



SUMMARY RECORD OF THE 17th MEETING

Chairman: Mr. GASTLI (Tunisia)

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AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

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The meeting was called to order at 3.15 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, A/38/509)

1. Mr. SINGH (India) said that the principle of non-use of force was recognized as a fundamental and well-established principle of law. The Charter recognized that ensuring effective implementation of that principle in international relations was dependent upon both preventive and corrective actions, which were outlined in Chapters VI and VII respectively. More significantly, the Charter also recognized and expressly referred to the promotion of various interdependent and equally important objectives such as the development of friendly relations and economic co-operation, the promotion and encouragement of respect for human rights and fundamental freedoms, and respect for equal rights of all nations and self-determination of peoples. Although the United Nations had certainly helped on many occasions to avoid another world war, the mechanisms contained in the Charter had become overstretched and hence less effective. Furthermore, as noted by the Secretary-General in his report on the work of the Organization (A/38/1), there had been a weakening of the commitment of Member States, especially the permanent members of the Security Council, to co-operate within the framework of the United Nations.

2. Given the clear need to review ways and means of enhancing the effectiveness of the principle of non-use of force, the Special Committee had a difficult but laudable mandate to fulfil, and that mandate deserved to be renewed so that the Committee could continue the promising exercise it had commenced around the proposals made by 10 non-aligned countries, the framework suggested by Mr. El-Araby and the guidelines indicated by its Chairman.

3. The Special Committee should be encouraged to pursue its work without losing time in a repetitive general debate. It should also concentrate on the formulation and elaboration of a coherent framework, without attempting to investigate particular conflict situations. There was no need at the moment to discuss the ultimate form of the future instrument. What was required was a systematic analysis of the interconnected issues and possible remedies to enhance the effectiveness of the principle of non-use of force. It was also essential to ensure that the exercise was carried out only to further that basic principle as contained in the Charter, and not to weaken it.

4. The non-aligned nations would contribute to the work of the Special Committee through constructive ideas and effective co-operation. They believed that the use of force could be eliminated only when all nations, acting as a community, strove to eliminate imperialism, colonialism, neo-colonialism, apartheid, racism, zionism and all forms of foreign aggression, occupation, interference or hegemony, as well as great-Power or bloc policies. The concept of force should therefore be broadly defined to include not only physical or military force but all forms of coercion.

(Mr. Singh, India)

In addition, all legitimate struggles for national liberation and genuine forms of self-defence should be encouraged and supported.

5. The principle of non-use of force could not be effectively promoted unless there was a recognition of the clear link between the arms race, particularly the nuclear arms race and the accompanying stockpiling of weapons and establishment of military and missile bases, and the occurrence of tension and the threat or use of force. General and complete disarmament, particularly nuclear disarmament, under effective international control, to be negotiated under the aegis of the United Nations, was therefore an essential element in enhancing the effectiveness of the principle of non-use of force. It was also the ultimate way of reversing the recessionary and inflationary conditions and chronic budgetary deficits suffered throughout the world, of promoting a climate of international co-operation under conditions of mutual confidence and of releasing massive international funds for the renewal of international economic and developmental aid.
6. The international community must continue its constant and vigilant exercise to enhance the effectiveness of the principle of non-use of force, which, in the last analysis, would determine whether mankind would live in peace or perish.
7. Mr. FONT (Spain) said that, as Rapporteur of the Special Committee, he had sought to keep its report (A/38/41) within the [37/14 C] limits set by General Assembly resolution 37/14 C. Instead of summarizing opinions on a country-by-country basis, he had indicated the various trends in the debates. For the sake of brevity and in order to facilitate the adoption of the report, he had included arguments that were primarily legal, rather than political, in character.
8. Like the other Members of the United Nations, Spain was bound by the prohibition of the threat or use of force contained in Article 2, paragraph 4, of the Charter. It believed that, given the recent increase in international tension and the constant violations of the principle of non-use of force in international relations, there was clearly a need to enhance the effectiveness of that principle. It doubted, however, that the elaboration of a treaty prohibiting the threat or use of force was the right way to achieve that objective.
9. Some delegations contended that such a treaty would clarify the provision contained in Article 2, paragraph 4, of the Charter, thus making its violation harder and its enforcement easier, while promoting the progressive development and codification of international law. Spain took the view that the Charter was very clear in prohibiting the use of force and in specifying the exceptions to the prohibition. Violations had been due not to any lack of clarity, but to the ability of some States to thwart the operation of the system of collective security. There was no question about the validity of the prohibition. What was needed was a commitment to strengthen the system of collective security and the fact-finding powers of the Security Council and the Secretary-General.
10. According to Article 103 of the Charter, in the event of a conflict between the obligations of the Members of the United Nations under the Charter and their

(Mr Font, Spain)

obligations under any other international agreement, their obligations under the Charter prevailed. It was therefore unlikely that, as some delegations claimed, the elaboration of a treaty would give greater force to the prohibition of the use of force. A repetition of the prohibition in a new instrument could not have greater force than the existing prohibition and would probably weaken it. A treaty on the non-use of force would not be ratified by all Member States and would therefore not enjoy the universality of the Charter. Anyone who argued that, in order to enhance the peremptory force of a norm, a new norm of similar content had to be established was implicitly undermining the principle pacta sunt servanda, which was the basis of the law of treaties.

11. There were also institutional reasons why the elaboration of a treaty would not be the right way to enhance the effectiveness of the principle of non-use of force. Such a treaty could turn the clock back to the early days of the system of collective security created by the League of Nations. That system had collapsed because some States had not subscribed to it, others had abandoned it and those that had remained within it had not given it their support. When the crisis had come, the Kellogg-Briand Pact and the various other non-aggression pacts signed before the Second World War had proved inadequate to protect the victims of aggression. For those reasons, the founders of the United Nations had decided to combine in a single document the normative element, in Article 2, paragraph 4, of the Charter, with the institutional element, in Article 2, paragraphs 5 and 6, and in Chapters VI and VII. The essential task was to devise an effective system of international security that all States would be committed to respect. The international community should seek to strengthen that system, not to separate the principles that were intertwined in the Charter.

