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at 3 p.m.

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SUMMARY RECORD OF THE 14th MEETING

Chairman: Mr. GASTLI (Tunisia)

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued) (A/38/41, A/38/61-S/15549, A/38/106-S/15628, A/38/135-S/15678, A/38/155-S/15699, A/38/325-S/15905, A/38/327-S/15911, A/38/357 and Add.1, A/38/432-S/15992)

1. Mr. ECONOMIDES (Greece) reiterated his Government's position that the principle of non-use of force in international relations was a norm of jus cogens and constituted the very corner-stone of the United Nations. Greece firmly supported all efforts to enhance the effectiveness of what was by far the most important principle of the international legal order.
2. Regrettably, that principle was always being violated, and Security Council and General Assembly resolutions intended to remedy the situations resulting from such violations were constantly being flouted. One deplorable example was the case of Cyprus, much of which, after more than nine years, was still under an illegal foreign occupation.
3. In order to create an atmosphere of trust and solid conditions for the security of States, the international community must, as a matter of urgency, use every available means to enhance the effectiveness of the principle of non-use of force, which was crucial to the maintenance of international peace and security. Of course, everything depended on the political will of States, particularly those entrusted with special responsibilities by the Charter.
4. Greece was deeply distressed at the shooting down of a Korean Air Lines plane by a Soviet military aircraft and hoped that appropriate action would be taken by the competent international agencies to ensure greater security for civil aviation.
5. The Special Committee had for the first time made some modest but encouraging progress. It had decided by consensus to begin discussing the "headings" in the informal paper submitted by Mr. El-Araby (Egypt), a former Chairman of the Special Committee, and had had a preliminary exchange of views on them. It should proceed to formulate specific legal principles and rules under each "heading". As far as possible, work in that area should be depoliticized and conducted on the basis of legal and technical criteria. The question of the form or nature of the document to be elaborated should be left until the substantive work was completed.
6. Heading A, entitled "Manifestations, scope and dimensions of the threat or use of force" (A/38/41, para. 61), was useful as an introduction but should be made more explicit. The word "general" should be deleted from heading B, which should be couched in categorical terms.
7. His delegation attached great importance to heading C, entitled "Consequences of the threat or use of force" (ibid., para. 94). That heading concerned three categories of consequences: non-recognition of the consequences arising from the use or threat of force; international responsibility of the State which used force; and the duty of States to assist the victims of the use of force. Both the

(Mr. Economides, Greece)

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 referred to non-recognition of the consequences of the threat or use of force. The international responsibility of the State which used force was an accepted tenet of customary law. Assistance by States to the victims of the use of force was perfectly consistent with the Charter. In addition to those three categories of consequences, it should be borne in mind that, under the Vienna Convention on Succession of States in respect of Treaties and the Vienna Convention on Succession of States in respect of State Property, Archives and Debts, the illegitimate use of force could not give rise to a case of succession of States in conformity with international law.

8. Heading D (Legitimate use of force) was indispensable. The exceptions to the principle of non-use of force would have to be clearly spelt out. Heading E (Peaceful settlement of disputes) was also extremely important. Observance of the principle of peaceful settlement of disputes was a prerequisite for observance of the principle of non-use of force. Because of the close relationship between those two cardinal principles, they should be considered together.

9. Another very important "heading" was heading F, entitled "Role of the United Nations". In the interest of international peace, security and justice, it was essential to apply and make effective the collective security system, including Chapter VII of the Charter, which was a condition subsequent for strengthening the principle of non-use of force. The collective security system could also be used to enforce United Nations decisions relating to international peace and security. It was time for the Security Council to take the necessary action to carry out that basic task. The provisions under heading F should be designed to promote peace-keeping operations and enable the Secretary-General to exercise his fact-finding powers under the Charter.

10. As to heading G (Disarmament and confidence-building measures), it was clear that there was a close relationship between disarmament and collective security. Disarmament could be achieved only if States had confidence in the collective security system.

11. Greece believed that the Special Committee should be allowed to continue its vitally important work and that its mandate should be made more flexible, more realistic and more neutral.

