that it did, emphasizing that if it could be decided to consider some of the forms of coercion mentioned in paragraph 1 as relating to the principle of non-interference, agreement could more easily be reached on that paragraph. Reservations were expressed on the wording of the paragraph, which was considered less satisfactory than that of the Declaration on principles of international law concerning friendly relations. Attention was also

drawn to the third paragraph of section VI of the Declaration on Principles Guiding Relations between Participating States contained in the Final Act of Helsinki. It was emphasized that systematic violations of human rights, wherever they occurred, were condemnable and could not be regarded as coming within the exclusive competence of States. It was also said that such violations constituted a threat to peace and that - as history proved - internal repression was often followed, in a short space of time, by external aggression. It must, therefore, be ensured that States could not evade their obligations by taking refuge behind the principle of non-interference, a principle which was not immutable and a too literal interpretation of which would render the human rights instruments in force totally ineffective. The question of the protection of human rights, it was added, transcended the national order and formed part of the international order.

Paragraph 14

494. All the delegations which referred to that paragraph stressed its importance. It was noted that the principle of peaceful settlement of disputes and that of non-use of force constituted, with the collective security system, an integral whole whose elements were mutually complementary. Reservations were made, therefore, concerning the word "corollary". It was legitimate, it was said in that regard, to describe as "corollaries" of the principle of non-use of force the principle that a war of aggression constituted a crime against peace that gave rise to responsibility under international law or the principle that the territory of a State might not be subjected to military occupation following the use of force in violation of the provisions of the Charter, but the principle of peaceful settlement of disputes could not be regarded as a corollary of the principle of non-use of force.

495. The suggestion was made that the wording of the paragraph should be brought into line with the text of Article 2, paragraph 3, of the Charter, and reference was made in that connexion to article II of the Soviet draft world treaty. It was noted as a shortcoming of that article that it made no mention of investigation or of recourse to regional bodies or agreements.

496. The general approach reflected in paragraph 14 gave rise to some criticisms, however. It was felt that it was indicative of the lack of balance in the document under consideration, which, out of 16 paragraphs, devoted only one to a principle which was generally recognized as fundamental to the enhancing of the effectiveness of the principle of non-use of force and which was, moreover, duly mentioned in the mandate of the Committee. A number of delegations thus considered that the paragraph should be amplified, taking due account of the draft Manila Declaration. It was suggested that paragraphs 8 and 13 of section I of the draft Declaration should be incorporated in it, and it was pointed out, in that regard, that the obligation to refrain from any action which might aggravate the situation was mentioned in the third paragraph of article II of the Soviet draft world treaty. It was also suggested that paragraph 14 should include the idea that, in order for there to be full respect for the principle of the peaceful settlement of disputes, effective, appropriate, universal and inviolable machinery was required as a matter of urgency. Finally, the view was expressed that the paragraph should review what left room for improvement both in the existing system and in State practice and indicate possible remedies, having due regard to Article 1, paragraphs 1 and 4, of the Charter, and it was suggested that an analysis should be made of: (a) the peaceful settlement of disputes and specific political problems by the General Assembly; (b) recourse to methods of peaceful settlement by the Security Council;

(c) the organization and functioning of United Nations commissions; (d) the International Court of Justice; (e) the balance-sheet of the use by United Nations bodies of methods of peaceful settlement of disputes; (f) procedures provided for by bilateral, regional and multilateral treaties; and (g) effective means for the elaboration by States of agreements for the peaceful settlement of disputes intended for use in accordance with Article 33 of the Charter. Reference was made to the draft Manila Declaration, which, it was observed, had the drawback of not dealing adequately with the settlement of disputes through the mediation of a third party and might be supplemented in that regard by an expansion of paragraph 5 of section I. It was added that paragraphs 3, 4, 5 and 6 of section II of the draft Declaration contained elements that would be useful for the Committee's work. With regard to the settlement of disputes through the mediation of a third party, mention was made of the 1924 League of Nations Protocol on binding arbitration. Mention was also made in that context of the five-country document, the structure and content of which were, it was said, worthy of every praise - particularly paragraphs 3, 4, 6, 7 and 8 of section I. Lastly, it was emphasized that the list in section II of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on its 1979 session 33/ was also relevant and that some of the proposals, such as those in section B (iii) and section C (iv) of that list contained interesting ideas, which were described in the document in question as being likely to obtain general acceptance.

Paragraph 15

497. Some delegations approved paragraph 15 in principle, while stressing the need to amplify or revise the wording. It was suggested that reference should be made to the Declaration on principles of international law concerning friendly relations. Reference was also made to article III of the Soviet draft world treaty, although it was recognized that paragraph 15 had the advantage over the article in question of containing a mention of Article 103 of the Charter, which might serve to reassure those who feared that the elaboration of the future treaty might have the effect of weakening the provisions of the Charter or leading to its revision. It was remarked, with regard to article III of the Soviet draft, that an extensive interpretation of the proposed wording might lead to the conclusion that any right recognized by the Charter could be defended by the use of force, which was not desirable. The reference to Article 103 was considered essential by several delegations. Lastly, it was suggested, with regard to paragraph 15, that thought should be given to means of encouraging States to give favourable consideration to the adaptation of treaties to contemporary conditions.

498. Other delegations, while recognizing the importance of the principle pacta sunt servanda - a principle which, it was observed, was at that very moment being called in question by the presence in the vicinity of the Latin American continent of nuclear-propelled vessels in violation of the Treaty of Tlatelolco - stressed that paragraph 15 weakened the part of paragraph 4 relating to treaties procured by threat or use of force or containing provisions in violation of peremptory norms of international law. In order to ensure that paragraph 15 did not render the above-mentioned part of paragraph 4 ineffective, one of the sponsors supported by other delegations, suggested that, in paragraph 15, as proposed at the preceding session, 34/ the words "other than those mentioned in paragraph 4 above and" should be inserted after the word "treaties".