12. It was in that light that States should examine the "headings" reproduced in section III of the Special Committee's report (A/38/41). For its part, the Special Committee should consider the prohibition of the use of force together with such other questions as the system of collective security, referred to under "heading" F, and the principle of peaceful settlement of disputes, referred to under "heading" E. The application of the latter principle should go further than was envisaged in the Manila Declaration on the Peaceful Settlement of International Disputes. The Special Committee should include a new "heading" on mass violations of human rights, which sometimes led to breaches of the prohibition of the threat or use of force.

13. Mr. RASON (Madagascar) said that the principle of non-use of force lay at the very foundation of the United Nations and was by far the most important principle of international law. Unfortunately, despite the efforts of the United Nations, it was being constantly violated. Since the thirty-seventh session of the General Assembly, there had been serious threats to international peace and security. The existence of centres of tension and aggression in the Middle East, southern Africa, South-West Asia, Central America and other regions of the world, the increased danger of war, the heightening of tension between States and the strengthening of coalitions and military alliances were caused mainly by the intensification of the arms race and the struggle for spheres of influence and so-called areas of vital

(Mr. Rason, Madagascar)

interest. In these circumstances, his delegation supported all efforts aimed at enhancing respect for the principles of the Charter, in particular through the elaboration of an international legal instrument to strengthen and develop the principle contained in Article 2, paragraph 4. The conclusion of such a treaty with binding force would be consistent with the international practice of drawing up treaties and agreements to implement the principles set forth in the Charter and of establishing obligations and duties for States on the basis of those principles. It would also be a practical and effective measure to strengthen commitments not to use any type of weapon and would constitute a safeguard against war.

14. Turning to the informal paper submitted to the Special Committee by Mr. El-Araby, he said that, as far as the proposed study under "heading" A was concerned, the Special Committee should focus on an analysis of the links between the principle of non-use of force and other principles of international law such as the principle of self-determination or the principle of territorial integrity. A case-by-case study of specific manifestations of the use of force seemed to be difficult to achieve and dangerous for relations between States. Under "heading" C, reference should be made to international responsibility arising out of the use of force and to measures to ensure the effective implementation of the provisions of Chapter VII of the Charter. "Heading" D must reaffirm the principle of the right of self-defence and provide a more precise definition of the concept of security. The Working Group should codify the right of colonial peoples and national liberation movements to resort to armed struggle in order to achieve self-determination and independence. The "heading" relating to the peaceful settlement of disputes was important, since that was a corollary of the principle of non-use of force in international relations. It would create a positive obligation which might encourage States to comply better with the entire range of modes of settlement provided for in Article 33 of the Charter.

15. For the first time, the Special Committee had made some modest but encouraging progress. It should build on that progress and use all available means to fulfil its mandate under General Assembly resolution 37/105, which his delegation felt should be renewed.

16. Mr. CULLEN (Argentina) said that the Special Committee's report (A/38/41) was much shorter than its previous ones and was in compliance with General Assembly resolution 37/14 C. Instead of referring directly to the statements of individual delegations, the report gave a clear account of the main trends in the discussions.

17. There was still disagreement in the General Assembly regarding the objectives and the very existence of the Special Committee. Several delegations had objected to resolution 37/105, particularly paragraphs 2 and 3. Argentina supported the existence of the Special Committee, had voted in favour of the resolution renewing its mandate and had actively participated in the work of its 1983 session. His delegation believed that efforts should be concentrated on the search for effective ways of enhancing the principles of non-use of force and peaceful settlement of disputes. It had therefore readily supported the decision to request the Special

(Mr. Cullen, Argentina)

Committee to continue its work with the goal of drafting a world treaty or such other recommendations as it deemed appropriate. The Special Committee could and should examine, on a footing of equality, all the proposals before it. One particularly useful proposal was the working paper submitted by a group of non-aligned countries.

18. The Special Committee should cease to be a forum for charges, countercharges and East-West confrontation. His delegation had supported Egypt's proposal that the Committee should dispense with a general debate and take up specific proposals from the very outset. As stated in paragraph 51 of the report, the approach should be to identify and list the problems involved in the manifestation of the use of force, then glean from the different working papers converging proposals on which general agreement might be possible and, finally, make an in-depth examination of those proposals. Some delegations had argued that the Special Committee would thus be beginning substantive work without a clear idea about objectives. Given the basic differences of opinion among its members, Argentina saw no alternative to that approach. At least the will to enhance the effectiveness of the principle embodied in Article 2 of the Charter provided a potentially unifying element.

19. His delegation endorsed the proposal reproduced in paragraph 59 of the report. Mr. El-Araby's informal working paper afforded a useful framework of reference for the Special Committee, and the discussion of the wording and content of the "headings" had already produced encouraging results. At the current stage, it would be premature to delve into the significance of each term or the question of subheadings.

20. It would not be advisable to deal with specific cases under "heading" A (Manifestations, scope and dimensions of the threat or use of force). That could lead to a sterile and counterproductive discussion in which the parties concerned would simply defend their respective positions. However, it would be important to include under the "heading" such modern forms of the use of force as economic coercion, which, although prohibited by the Charter of Economic Rights and Duties of States and by the Charter of the Organization of American States, were practised by several States that professed to abide by Article 2, paragraph 4, of the United Nations Charter.

21. His delegation did not see the need for the proposals referred to in paragraph 79 of the report, nor did it support the proposal to insert a "heading" reading "Relationships between violations of human rights and the threat or use of force" after "heading" B (General prohibition of the threat or use of force).

22. The wording of "heading" C (Consequences of the threat or use of force) was comprehensive enough. Inasmuch as the Special Committee was not yet preparing a normative instrument, it would be premature for it to deal with sanctions or enforcement measures.

23. With regard to "heading" D (Legitimate use of force), there had been recent cases in which Article 51 of the Charter had been unjustifiably invoked. It was imperative to prevent abuse of the right of self-defence.