12. Mr. SCHAEFER (Federal Republic of Germany) said that the principle of non-use of force, the principle of peaceful settlement of disputes and the principle of non-intervention were closely interrelated principles aimed at ensuring the maintenance of international peace and security. His Government attached great importance to enhancing the effectiveness of the principle of non-use of force, which was foremost among the three principles.

13. Article 2, paragraph 4, of the Charter constituted an obligation for all subjects of international law without exception. That obligation was a

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comprehensive norm of jus cogens, and its universally accepted legal force should not be diluted. While serious efforts to enhance the effectiveness of the principle of non-use of force were indeed feasible, such efforts should be concentrated on creating the necessary political will of all Governments to abide scrupulously by the existing obligation. One practical way of contributing to that goal could be the elaboration by the General Assembly of an instrument of a declaratory character that would clarify the scope and content of the principle and renew the determination of all States to renounce the threat or use of force in their international relations.

14. The Federal Republic of Germany, in view of its own bitter historical experience, had made the principle of non-use of force a basic tenet of its foreign policy. Within the scope of its long-term policy aimed at strengthening co-operation and lessening tensions, it had committed itself explicitly to that principle in a number of treaties with its Eastern neighbours. It had committed itself to the principles of the Charter by becoming a Member of the United Nations. It had signed the Final Act of the Conference on Security and Co-operation in Europe, which reaffirmed the principle of non-use of force, and was actively promoting its implementation. His Government had welcomed the establishment of the Special Committee as a potentially valuable means of ensuring greater respect for the principle of non-use of force.

15. The threat or use of force had become an all too familiar ingredient of international relations. The recent downing of an unarmed civilian aircraft was the latest evidence of that deplorable trend. His Government had joined the vast majority of nations in condemning that inexcusable act. It believed that the use of military force in such circumstances could not be justified. The right of any State to enforce respect for its airspace was, like the enforcement of other rights, limited by the principle of proportionality, which was a fundamental and globally recognized principle of international law. All States, including the Union of Soviet Socialist Republics, should ensure that such an incident never happened again. At the last meeting of the Council of ICAO, the Federal Republic of Germany had supported France's proposal to amend the Convention on International Civil Aviation by a provision prohibiting the use of force against civil airliners. Agreement on that point would constitute a concrete step towards enhancing the effectiveness of the principle of non-use of force. The downing of the airliner had made his delegation even more determined to pursue that goal and to continue its constructive co-operation in the work of the Special Committee.

16. All States should join in a serious effort to enable the Special Committee to make real progress. On the whole, its 1983 session had not been unsatisfactory. Although no concrete results had been achieved, the business-like atmosphere had been a positive step forward. One reason for that had been Mr. El-Araby's informal working paper, which was reproduced in section III of the Special Committee's report (A/38/41). Another reason had been the proposal concerning the organization of the work of the Working Group. According to the compromise reached, the Working Group, as a first step, would discuss the seven "headings" of the informal working paper; delegations would be free to make proposals relating to those "headings" and

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subsequently to decide on corresponding texts. The Working Group had completed a first reading of all the "headings", and several delegations had proposed new "headings" covering additional aspects related to the principle of non-use of force.

17. Article 2, paragraph 4, of the Charter prohibited the threat or use of force. The special importance of that prohibition had recently come fully into focus in discussions regarding the possible consequences of the downing of a civilian aircraft. The role of the United Nations in the field of conflict prevention must be given particular attention. The majority of States were becoming increasingly aware that United Nations action was necessary not only after a dispute arose but at an earlier stage, in order to prevent any threat or use of force. Such a role was envisaged in Articles 34, 40 and 99 of the Charter. His delegation had made a proposal in that connection in the Working Group of the Special Committee.

18. Because of the lack of consensus regarding the final form that the results of its work should take, the Special Committee had failed to make real progress towards its ultimate goals, which were to enhance the effectiveness of the principle of non-use of force in international relations and to avoid any possible danger of diluting the relevant provisions of the Charter. Real progress would be facilitated by an early agreement on those goals, which could best be achieved through a comprehensive instrument of a declaratory character.