499. Yet other delegations considered the paragraph obscure and imprecise. It was said that, even supposing that it was appropriate to place emphasis on the normative aspects of the question under consideration - which was doubtful - it was better to do so on the basis of precedents such as the Declaration on principles of international law concerning friendly relations.

Paragraph 16

500. Paragraph 16 was regarded as acceptable in principle by some delegations. The remark was made that the paragraph reflected appropriately the concerns of many countries, particularly the developing countries, which had learned from experience that all sorts of pretexts could be invoked to justify the use of force against them. It was noted with regret in that regard that, in the course of the general debate, various pretexts had been advanced to justify the use of force. It was noted that the principle contained in paragraph 16 was also contained in the Soviet draft world treaty and in the five-country document and did not give rise to any objections, because it was recognized in several documents accepted by consensus, namely, the Declaration on principles of international law concerning friendly relations, the Definition of Aggression and the Final Act of Helsinki. Questions were raised, however, concerning the relationship between that paragraph and paragraph 11, and it was suggested that a reservation concerning cases where the use of force was lawful, in particular, the case of self-defence, should be included in the text. On that point too, regret was expressed that the document under consideration placed undue emphasis on the normative aspects of the question.

Other comments

501. Some delegations considered that other elements had a place in the document under discussion, namely: (a) measures to encourage and promote respect for human rights and fundamental freedoms for all in accordance with the Universal Declaration of Human Rights and other relevant international instruments, in particular, the International Covenant on Human Rights; (b) measures to promote mutual understanding and trust between peoples by encouraging and facilitating cultural exchanges; (c) measures to develop relations and co-operation between States; and (d) the concept of the revision of treaties by peaceful means. Other delegations stressed, however, that care should be taken not to give excessively broad scope to the document under preparation by including in it ideas that were not directly related to the question under consideration.

502. With regard to the relationship between the work of the Special Committee on Enhancing the Effectiveness of the Principle of Non-use of Force in International Relations and that of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; it was felt that the former should leave aside those questions which came within the competence of the latter, so as to avoid increasing legal controversies about the responsibilities of the United Nations in the field of the maintenance of international peace and security and endangering the functional balance within the existing institutional machinery. Another approach was, however, proposed by some delegations, namely, that it would be desirable, since the work of the two Committees overlapped in many areas, to make an effort to rationalize the methods of work of the United Nations in order to avoid wastage of time and resources, and to that end, to consider the possibility of merging the two committees in question, temporarily at least.

Notes

- 1/ Official Records of the General Assembly, Thirty-sixth Session, Annexes, agenda item 116, document A/36/649.
- 2/ Ibid., Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1), annex.
- 3/ Ibid., Thirty-sixth Session, Supplement No. 41 (A/36/41), sect. III.
- 4/ Ibid., Supplement No. 41 (A/36/41).
- 5/ For the membership of the Special Committee at its 1982 session, see A/AC.193/INF.5 and Add. 1 and 2.
- 6/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 41, (A/36/41).
- 7/ Ibid., para. 259. Originally circulated as document A/AC.193/WG/R.2/Rev.1.
- 8/ Ibid., Thirty-fourth Session, Supplement No. 41 (A/34/41), annex.
- 9/ Ibid., para. 129.
- 10/ Cmnd. 6198 (London, H.M. Stationery Office, 1975).
- 11/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 33 (A/37/33), sect. II.
- 12/ For the report of the Conference, see A/34/542 and Corr.1.
- 13/ See Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.
- 14/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 41 (A/35/41), para. 171.
- 15/ See Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.
- 16/ For the documents of the Sixth Conference of Heads of State or Government of Non-Aligned Countries, see A/34/542 and Corr.1.
- 17/ Cmnd. 6198 (London, H.M. Stationery Office, 1975).
- 18/ Official Records of the Security Council, Fifteenth Year, Supplement for July, August and September 1960, document S/4382.
- 19/ Ibid.
- 20/ Treaties and Other International Agreements of the United States of America, 1776-1949, vol. 2, pp. 732-735.

- 21/ Proposals made in the General Assembly will also be included.
- 22/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 41 (A/36/41), para. 259. Originally circulated as document A/AC.193/WG/R.2/Rev.1.
- 23/ Ibid., Thirty-fourth Session, Supplement No. 41 (A/34/41 and Corr.1), para. 129.
- 24/ Ibid., annex.
- 25/ Final Act of the Conference on Security and Co-operation in Europe, Cmd. 6198 (London, H.M. Stationery Office, 1975), p. 2.
- 26/ See Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.
- 27/ Carnegie Endowment for International Peace, the Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915).
- 28/ United Nations, Treaty Series, vol. 75, Nos. 970-973.
- 29/ A/32/144, annexes I and II.
- 30/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 33 (A/36/33), para. 89. Originally circulated as document A/AC.182/WG.25.
- 31/ Ibid., Thirty-fifth Session, Supplement No. 33 (A/35/33 and Corr.1), para. 74. Originally circulated as document A/AC.182/WG/44/Rev.1
- 32/ Ibid., Thirty-fourth Session, Supplement No. 33 (A/34/33), sect. III C, para. 18, subpara. (51). Originally circulated as document A/AC.182/WG/33.
- 33/ Ibid., Supplement No. 33 (A/34/33), para. 13.
- 34/ Ibid., Thirty-sixth Session, Supplement No. 41 (A/36/41), foot-note 34.