(Mr. Cullen, Argentina)

24. The effectiveness of the principle of peaceful settlement of disputes could be enhanced by the inclusion under "heading" E of the mechanisms and procedures mentioned in Article 33 of the Charter, as well as a reference to good offices and consultation.
25. "Heading" F (Role of the United Nations) was extremely important. Unfortunately, the Security Council was not always in a position to fulfil its primary responsibility for the maintenance of international peace and security. The Special Committee should explore ways of ensuring that the Council, the General Assembly and the Secretary-General effectively discharged their respective functions.
26. His delegation was mindful of the importance of "heading" G (Disarmament and confidence-building measures). However, the question was so complex that it could be dealt with by the Special Committee only in general terms; the organs specifically concerned with disarmament should continue their work in that area.
27. Ms. NUÑEZ (Cuba) said that the principle embodied in Article 2, paragraph 4, of the Charter was a peremptory norm of international law which obliged the Members of the United Nations to refrain in their international relations from the threat or use of force.
28. World affairs were at present in a very critical state with the resurgence of the arms race, the unprecedented rise in military expenditure and the United States decision to deploy more than 550 medium-range missiles in Europe. The Special Committee had a clear mandate, under General Assembly resolution 37/105, to draft, at the earliest possible date, a world treaty on the non-use of force in international relations. The argument that that would lead to a weakening or undermining of the fundamental obligations set forth in the Charter did not bear serious examination and was not a constructive contribution to the effort to solve the problem caused by the constant violations of the principle of non-use of force. The world treaty proposed by the Union of Soviet Socialist Republics would serve to codify one of the basic principles of the Charter in the interest of international peace and security. The progressive codification of such principles had helped to strengthen, not weaken, the Charter. Conditions were right for the Special Committee to continue its work with a view to drafting a comprehensive treaty that would be binding on all States. In addition to the draft World Treaty submitted by the Soviet Union, it already had before it the working paper prepared by a group of non-aligned countries. A structured and realistic combination of the elements contained in those two documents would be conducive to a climate of understanding.
29. Some States had expressed concern about the form of the document to be produced by the Special Committee, while others had questioned the legal effectiveness of such a document at the universal level. A few States had rejected the very idea of a treaty, without presenting any valid legal or political arguments; their statements implied that they endorsed the use of force in international relations.

(Ms. Nuñez, Cuba)

30. The United States had for long been indiscriminately threatening or using force against countries struggling for their independence and sovereignty. It engaged in direct and indirect intervention, economic blockade, destabilization, blackmail, coercion, military manoeuvres, acts of armed provocation, criminal acts by the Central Intelligence Agency (CIA), organization and support of mercenary groups, and acts of genocide. It maintained a strategic alliance with the Zionists of Israel, thus sharing the responsibility for the Sabra and Shatila massacre. It was supporting the Nazi racists of Pretoria in their illegal occupation of Namibia and their acts of aggression against Angola and the front-line States. It was buttressing the tyrannies that oppressed the peoples of El Salvador and Guatemala and interfering in the internal affairs of the countries of Central America and the Caribbean. It was using lackey States such as Honduras in its attempt to undermine the revolution of the Nicaraguan people. It was encouraging subversion and economic destabilization against the people of Grenada. During the Malvinas crisis, it had sided with its European ally, thus again demonstrating its contempt for Latin America.

31. There was well-documented evidence that the foiled invasion at Playa Girón had been planned by the United States and that the CIA had been involved in plots against Fidel Castro and other Cuban leaders. For 23 years, the United States had been maintaining an unprecedented, illegal economic blockade of Cuba. It had trained and supported those who had sabotaged a Cuban civilian airliner in Barbados, killing more than 70 innocent people. United States spy planes were constantly in the vicinity of Cuba, sometimes violating its airspace.

32. Those allies of the United States which were opposed to a world treaty on the non-use of force should be asked whether or not such actions constituted violations of the principle of non-use of force, a peremptory norm of international law.

33. In order to produce the desired political effect, the United States Government was playing on the emotions of certain sectors and creating a mood of hysteria and violence, thus contributing to the deterioration of international relations and increased tension in various parts of the world. In May 1983, a United States Senator had said that Cuba should be invaded and made the fifty-first state of the Union. That statement showed how the United States based its policy on threats and aggression against independent peoples, thus violating the principles that were the corner-stone of international relations. Against that background, it was imperative for the international community to elaborate and subsequently adopt norms that would declare illegal any action likely to lead to the threat or use of force.

34. Cuba reiterated its support for the objectives of the Special Committee.

35. Mr. SHELLID (Libyan Arab Jamahiriya) said that, in view of the threat posed by the desire of imperialist Powers and racist entities to dominate the peoples of the third world, the international community must accord particular importance to steps to uphold international peace and security. The threat or use of force, and the



(Mr. Shellid, Libyan Arab Jamahiriya)

impotence of the United Nations in the face of such manifestations, undermined the whole idea of collective security. Certain Powers had defined their national or vital interests so widely that sources of friction had been created. The Security Council was prevented from fulfilling its mandate under the Charter in cases where a great Power used force against peoples, such as those of southern Africa and Palestine.

36. The principle of non-use of force was a jus cogens norm of international law, and a treaty enshrining that principle in accordance with international practice would be of great value in the progressive development and codification of international law. The Manila Declaration on the Peaceful Settlement of International Disputes, 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 General Assembly resolution 33/74 were all steps in the right direction. The argument that a reaffirmation of the principle contained in Article 2, paragraph 4, of the Charter would erode the principle itself was contradictory. His country supported all effective initiatives to strengthen full respect for the principles of the Charter, especially that concerning the non-use of force, and urged all States to act in accordance with those principles.

37. As a result of colonialist logic, certain Powers continued to violate Article 2, paragraph 4, of the Charter, in an attempt to dominate or extend their influence over peoples. His country had been the subject of various acts of provocation and direct and indirect aggression, including economic pressure and military manoeuvres near its borders, on the part of the United States. Those threats against his country were part of a foreign policy which was aimed at creating a geographical belt of influence extending from Latin America to Asia and which was always evident in the conspiracies to compromise Cuba and Nicaragua and the aggression in southern Africa and the Middle East. The establishment of military bases, the denial of self-determination and the efforts to destabilize independent States were all examples of the use of force in international relations.