19. Mr. ZHULATI (Albania) noted that there was no lack of documents, conventions and resolutions containing well-known formulations and definitions regarding the principle of non-use of force in international relations. The super-Powers and the other imperialist Powers, while loudly proclaiming the value of those documents, continued to violate their provisions in a flagrant manner. The only way to enhance the effectiveness of the principle was to pin-point the root causes of the use of force in international relations and to identify those countries which used force for aggressive purposes. The super-Powers, the other imperialist Powers and the various reactionary and Fascist régimes continued to base their policies more and more on violence and on the threat of force. Whenever their policy interests so required, the United States imperialists and the Soviet social-imperialists did not hesitate to violate United Nations resolutions or the bilateral and multilateral accords reached between them with great pomp. At a time of much discussion about the non-use of force, the super-Powers continued to create hotbeds of tension, incite conflict among States and encourage the use of force by such reactionary régimes as the Israeli Zionists and the South African racists. While arming themselves with the most modern weapons and preparing the world for a new catastrophe, the super-Powers were cynically trumpeting fine-sounding principles and declarations.

20. United States intervention in Korea, Viet Nam, Kampuchea, the Middle East, Central America and Africa, and United States support for Israel's aggression against the Palestinian, Lebanese and other Arab peoples, offered plain evidence that nothing had changed in United States policy. In southern Africa, a tense situation existed as a result of the aggressive actions of the Pretoria racists, backed by the United States imperialists. British imperialism, with the support of

(Mr. Zhulati, Albania)

the United States, had put gunboat diplomacy into practice in the Malvinas, using force of arms thousands of miles from the United Kingdom.

21. As for the Soviet social-imperialists, the sponsors of the item under discussion, no one could forget their 1968 invasion of Czechoslovakia. After the signing of the Final Act of the Conference on Security and Co-operation in Europe had given reason to hope that a peaceful climate would ensue in Europe and throughout the world, the Soviet social-imperialists had not hesitated to launch their barbarous aggression against the sovereign nation of Afghanistan, which they continued to occupy. At the same time, they were exerting pressure on Poland and other countries.

22. The super-Powers had incited a war between Iraq and Iran which was causing great losses to both countries. In Europe, they were continuously strengthening their aggressive war machines and were wasting no time in deploying new systems of deadly weapons. Their actions were inconsistent with their so-called commitment not to use force. Indeed, there was a clear danger that their arsenals might be directed against the freedom-loving peoples. The main reason for the use of force in international relations was the hegemonistic and aggressive policy of the super-Powers and the other imperialist Powers. Their sermons about the non-use of force only served to cover up their numerous acts of aggression against various peoples and countries. They were as unwilling to renounce the use of force as they were to renounce the frantic arms race. It was in their nature to thirst for war, aggression, hegemony and world domination.

23. The peoples of the world did not need pompous formulations or a mere confirmation of well-known principles of international law, such as the principle of non-use of force. The proposal for the conclusion of a world treaty on the non-use of force had been made precisely by the country which ignored and violated that principle. Such a treaty could not contribute to any change in the contemporary situation, but would help to frustrate the sincere desires of the peoples who really cherished peace and freedom. Their cause was best served by the unmasking of the plots and manoeuvres of the enemies of their freedom and independence. The peoples of the world would be able to defend their rights and face up to the threat and use of force by the two super-Powers and the other imperialist Powers only by increasing their vigilance, relying on their own efforts and consolidating their national independence and sovereignty.

24. Mr. DIACONU (Romania) said that the Sixth Committee was taking up the question of enhancing the effectiveness of the principle of non-use of force at a time when armed conflicts and confrontations were multiplying, thus increasing the danger of war, and even of nuclear war. In the circumstances, it was more necessary than ever for the United Nations to redouble its efforts to discharge its prime responsibility, the maintenance of international peace and security, and take resolute action to prevent the threat or use of force, to stop the use of force whenever it occurred and to settle disputes and conflicts before they worsened.

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25. The world situation had been aggravated as a result of complex and contradictory circumstances, including the frantic arms race particularly in nuclear arms, the perpetuation of certain conflicts and flashpoints of tension, the emergence of new areas of tension and the widening gap between rich and poor countries. Mistrust, tension and confrontation were increasingly replacing logic, political realism and the spirit of co-operation.

26. In view of that situation and the desire of the Romanian people for peace and co-operation, his Government believed, as President Ceausescu had recently stated, that immediate measures must be taken to reduce international tension and revive the policy of détente, to prevent any actions which might aggravate the international situation and to urge all States to act with the highest responsibility towards their own peoples and towards the general cause of international peace and security. There was no doubt that the anachronistic policy of the threat or use of force was responsible for the phenomena which had led to the current state of tension in international life, which in itself was apt to generate acts of force and of intervention in the affairs of others. Thus, mankind was placed in a vicious circle,, which must be broken as soon as possible. It was absolutely essential that States should refrain from actions which might aggravate the international situation. They must act in a constructive manner, maintain and intensify the international dialogue and try to find reasonable solutions to existing problems. His delegation was convinced that it was possible, through patient negotiation and recognition of the legitimate interests of others, to find solutions to the most difficult problems. The agreement reached at the recent Madrid Conference on peace and co-operation in Europe was proof of that.

27. Romania had always attached the greatest importance to enhancing the principle of non-use of force. In its view, the chief means of attaining security in Europe and throughout the world was the adoption and implementation of a system of firm and precise commitments by all States and the adoption of concrete measures which would eliminate the use or threat of force from inter-State relations and provide all countries with the assurance that they would be protected from any act of aggression and be allowed to develop freely. Romania had always supported the Soviet proposal for the conclusion of a world treaty on the non-use of force in international relations. It had also supported other proposals aimed at the conclusion of treaties or other instruments, universal or European, submitted by non-aligned and other countries. Romania itself had submitted a number of proposals aimed at ensuring the non-use of force in international relations and the peaceful settlement of all international disputes. Indeed, it was generally accepted that the peaceful settlement of disputes was the natural corollary of non-use of force. At its thirty-seventh session the General Assembly had adopted by consensus, on the proposal of Romania and other countries, the Manila Declaration on the Peaceful Settlement of International Disputes. At its current session the Assembly had before it a working paper submitted by Nigeria, the Philippines and Romania containing proposals for the establishment of a good offices, mediation and conciliation committee for the settlement of disputes and the prevention of conflicts between States. To strengthen the system for the peaceful settlement of disputes, to develop the mechanisms, particularly those of

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the United Nations, working to that end and to create a more favourable climate for resort to such mechanisms would constitute the finest contribution towards enhancing the non-use of force.

28. The comments submitted by Romania in 1977 and reproduced in document A/32/181/Add.2, and the statements made by his delegation in the Sixth Committee and the Special Committee, reflecting clearly his Government's interest in the conclusion of a substantive legal instrument, as binding as possible, on the non-use of force, and its ideas on what should be the content of such an instrument, which should express the universal character of the principle of the non-use of force or threat of force. A document defining the obligation of States not to resort to force or threat of force must necessarily contain provisions reaffirming the obligation of all States to settle their disputes by peaceful means and to refrain from any act liable to aggravate disputes and lead to armed conflict. Many proposals on the contents of an international instrument on the non-use of force submitted to the Special Committee, particularly those submitted by the non-aligned countries, contained elements very similar to those which, in the opinion of his Government, should appear in such a document. His Government had, for instance, noted with interest the proposals concerning the peremptory nature of the principle of non-use of force and the prohibition of a wide range of acts involving the direct or indirect use of force and acts of coercion, reprisal and intervention. It had also noted proposals concerning the action the Organization should take to enhance the effectiveness of the principle and reaffirm the legitimate right of all States to defend their unity, territorial integrity and independence.

29. It was clear from its report (A/38/41) that the Special Committee had started systematically to consider the various elements of the principle of non-use of force with a view to enhancing the principle. However, the Special Committee had by no means made decisive progress towards tackling its work in such a way as would enable it to fulfil its mandate. In the prevailing international situation, it was more necessary than ever for the Organization to speak out against the use of force as a means of settling international problems, to take firm action against any threat to or breach of the peace and any act of aggression and to do all it could to ensure the peaceful settlement of disputes. The role and responsibility of the United Nations in the matter could not, of course, be reduced to the preparation and adoption of a document and consideration of the problem in one of its committees. The question of enhancing the principle of non-use of force was one of the fundamental issues facing the Organization, which must act to that end at all levels and in all its bodies and look upon it as an overriding element of its work.