38. Although the Special Committee had not made much progress in its work, mainly because there had been no agreement on whether it should produce an international treaty or a non-binding instrument, there were good grounds for optimism. The adoption of the Manila Declaration had shown that, given the necessary political will, it was possible to achieve a solution acceptable to all, despite differences of opinion. His delegation felt that the working paper submitted by the non-aligned countries should be the starting-point for the elaboration of a treaty or other instrument on the principle of non-use of force. That document should reaffirm the principle contained in the Charter, thus helping to consolidate international peace and the principles of the Charter. The document should also include all forms of military, political and economic coercion in its definition of force, should contain a clear prohibition of the use of nuclear, as well as conventional, weapons, should refer to mercenaries not simply as individuals but as persons acting in collusion with certain Powers, should recognize the legitimate

(Mr. Shellid, Libyan Arab Jamahiriya)

right of peoples fighting against colonialist and racist domination or colonial occupation to resort to armed struggle in order to achieve self-determination and independence, and should provide for the international responsibility of States which used force.

39. Mr. ALAKWAA (Yemen) said that the principle of non-use of force was the corner-stone of the foreign policy of his country, which renounced the use of force in international relations and supported the peaceful settlement of disputes among States. The general flouting of the principle had an adverse impact on international peace and security. The prevailing logic seemed to be that force could be used indiscriminately in order to acquire illegitimate gains, as was the case with Israel's aggression against the Arab countries in order to fulfil its expansionist designs. It was, therefore, essential to enhance the role and effectiveness of the United Nations by reaffirming the Charter in general, and the principle of non-use of force in particular, through the adoption of a binding international document which was not simply a repetition of the Charter.

40. He was gratified that the Special Committee had avoided the futile polemics of previous sessions and had begun considering the seven main "headings" proposed by Ambassador El-Araby, which represented a very good starting-point for its work. His delegation supported the working paper submitted by the non-aligned countries, which was a positive contribution to the work of the Committee.

41. The final document produced by the Special Committee should clearly define those cases in which force could be used in self-defence. The absence of such a definition in Article 51 of the Charter was being exploited by, for example, Israel in the occupied Arab territories, in order to achieve political ambitions and expansionist goals. It should also recognize the legitimate right of peoples to use force in the struggle to regain their homeland, in accordance with the right of self-defence enshrined in the Charter. The document should also control the abuse of the right of veto in the Security Council, in order to restore confidence in the United Nations and to guarantee the implementation of resolutions, the violation of which by certain parties harmed the United Nations. It was still too early to consider the final form which the document should take - the main thing was to concentrate on its content.

42. His delegation supported the renewal of the mandate of the Special Committee so that it could achieve its goals.

43. Mr. ENKHASAIKHAN (Mongolia) said that his delegation viewed the results of the Special Committee's 1983 session as a step forward in the implementation of its mandate, and it endorsed the comments its Chairman had made in that connection.

44. In keeping with its well-known commitment to the cause of strengthening world peace and security, Mongolia had, from the outset, fully endorsed the Soviet idea of concluding a world treaty on the non-use of force in international relations. In his delegation's view, such a treaty would serve as an important legal barrier to acts of aggression and other illegitimate uses of force in international relations.

(Mr. Enkhasaikhan, Mongolia)

45. The general debate during the current session of the General Assembly had again demonstrated a need for the international community to take all feasible measures, including legal measures, in order to preserve and strengthen world peace and security. All the participants in the general debate had expressed deep concern at the deterioration of the international situation, particularly with regard to the increased danger of nuclear war. In that connection, his delegation fully shared the view expressed by the Secretary-General in his report on the work of the Organization (A/38/1) to the effect that the prevention of nuclear war was the unique challenge of modern times, since such a war would be the ultimate negation of all human endeavour.
46. The general debate also reflected the growing tendency on the part of some States to transfer ideological disputes to the sphere of inter-State relations, thereby generating political and even military confrontation. Bilateral and regional disputes were even being portrayed as an extension of East-West confrontation, a situation which amplified their dimensions and further increased tension.
47. Among the many constructive proposals made in the face of such ominous developments was the bold step taken in 1982 by the Soviet Union, which had assumed the commitment not to be the first to use nuclear weapons. However, the other nuclear Powers had so far not responded to that act of good faith, and the Western countries had even asserted that that step had been designed to free the Soviet Union's hands so that it could use conventional weapons.
48. The Warsaw Pact countries had proposed to the NATO countries the conclusion of a treaty on the mutual non-use of military force and the maintenance of relations of peace between the countries of the two organizations. Such a treaty would, inter alia, allay fears about the use of conventional weapons. However, the NATO countries had still not responded to that proposal.
49. In a tangible contribution to efforts to remove the threat of nuclear war, the Soviet Union had proposed, at the current session, that nuclear war should be condemned and that nuclear arms should be frozen. Mongolia, like other peace-loving States, fully supported those proposals as well as the proposal to ban the use of force in outer space.
50. While the threat of nuclear war was most evident in Europe, it had recently been spreading to the Asian continent. Foreign military bases in the Far East had recently been supplied with additional sophisticated weapons, including nuclear weapons, a situation which increased the danger that such weapons might be used in that part of the world. The Middle East, South-East Asia and the Persian Gulf and Indian Ocean areas could be considered to be potential sources of conflict, and the situation in Lebanon was explosive.
51. Deeply concerned about the situation in various parts of the Asian continent, in 1981 Mongolia had advanced the idea of concluding a convention on mutual non-aggression and non-use of force in relations between the States of Asia and the

(Mr. Enkhasaikhan, Mongolia)

Pacific. In June 1981, the Mongolian Parliament had appealed to the Parliaments of all the countries of the region, and, subsequently, its President had sent special messages to that effect to the leaders of those countries and to the five permanent members of the Security Council. A similar message had also been sent to the Secretary-General of the United Nations.