30. It was in that spirit that his Government was prepared to participate actively in the work of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization and other activities aimed at strengthening the structures of peace, excluding the use of force in international relations and ensuring the peaceful settlement of disputes.

31. Mr. VAN BOHEMEN (New Zealand) said that his delegation fully agreed on the need to eliminate the use of force as an instrument of policy in international relations. However, it did not consider that the thrust of the item, and in particular the prominence given in the mandate of the Special Committee to the drafting of a world treaty on the non-use of force in international relations, would contribute to that result.
32. The legal obligation not to resort to force was fundamental to the Charter of the United Nations. It had been frequently reaffirmed in declarations and resolutions of the General Assembly, such as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Declaration on the Prohibition of the Use of Nuclear and Thermonuclear Weapons, the Definition of Aggression and the Manila Declaration on the Peaceful Settlement of International Disputes. For that reason, his delegation did not believe that there was any need to draft another legal instrument. In addition, there was a danger that difficulties in interpreting any further instrument could arise, particularly when it was placed against earlier instruments, especially the Charter.
33. In any event, despite the clear prohibition on the use of force, cases of armed aggression had occurred repeatedly over the past 35 years. His Government was not, therefore, convinced that peaceful behaviour could be guaranteed simply by restating familiar principles. The recent shooting down of a Korean airliner by the Soviet Union, the principal advocate of a treaty on the non-use of force, confirmed his Government in its reservations. The ruthless and unjustified attack by the Soviet Union on a civilian airliner was unacceptable; it was clearly contrary to international law and to the normally acceptable standards of civilized behaviour. As the Prime Minister of New Zealand had said in general debate in the General Assembly (A/38/PV.18): "The Soviet Union must accept full responsibility for this act of brutality. What is truly outrageous is that the Soviet Government claims this action was fully in accordance with Soviet law. In plain language, they seem to be saying that if tomorrow a civilian airliner from any one of our countries mistakenly flew over Soviet territory then they reserve the right to shoot it down."
34. The international community did not need another instrument restating basic and obvious principles. What it did need was the co-operation of the Soviet Union in the efforts that were being made in the International Civil Aviation Organization to formulate specific measures to ensure that such an incident never occurred again. The Special Committee should concentrate on developing practical measures to enhance the observance of the principle of non-use of force, in accordance with the principles of the Charter.
35. Mr. ROSENSTOCK (United States of America) said it was self-evident that enhancing the effectiveness of the prohibition of the threat or use of force ought to be the common goal of all Members of the United Nations. It might be expected that States would take the item seriously in view of the issues involved. Unfortunately, the Soviet Union had wasted no time in revealing the agitation - - Propaganda nature of its approach to the item. When it had finished introducing the cold war into the discussion of the item, it had drifted off into a discourse

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on disarmament. The Soviet Union had not said what purpose another treaty on the non-use of force would serve but it had mentioned that what was needed was a Warsaw Pact-NATO treaty on the non-use of force, a world treaty on the non-use of force, a clear prescriptive norm. There was already a treaty. It was called the Charter of the United Nations. The Charter remained man's most ambitious and complex effort to create a world that would save succeeding generations from the scourge of war. To attempt to deal with the prohibition of the threat or use of force in isolation from the Charter would be a retrogressive development.

36. The past history of the item as well as the tendentious opening statement by the Soviet Union insisting again on the draft treaty suggested that consideration should first be given to the question whether a treaty on the non-use of force would be useful. His delegation had neither heard any arguments nor witnessed any conduct in the past year to alter its view that a treaty would be a profoundly bad idea. It did not oppose the treaty proposal merely because it was hypocritically motivated; it opposed it because it was wasteful and pernicious. Were a new treaty on the non-use of force to be the same as the Charter, it would add nothing; indeed, it might create the spurious impression that the Charter itself was inadequate, an impression which would undercut the special status of the Charter. If a treaty were to deviate from the Charter it would create a parallel régime, which could only lead to confusion and further detract from the Charter.

37. In 1982, the presence of a Soviet army of occupation in Afghanistan and various instances of the application of the infamous Brezhnev doctrine of the limited sovereignty of some States had served to indicate that the proposal of a treaty was a feeble attempt at a smoke-screen to obscure deeds by words or, worse yet, to attempt to justify some of the deeds. The year 1983 had merely added new evidence of Soviet hypocrisy. Again the Soviet Union had used force contrary to elementary consideration of humanity. A plane engaged in international civil aviation had been shot down. First the Soviet Union had said nothing, thus cruelly allowing relatives and others to continue to believe that there might be survivors. Then the Soviet Union had begun its series of lies and deceits. Then the international community had been treated to flowery quotations about the sacredness of the borders of the Soviet Union, as if they were more important than anyone else's borders or more important than human lives. Finally, the Soviet Union had told the world that it would do it again. In place of even a belated apology, the world had been told of the combat readiness of the Soviet armed forces, which in the future would perform their "combat tasks". "Combat tasks" - against commercial aircraft?

38. Presumably the Soviet Union had put forward the notion of a so-called world treaty on the non-use of force in the hope of masking its imperial designs and its totalitarian régime, designed as it was to stamp out all human rights. His delegation could, however, see no reason why it should change its mind about the unwisdom of such a treaty. No attempt had been made to convince the international community that, if there were a treaty on the non-use of force, international civil aviation would be safer or the people of Afghanistan or Eastern Europe would be free to pursue their own right to self-determination.

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39. If, then, a treaty was a bad idea, was there anything that could be done to enhance the effectiveness of the norm prohibiting the use of force? In the first place, some restraint would appear to be in order. Surely a major Power with an enormous land mass need not shoot down a civilian airliner, which, moreover, was heading out of its airspace. Other positive measures would involve strengthening the alternative to the use of force as a means of settling disputes. Following through on the letter and spirit of the Manila Declaration on the Settlement of Disputes would be one such step. A related modest beginning would be acceptance of the dispute settlement provisions contained in various optional protocols to existing treaties. The capacity of the United Nations with regard to both the peaceful settlement of disputes and the collective security system set forth in Chapters VI, VII and VIII of the Charter should be strengthened. The collective security system should be supported. Refusals by the Soviet Union to pay for peace-keeping operations, the establishment and continuation of which it concurred in, undercut the entire collective security system. Equally, to block the placement of observers and peace-keepers in sensitive areas by threatening to veto their mission was to frustrate the purposes of the United Nations. To then complain, as the Soviet Union had done in its opening statement on the item, (A/C.6/38/SR.12), when others put together multinational forces in an effort to prevent the situation from deteriorating was simply to add insult to injury.

40. Finally, respect for human rights was an essential element of the effectiveness of the prohibition of the threat or use of force. Human rights violations had been the cause of, or at least the reason given for, invasions in Asia and Africa in recent years. Moreover, a State which behaved lawlessly towards its own people was driven eventually to behave lawlessly towards others. His delegation was puzzled by the suggestion that there was no direct relationship between the denial of human rights and the effectiveness of the prohibition of the use of force. Perhaps the United States was particularly aware of the relationship because it had fought a war for its right to self-determination. The relationship between peace and respect for human rights had been foreseen by the drafters of the Charter, as was evident from the Preamble and Article 1, paragraphs 2 and 3. The effectiveness of the prohibition of the threat or use of force would be best enhanced if the Charter system were made more effective, not if the norms of the Charter were repeated in another treaty or parallel instrument.

41. The United States was committed to enhancing the effectiveness of the prohibition of the threat or use of force. It was prepared to strengthen available mechanisms for the peaceful settlement of disputes. It was prepared to strengthen the fact-finding capacity of the Secretary-General, including modernizing the information-gathering capabilities of the Secretariat. It was prepared to explore appropriate avenues for encouraging the early involvement of the Security Council in situations before they got out of hand. It was prepared to encourage informal periodic reviews of the world situation by the members of the Security Council with the active participation of the Secretary-General. It was prepared to enhance existing procedures and consider developing new procedures to facilitate the Security Council's ability to render confidential assistance to parties in the pursuit of peaceful resolution of differences, and it was prepared to encourage

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making greater use of third-party procedures, through the "good offices" of the Secretary-General or one or more States, or even more rigorous forms of third-party assistance, such as arbitration or judicial settlement. The United States also believed that, as a means of enhancing the effectiveness of the prohibition of the use of force, steps should be taken to explore ways and means of strengthening the peace-keeping capacity of the United Nations.