52. Many countries had responded positively to his country's proposal, and, in response to requests for further information, his Government had recently issued the memorandum contained in document A/38/509. The memorandum analysed the current international situation and described the reasons underlying the proposal, its aims and the effects that such a convention would have on the situation in Asia and throughout the world. The proposal was consistent with many of the proposals which other Asian States had made with a view to maintaining peace and security in various parts of the continent. As was stressed in the memorandum, in putting forward its proposal, Mongolia had borne in mind the provisions of Article 52 of the Charter concerning regional arrangements.

53. In Mongolia's view, both large and small States would benefit from the conclusion of a regional convention banning the use of force. The large States, if truly dedicated to peace, would thus have an opportunity to allay the fears of the small States by committing themselves, in a legally binding document, not to use force. The convention would also allay the fears of those States which felt encircled by "hostile" States.

54. In his delegation's opinion, the conclusion of a world treaty on the non-use of force in international relations would help to concretize and further develop the general prohibition of the use of force, as reflected in Article 2 of the Charter. However, some delegations argued that the principle of non-use of force was sufficiently clear and needed no further elaboration, and certain States deliberately created confusion about the general prohibition of the use of force. For example, in Central America, the definition of defence was stretched so far as to include offensive operations, and attempts were being made to erase the distinction between aggression and self-defence.

55. Although the representative of the United States had stated that the obligations incumbent on States under the Charter, as it now stood, were clear and simple, he had also qualified the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations not only as incomplete but also as vague and of questionable binding nature.

56. Judging by current events, the obligations States assumed under the Charter of the Organization of American States, which had been inspired by the Charter of the United Nations, did not seem sufficiently clear for some States. Parading military power in Central America for the purpose of intimidation could not be qualified as anything but a threat of force, despite the manner in which certain Governments viewed it.

(Mr. Enkhasaikhan, Mongolia)

57. With regard to the report of the Special Committee, his delegation believed that detailed discussion of the seven "headings" would be very useful in the future formulation of the essential elements of the prohibition of the threat or use of force. However, that undertaking was still at its initial stage, and considerable effort would be required in order for the Special Committee to fulfil its mandate in that regard. The interesting suggestions made in the Committee, both on the Special Committee's method of work and on the substance of the questions it had dealt with, should all be examined closely.

58. For example, his delegation fully shared the concern expressed by a number of delegations with regard to the role of the United Nations in peace-making and peace-keeping. Although it was imperative to make a comprehensive study of the root causes of specific international problems, it was important for the Special Committee not to duplicate the work of other United Nations bodies or to divert attention from the search for legal ways and means of enhancing the principle of non-use of force. One way of enhancing the role of the United Nations would be to ensure strict implementation of the decisions taken by the Security Council and by other United Nations organs. However, the role of the Council could not be enhanced if some States, which failed to use it for their own purposes, either bypassed it or deliberately denigrated it and thus undermined its work.

59. In conclusion, he observed, that, although there were still differences in the approach to enhancing the effectiveness of the principle of non-use of force, the Special Committee's last session had been productive, and its mandate should therefore be renewed.

60. Mr. SANGSOMSAK (Lao People's Democratic Republic) commended the Chairman of the Special Committee for the competent manner in which he had introduced its report and for the efforts which he had made with a view to the codification of an international-law system of the non-use of force. Those efforts reflected the policy of peace consistently followed by Bulgaria, with which his country enjoyed friendly and brotherly relations.

61. The contemporary world was characterized by an unprecedented threat of generalized war, even nuclear war, and at the same time by an unprecedented campaign against preparations for war and by far-reaching appeals for peace. The current apprehension was indeed justified by the deterioration of existing conflicts and by the emergence of new areas of tension in different parts of the world. The colonialist, racist and apartheid régimes were intensifying their repression of oppressed peoples struggling for their dignity and national independence, while small States that had opted for social progress were constantly being subjected to intervention, interference, threats of aggression, embargoes and economic sanctions on the part of the imperialists who, at times, even used mercenaries to destabilize Governments. The use of force as a means of settling international disputes had become more frequent and, despite the sustained efforts of the United Nations, the Movement of Non-Aligned Countries and other intergovernmental organizations, peace and justice seemed increasingly remote.

(Mr. Sangsomsak, Lao People's  
Democratic Republic)

62. Some Western militaristic circles persisted in pursuing a policy of confrontation and were indifferent to the urgent appeals of anti-war movements. What was worse, they had created the dangerous doctrine of so-called "peace through force" as a pretext for accelerating the arms race in Europe, expanding their military bases and military presence in other sovereign States and extending their "zones of vital interest" in certain parts of the world. Even outer space would soon be polluted with military satellites. At the same time, terrifying doctrines, such as that of "limited nuclear war" and "electronic war", were being promoted, and joint military exercises were being carried out in every continent for the sole purpose of spreading a war scare throughout the world.

63. However, all that was merely an excuse to justify the growing use of force in an attempt to recover their position and to maintain their spheres of influence and exploitation, as was evident in the fact that the Middle East and southern Africa continued to be the scene of bloodshed, war, death and destruction. Moreover, the already explosive situation in Central America had been aggravated, on the one hand, by threats of aggression against peoples struggling to preserve their sovereignty and independence and, on the other hand, by the repression of those struggling to exercise their right to self-determination.

64. In the current period of tension and confrontation, the primary task of all peace-loving peoples was to pool their efforts with a view to preventing a nuclear conflagration. In that connection, he welcomed the timely initiative taken by the Soviet Union in elaborating a draft World Treaty on the Non-Use of Force in International Relations. The conclusion of such a treaty would fulfil the aspirations of the immense majority of peoples and would not in any way weaken the fundamental obligations set forth in the Charter, as some delegations had claimed. On the contrary, it would strengthen those obligations by prohibiting the threat or use of force and also by making the use of all types of weapons, including nuclear weapons, inadmissible. In that connection, it was heartening to note that the Soviet Union had already made the unilateral commitment not to be the first to use nuclear weapons. In his delegation's opinion, that commitment constituted a first step towards averting the danger of nuclear confrontation and, consequently, towards strengthening international peace and security. If all the nuclear Powers made a similar commitment, the threat of nuclear war would be completely eliminated.

65. His delegation also welcomed the modest but encouraging progress made by the Special Committee at its last session. For the first time, the Special Committee had succeeded in adopting a practical framework of work in the form of the seven basic "headings". His delegation wished to encourage the Working Group to pursue without delay the task of drafting the provisions of the world treaty on the non-use of force, while preparing a compilation of the proposals under consideration, in particular those put forward by the Soviet Union and the non-aligned countries. Accordingly, his delegation favoured the renewal of its mandate.

(Mr. Sangsomsak, Lao People's  
Democratic Republic)

66. His country had always strongly opposed the use of force as a means of settling conflicts between States. It therefore fully endorsed the principle of the peaceful settlement of disputes and sincerely wished to enjoy harmonious co-existence with all States in a climate of peace, friendship and co-operation. Accordingly, it had made sustained efforts with a view to the establishment of peace and stability in South East Asia and throughout the world. In addition, the Lao Minister for Foreign Affairs had reiterated to the General Assembly his Government's active support for the initiative taken by Mongolia with a view to the conclusion of a convention on non-use of force in relations between the States of Asia and the Pacific. Such an instrument would help to eliminate the danger of military confrontation, to establish a climate of confidence and co-operation and thus to strengthen international stability and security.

67. Mr. BASALEH (Democratic Yemen) said that the principle of non-use of force in international relations was one of the basic and binding principles of the Charter of the United Nations and reflected the aspiration of mankind to repudiate war and live in peace and co-operation, regardless of differences in social and economic systems. From its beginnings, the United Nations had sought to promote that principle through numerous resolutions and declarations, most recently the Manila Declaration on the Peaceful Settlement of International Disputes, which had been adopted by the General Assembly at its thirty-seventh session on the recommendation of the Sixth Committee.

68. In spite of the efforts made by the United Nations and the numerous initiatives undertaken by the peace-loving Powers to spare the world the dangers of war and annihilation, those dangers were a nightmare with which mankind was obliged to live at the present time. The world was full of weapons of mass destruction which, if only a fraction of them were used, would render human civilization a thing of the past. Nevertheless, imperialist circles were striving to develop those weapons further, to replace them by others even more lethal and more destructive and to extend their deployment to numerous regions of the world and to the oceans. In that connection, his delegation welcomed once again the initiative of the Soviet Union in declaring that it would not be the first to use nuclear weapons, and it hoped that the other nuclear Powers would follow that example.

69. The Middle East continued to be an arena for the naked use of force by Israel, which had the blessing and the unlimited support of the United States in carrying out its aggressive designs against the peoples of the Arab nation. An extremely dangerous situation could also be seen in the Caribbean region and in Central America where, in addition to the blockade and economic boycott imposed on Cuba by the United States, the American fleet was blockading Nicaragua and threatening its territory with bombardment and destruction for no other reason than that it had chosen its own way of development, something which the American Administration could not accept.

70. As the Minister for Foreign Affairs of Democratic Yemen had said in his recent statement to the General Assembly, the international situation was passing through

(Mr. Basaleh, Democratic Yemen)

its worst period since the Second World War. There was a dangerous deterioration in international relations due to the confrontation policy and the return to the cold-war principles of the American Administration, which sought to impose force and military supremacy, hegemony and subjugation. Today, the international community was a long way from achieving the basic objective of the United Nations Charter, namely the peace for which the peoples of the world were struggling.

71. The present situation required that no effort should be spared to strengthen the principle of non-use of force in international relations. For that reason, his country accorded great importance to the work of the Special Committee and had from the beginning, as had the majority of Member States, welcomed the proposal of the Soviet Union for the adoption of a world treaty on the non-use of force in international relations. That position derived from its conviction that such a treaty would help to dispel the growing mistrust in contemporary international relations, would provide political and legal guarantees for the strengthening of international détente and peaceful co-existence among different social systems and would, consequently, strengthen international peace and security.

72. His delegation had welcomed the proposals made by the Chairman of the Special Committee's 1982 session and had considered that they could be further elaborated upon on the basis of the proposals previously submitted, namely the draft World Treaty submitted by the Soviet Union, the working paper submitted by the Western States and the revised working paper submitted by the non-aligned countries. His delegation also welcomed the decision of the Working Group, adopted by consensus, to accept the suggestion of its Chairman that the seven "headings" should be considered and that texts should be proposed under each "heading" which might be taken either from the three officially submitted proposals or might be entirely new proposals or old proposals. That was a very promising step for the future work of the Special Committee. His delegation was glad that the Special Committee had adopted a practical procedure for fulfilling its mandate and that it had avoided the general debates which had characterized its previous sessions. It would support the renewal of the Special Committee's mandate.

73. Mr. BUBEN (Byelorussian Soviet Socialist Republic) said that, despite the provisions of the United Nations Charter regarding the non-use of force in international relations, aggressive imperialistic circles were still using force or the threat of force, albeit in a new guise - gunboat diplomacy had been replaced by aircraft-carrier diplomacy and rapid deployment forces. The racist régime in South Africa, under Western patronage, continued its political and economic destabilization of the neighbouring States of Angola, Mozambique, Zambia, Zimbabwe, Botswana, Lesotho, Swaziland and the Seychelles, which, as the Seventh Conference of Heads of State or Government of Non-Aligned Countries had recognized, the campaign of pressure and threats against Cuba, Nicaragua and other Caribbean and Central American States continued unabated, with the territory of several countries in the region being used as bases for sabotage and armed attacks. Blood was also being shed in the Middle East, where Arab territory continued to be occupied by force; the campaign of destabilization against Afghanistan and the Government of Democratic Kampuchea continued, and there again, neighbouring territories were used



(Mr. Buben, Byelorussian SSR)

as hostile bases. There had even been attempts to spread colonial policies from a position of strength in the South Atlantic.

74. The danger that such aggressive acts of brigandage could grow into a nuclear conflict made it ever more necessary to elevate the principle of non-use of force into an established rule of international policy by outlawing nuclear weapons and devising measures of genuine disarmament as a means of promoting trust between States.