42. To date, efforts to enhance the effectiveness of the non-use of force had foundered because there had been no agreement on the steps to be taken to that end. Until there was some measure of common ground on the approach to the problem, it seemed unlikely that progress would be made towards solving it. Some delegations, including his own, had suggested that one way to find a common approach to a possible solution was to seek a measure of common ground as to the nature of the problem. His delegation remained prepared to participate in an analysis of the nature of the problem. If it transpired that the problem arose because the rules were unclear, his delegation would be prepared to consider what could be done to remedy the situation. If, on the other hand, the problem appeared to relate to weaknesses in the functioning of the United Nations system and/or the failure of States to give sufficient attention to peaceful means of conflict resolution, his delegation would expect future work to focus on that area. In short, his delegation was prepared to seek a meaningful foundation for future work. If others persisted in inventing meaningless gestures, it would have to continue to look elsewhere in the United Nations for a forum in which meaningful work was possible.

43. Mr. CHANTHARASAP (Thailand) said that the use of force continued to characterize the current international scene in an alarming manner, and no single category of States could be held entirely responsible for causing tensions and conflicts. A comprehensive study should therefore be conducted with a view to drafting a world treaty aimed at eliminating the use of force in international relations.

44. At present, the international community could not absolutely prohibit the use of force either by States or by the United Nations. In fact, the use of force was still an essential function of the entire international community, either for peace-keeping operations or in order to arrest any unlawful or unauthorized use of force by a State to further its own interest. The use of force by a competent United Nations organ, in the exercise of its authority, was legitimate. However, the limitations and regulations to which such authorized use of force was subject should be studied further.

45. It would be useful for an appropriate United Nations body to conduct a study on related questions. The Sixth Committee might also consider the question of defining permissible types of countermeasures, including proportionate countermeasures, legitimate self-defence and justifiable retaliation. It would be desirable to appoint a body to consider the question of the legitimacy of the use of force in particular circumstances. Lastly, the Special Committee should consider the possibility of designating an appropriate international body to consider the questions to which he had referred.

46. Mr. DROUSHIOTIS (Cyprus) said that, although the principle of non-use of force in international relations was a peremptory norm of international law, acts of aggression continued to take place, indigenous peoples were expelled from their homes, attempts were made to change the demographic character of countries through the use of force and territories and countries remained under foreign occupation. The non-aligned and developing countries had suffered the most as a result of the violation of the principle of non-use of force, and in many cases United Nations resolutions, such as those concerning Cyprus, remained unimplemented. Paragraphs 46 to 56 of the report of the Special Committee (A/38/41) largely reflected his delegation's position on the matter under consideration.

47. At its two most recent sessions, the Special Committee had made progress towards fulfilling its mandate under General Assembly resolution 37/105. The revised working paper submitted at the 1981 session of the Special Committee by 10 non-aligned countries, the proposal submitted at the 1982 session by the then Chairman, the proposal concerning the work of the Working Group made by the Chairman at the 1983 session and the practical guidance offered to the Committee in paragraph 3 of General Assembly resolution 37/105 had contributed to the advancement of its work.

48. The principle of non-use of force constituted jus cogens, from which no derogation was allowed, except in the cases of the right to wage legitimate national liberation struggles, the right of self-defence under Article 51 of the Charter of the United Nations and enforcement measures taken under Chapter VII of the Charter. Further elements of the principle of non-use of force were non-recognition of the acquisition of territories, as well as of agreements concluded in violation of the principle of non-use of force, non-recognition of changes in the cultural and demographic characteristics of territories under occupation, and responsibility for damage done to the people, territory and resources during such illegal occupation, implementation of the principle of good faith and fulfilment of treaty obligations in accordance with the generally recognized principles and rules of international law, in conformity with Article 103 of the Charter of the United Nations, and recognition of the close interrelationship between the principle of non-use of force and the principle of peaceful settlement of disputes.