75. The Committee's discussions at the current session had revealed much apprehension about the deterioration of the international situation and the danger of catastrophic nuclear war, and concerted action was therefore necessary to devise practical methods of averting war. One such method would be the adoption by the General Assembly of a declaration condemning nuclear war and any doctrines and concepts designed to justify its legitimacy. The USSR had submitted a draft declaration on those lines for consideration by the General Assembly (A/38/243).

76. Another important practical measure to halt the arms race and remove the threat of nuclear war would be the imposition of a freeze on nuclear weapons by all States possessing them, and a proposal to that end was before the General Assembly. In addition, the Warsaw Pact Powers had proposed to NATO a treaty on the non-use of armed force.

77. A further effective means of discouraging the use of arms to settle international disputes would be the conclusion of a universal declaration on the non-use of force, centred around the provisions of the United Nations Charter and calling upon States to renounce the threat or use of force including nuclear arms and other weapons of mass destruction.

78. The report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations (A/38/41) on the work of its sixth session showed that there had been some positive results despite the efforts of some NATO members to impede the Special Committee's work by raising extraneous issues. He fully concurred with the view expressed in the report that the existence of the Special Committee was a reality and that therefore all efforts should be made to ensure the successful outcome of its sessions (A/38/41, para. 50).

79. The Working Group of the Special Committee had discussed under seven "headings" various aspects of the non-use of force. He found the suggestion in paragraph 65 of the report that specific cases should be analysed to see whether it was desirable to clarify the principle of non-use of force would not only lead to unprofitable dissension in the Special Committee but would encroach on the prerogatives of the Security Council and the General Assembly. The question of whether or not the principle needed clarifying had in any case been answered by General Assembly resolution 37/105, approved by 119 members out of 142 voting, which instructed the Special Committee to draft at the earliest possible date a world treaty on the non-use of force in international relations.

(Mr. Buben, Byelorussian SSR)

80. "Heading" B of the Special Committee's report (General prohibition of the threat or use of force) was a key element of the Special Committee's work, and he supported the idea of grouping under that "heading" all proposals for the concretization of the principle of non-use of force in the light of present-day nuclear reality.

81. Under "heading" D (Legitimate use of force) should be considered such questions as the inalienable right of individual and collective self-defence enshrined in Article 51 of the Charter and the legitimate right of States under colonial and racist régimes to use all means at their disposal in their struggle for freedom. That right was rooted in the United Nations Charter; it had been amply confirmed by decisions of the Security Council and by General Assembly resolutions and was inherent in the definition of aggression.

82. The conclusion of a universal agreement on the non-use of force in international relations would undoubtedly foster an atmosphere of trust among States and, by encouraging them to take practical steps to limit the arms race, would strengthen international peace and security. Such a measure would be fully in keeping with the well-tried international practice of infusing life into the principles of the United Nations Charter. It could not be seriously maintained that the concretization and further development of the principle of non-use of force in many multilateral, regional and bilateral agreements during the post-war period had in any way detracted from the fundamental obligation of non-violence contained in the United Nations Charter. A world treaty on the non-use of force could only strengthen the general prohibition of violence and concretize the principle that the use of any kinds of weapons was inadmissible.

83. Therefore, at its next session, the Special Committee should prepare a working paper containing the fundamental elements of the principle of non-use of force in international relations. He hoped that the members of the Special Committee would continue to work in a spirit of co-operation and mutual understanding and resist the attempts of some representatives of Western countries to lure them into byways of dissension and confrontation.

84. Mr. JESUS (Cape Verde) said that observance of the principle of non-use of force in international relations by all States, regardless of their political and social system, was of paramount importance with a view to eliminating the threat of war and the risk of nuclear catastrophe. His country therefore fully supported any initiative, whether of a technical, legal or political nature, which would help to enhance the effectiveness of that principle.

85. Although the Special Committee was still far from fulfilling its mandate, its last session had been very fruitful and discussion had been initiated on more concrete suggestions. While the prohibition of the use of force in international relations was clearly established in the Charter and had been developed in General Assembly resolution 2625 (XXV), a normative approach could help to clarify the principle of non-use of force. The paper prepared by Mr. El-Araby showed what could be achieved in that respect.

(Mr. Jesus, Cape Verde)

86. His delegation agreed that the Special Committee should be given new guidelines for the discharge of its mandate but that, for the sake of compromise, it should be allowed flexibility in deciding on the legal status of the document to be adopted.
87. The use of force in international relations endangered the life, freedom, physical integrity and wealth of peoples, and provision should accordingly be made for war of aggression to be considered an international crime. To strengthen the principle of peaceful settlement of disputes, provision should also be made for an obligation to be imposed on countries, particularly those that were parties to long-standing conflicts, to sign either bilateral or multilateral treaties or other binding instruments of non-aggression. In that connection, he drew attention to the ministerial declaration adopted recently by the non-aligned countries, which, in dealing with the settlement of the conflict in Central America, had pointed out the necessity of achieving the security of all States in Central America by the signing of treaties of non-aggression and non-interference between the States of the region and other countries involved.
88. With regard to the heading concerning the legitimate use of force, his delegation was of the view that due attention should be paid to exceptions to the principle of non-use of force. Contrary to the views outlined in paragraph 104 of the report (A/38/41), his delegation attached great importance to the explicit mention of those exceptions in the document to be prepared on the matter. In accordance with the Charter, the use of force was unlawful unless it was applied as a sanction ordered or authorized by a competent international organ or organization or was exercised as a legitimate act of self-defence.
89. Due attention should also be paid to the right of colonial peoples and national liberation movements to engage in armed struggle in order to achieve self-determination and independence. The legal foundation of the national liberation struggle could be found in the principle of equal rights and self-determination of peoples embodied in the Charter and recognized in many United Nations resolutions.
90. In addition to the normative approach, other initiatives should be undertaken with a view to enhancing the effectiveness of the principle of non-use of force. For example, the collective security system should be strengthened. Despite the fact that Article 1, paragraph 1, of the Charter provided for effective collective measures to be taken for the prevention and removal of threats to the peace, and despite the great confidence placed in the collective security system for the maintenance of international peace and security, that system had been blocked by rivalries between the permanent members of the Security Council. Accordingly, enhancing the effectiveness of the principle of non-use of force clearly depended to a large extent on the good will of countries, and the development of a legal régime governing the principle of non-use of force must be accompanied by a serious political commitment on the part of all countries not to resort to force in their international relations.

91. Mr. KOROMA (Sierra Leone) said that the precariousness of the current international situation, which resulted from the increased use of force by States, was such that the world faced the threat of nuclear annihilation. In that connection, his delegation wished to reiterate its proposal that the title of the item under consideration should be amended to refer to both the threat and the use of force in international relations, since both were prohibited in Article 2, paragraph 4, of the Charter and both were extremely relevant.

92. The increased use of force in international relations had resulted in a severe buffeting of the existing international system and in the disintegration of the legal safeguards provided for States under the Charter. Moreover, the growing tendency to resort to force threatened international stability and was replacing respect for obligations in international relations. The unremitting use of force was particularly dangerous for the United Nations: it had weakened the Organization to the point where international peace could no longer be maintained. Sierra Leone, a small nation which had placed its international security in the hands of the United Nations, viewed those developments with increasing concern, as was evident from its support for efforts to enhance the effectiveness of the principle of non-use of force in international relations.

93. In order to arrest the alarming trend, some delegations called for strict compliance with the provisions of the Charter. Others believed that a world treaty on the non-use of force in international relations should be concluded, and others again considered that the security provisions envisaged in the Charter must be implemented in order to prevent States from continuing to use force in their international relations.

94. In his view, neither of the first two prescriptions could solve the problem. Since the fundamental purpose of the United Nations was to maintain international peace and security, the Charter contained collective security provisions, but they had never been implemented. The inability to maintain peace resulted from the Security Council's failure to agree to implement those provisions. Consequently, it had been assumed that they would never be implemented, and those States which had expected that the Security Council would ultimately defend their independence and sovereignty felt betrayed.

95. The failure to implement the system of collective security had also been regarded as licence to resort to force, to continue to use force and to repudiate the collective machinery provided for in the Charter. In addition to debilitating the Organization, it had eroded the confidence of those who had entrusted the Organization with their security and had demonstrated that the United Nations could not fulfil its most important function of maintaining international peace and security. The Security Council itself had been reduced to a forum where complaints were merely aired, generally to no avail. Increasingly, it had been by-passed, even on issues that were clearly within its competence. The Secretary-General had been relegated to the role of issuing statements of regret or appeals for restraint. As a result, the authority, integrity and effectiveness of the Organization had been called in question.

(Mr. Koroma, Sierra Leone)

96. The ways in which the United Nations had strayed in recent years from the doctrines of its Charter had been fully stated by the Secretary-General in his report on the work of the Organization to the General Assembly at its thirty-seventh session (see A/37/1, third paragraph).
97. The collective security system had been intended to prevent the threat or use of force and to maintain peace or, failing that, to defend States subjected to force or aggression. In that system, the primary responsibility for the maintenance of international peace and security rested with the Council, and if cases of breach of the peace or acts of aggression occurred it had to decide what action to take to restore peace and ensure implementation of its decisions. Unfortunately, since the inception of the Organization the hopes placed in the collective security system had not been borne out, and when States realized that that was so they began to seek refuge in armaments and the use of force.
98. The most effective way to enhance the principle of non-use of force or threat of force in international relations was by immediately implementing the collective security system provided by the Charter. That would be both an exercise in practical utility and a reaffirmation of faith. It would give assurance that, in all cases of aggression, sanctions would be applied by all, and that could only be achieved if sanctions were made obligatory. If the collective security provisions were implemented, the authority of the Organization would be restored and aggression would never again go unchecked for want of collective action. He urged that examination of the collective security system should be given priority on the agenda of the Special Committee.
99. Mr. FILBY (United States of America), speaking in exercise of the right of reply, said that he could have welcomed Cuba's belated interest in disarmament, had he not found it difficult to respect a view that criticized the armaments of one side only and failed to recognize the incredible build-up of SS-20 and other weapons in Eastern Europe. Recognition of that fact would enhance Cuba's image as a spokesman on disarmament. The Committee had heard attacks on those who opposed the Soviet draft treaty, but had not been given any arguments in its favour. He had no objection to discussing specific examples if there was some constructive purpose to be achieved by so doing. The Committee had heard the Cuban version of reality, but that seemed to have little to do with the item under discussion, namely, whether a new normative instrument was or was not necessary. All the representative of Cuba had done in fact was to show that, according to her view of reality, there was no need for a new normative instrument at all.
100. Ms. NUÑEZ (Cuba), speaking in exercise of the right of reply, said that Cuba sent troops abroad only when requested to do so by the Governments of sovereign States; it also sent doctors, technicians and the like and would continue to do so.
101. She rejected the United States representative's view that the Cuban statement had been irrelevant. Her object had been to show that the United States violated the principle of non-use of force by its policy of blackmail and coercion against other Governments.

(Ms. Nufiez, Cuba)

102. She quoted from a document sent by the United States Government to the capitals of various sovereign States suggesting how they might conduct themselves during the thirty-eighth session of the General Assembly and urging its friends in the United Nations to rally to its support. The document pointed out that non-alignment was not of itself a justification for speeches or votes directed positively against the United States, and mentioned the status of Puerto Rico as an issue on which the United States should be supported. It threatened that, if the credentials of Israel were rejected, the United States would terminate its membership of the United Nations. Recent developments in Central America threatened the security of the United States, and the principles of non-intervention, self-determination and peaceful settlement of disputes were being infringed by the actions of the USSR, Cuba, Libya and Nicaragua. The document concluded by saying that no country which depended on American protection or support should withhold its support from the United States in the United Nations. Her delegation could make a copy of the document available to interested delegations on request.

The meeting rose at 6.25 p.m.