49. The approach adopted by the Special Committee, which permitted substantive discussion of the principles involved without prejudging the form they should take, had facilitated its work. In his statement in the meeting of the Sixth Committee, the representative of Egypt had put forward useful suggestions that would further facilitate the Special Committee's work, and the Committee should recommend them to the Special Committee.

50. In view of the importance of the legal regulation of the use of force in international relations, his delegation was in favour of renewing the Special Committee's mandate.

51. Mr. SZEKELY (Mexico) said that the Sixth Committee must proceed with caution in its endeavour to strengthen international peace and security. Although it was

(Mr. Szekely, Mexico)

true that an ill-defined treaty on the principle of non-use of force in international relations would derogate from Article 2, paragraph 4, of the Charter of the United Nations, it must be recognized that termination of the Special Committee's mandate would produce equally negative results, since it would give the impression that there was no consensus on a fundamental rule of international law. The principle of jus cogens set forth in Article 2, paragraph 4, of the Charter could not be challenged in any international forum.

52. His Government recognized the urgency of producing, on the basis of existing rules, new rules aimed at enhancing the effectiveness of the principle of non-use of force in international relations. However, the Special Committee must avoid a dangerous and superfluous recodification exercise. Mexico was willing to co-operate in preparing pragmatic international rules to complement the relevant provisions of the Charter. Moreover, it had already demonstrated its willingness to do so through its participation in the activities of the Contadora Group, which constituted an exercise in preventive diplomacy at the regional level. His Government had also been contributing, in the regional context, to the endeavour to halt the arms race in Central America.

53. His delegation proposed that the various "headings" in the informal paper prepared by Mr. El-Araby should be considered solely with a view to drafting rules providing for practical measures aimed at enhancing the effectiveness of the principle of non-use of force in international relations, on the basis of Article 2, paragraph 4, of the Charter.

54. Mr. PETROVSKY (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, said that the representative of the United States had strayed very far from the question under consideration. The Soviet delegation had adopted a constructive approach to the important question of the non-use of force in international relations and had avoided discussing specific cases and making specific condemnations. Moreover, the use of thermonuclear weapons was an extremely important issue.

55. A number of unacceptable arguments had been advanced in the Committee in connection with the proposal for a draft treaty on the non-use of force in international relations. It had been asserted, in particular, that a treaty on the subject would constitute a threat to the Charter of the United Nations. He wished to point out that numerous major international instruments had been concluded since

had adopted an ill-advised tone of moral superiority in his statement. Perhaps he was unaware that the United States had bombed Hiroshima and was now threatening to escalate the arms race. Furthermore, in the field of human rights, racism and racial discrimination were rife in the United States, where millions of people were suffering from hunger. The United States representative also appeared to be unaware of his country's relations with South Africa.

57. Mr. ROSENSTOCK (United States of America) said that he would merely ask the members of the Committee to refer to the Soviet representative's initial statement on the item under consideration. The Soviet Union should live up to its obligation to refrain from using force in international relations.

58. In referring to the question of nuclear weapons, the Soviet representative had failed to mention the fact that, at a time when the United States had had a nuclear monopoly, it had offered to convert it into an international monopoly for peaceful purposes. He had also failed to mention that the Soviet Union had rejected that offer.

59. The Soviet Union had yet to advance a good reason for drafting a world treaty on the non-use of force in international relations. The mere fact that treaties had already been prepared on a number of questions did not mean that it would be a good idea to draft one on the non-use of force.

60. Mr. PETROVSKY (Union of Soviet Socialist Republics) said that he would be glad if the new plan for the deployment of nuclear weapons in Europe were not implemented. Furthermore, he could not see that the incident involving the Korean Air Lines plane and the need for a treaty on the non-use of force in international relations were in any way linked. The real motive of the United States in its recent attempt to force a debate on the aircraft incident upon the Security Council was to exonerate itself from blame for its provocative action that had led to the death of more than 100 innocent persons. That approach was part of the policy of acting from a position of strength which the United States was currently following, to the detriment of a number of sovereign States.

The meeting rose at 5.20 p.m.