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SIXTH COMMITTEE  
55th meeting  
held on  
Friday, 24 November 1978  
at 10.30 a.m.  
New York

SUMMARY RECORD OF THE 55th MEETING

Chairman: Mr. BOLINTINEANU (Romania)

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ORGANIZATION OF WORK

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The meeting was called to order at 11 a.m.

AGENDA ITEM 117: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)  
(A/C.6/33/L.8)

1. The CHAIRMAN announced that Jordan had joined the sponsors of draft resolution A/C.6/33/L.8.

AGENDA ITEM 121: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)  
(A/33/41; A/C.6/33/L.7 and Corr.1, L.9)

2. Mr. RAMANDRAIARISOA (Madagascar) noted that the Special Committee had not been able to complete its work because of the complexity of its task, lack of agreement among its members on almost all issues, and insufficient working time. His delegation was, however, pleased with the work accomplished by the Special Committee and with its interesting and detailed report. The differences of opinion within the Special Committee could be overcome if present realities were taken into consideration. His delegation, which was a sponsor of draft resolution A/C.6/33/L.7, felt that the mandate of the Special Committee should be extended so that it could complete its work on the draft treaty at the next session. He hoped that the Sixth Committee would adopt that resolution by consensus.

3. With regard to the draft treaty, he observed that the principle of non-use of force, which was embodied in Article 2, paragraph 4, of the United Nations Charter, was recognized by virtually all States as one of the foundations of international relations. The Special Committee's report noted that, although a third world war had not taken place during the last three decades, numerous cases of violence had occurred in the world. Since regional trouble-spots could always degenerate into international conflicts, no effort must be spared in preventing the use of force. Agreements on security should be of interest to all countries of the world, and the principle of non-use of force should be the foundation of the foreign policies of all States.

4. The draft treaty under consideration would undoubtedly strengthen the role of the United Nations, contribute to the strengthening of international peace and security, and increase mutual trust among States. He felt that the efforts of the Organization to codify the non-use of force were of value since the provisions of the Charter were not always respected. His delegation fully endorsed article III of the draft treaty, which provided that the treaty would not affect the rights and obligations of States under the Charter of the United Nations and treaties and agreements concluded by them earlier. If it was to promote confidence, the treaty must be universal in character and must contain guarantees for international security and the establishment of real détente.

5. His delegation stressed the importance of the treaty in connexion with disarmament and noted with satisfaction the provisions of articles I, II and IV. Concrete proposals had been made regarding the implementation of the principle of

(Mr. Ramandraiarisoa, Madagascar)

non-use of force in article V, but that important article should specify the obligations of the contracting parties in greater detail. The treaty should also mention means of exerting pressure to ensure that it was effective and was complied with by all States. It must also be made clear that the conclusion of the treaty would in no way impair the legitimate right of States to self-defence or the right of countries still under colonial rule to fight for their independence and freedom.

6. He felt that the draft treaty was generally acceptable provided that account was taken of the observations made by his delegation.

7. Mr. ANDREWS (Liberia) said that his delegation was in favour of extending the mandate of the Special Committee. Although the latter's task was difficult and complex, he was sure that, with goodwill and determination, success was possible. All the delegations which had addressed the Sixth Committee on the present item agreed in principle on the need for a treaty on the non-use of force. Yet, treaties, however good and useful, were not enough. If every State which had signed the United Nations Charter would scrupulously observe its provisions, especially Article 2, and those of the Universal Declaration of Human Rights, there might be no need for a treaty on the non-use of force in international relations. Members of the Sixth Committee spoke as if the conclusion and ratification of such a treaty by Member States would automatically usher in an era of peace and tranquillity on earth. His delegation felt that a world truly free of the use of force could be achieved only through goodwill, a spirit of fair play and conciliation, recognition of the dignity of the human person, and respect for the sanctity of life and the sovereignty of States. The non-use of force could not be legislated. It must be a matter of the hearts and consciences of the people of the world.

8. The world was caught up in a paradox: at the same time that delegations proclaimed the desirability of the principle of non-use of force, the military-industrial complexes of the world were producing tons of destructive weapons - far more than was needed for defence. Surplus weapons were sold to developing countries which could ill afford to purchase them. The next step was the utilization of those weapons by the developing countries, which would destroy themselves in proxy wars on behalf of one ideology or another.

9. While they searched for a treaty on the non-use of force, the great Powers should reorient their military-industrial complexes away from the production of weapons of destruction to the production of weapons for the war against ignorance, poverty and disease. They must achieve meaningful agreement on general disarmament, and, in particular, a ban on the use of nuclear weapons and on the spread of nuclear technology for military purposes. They must desist from supplying weapons to the countries of Asia, Africa and the Middle East. West Africa enjoyed peace because of the unceasing efforts of the President of Liberia, Dr. Tolbert, and the leaders of the other States in the area. With goodwill, a spirit of compromise, and respect for the principles of the United Nations Charter, they were able to

(Mr. Andrews, Liberia)

resolve their differences peacefully. His delegation commended that approach to the rest of the world. He reminded Member States that treaties were only pieces of paper; it was the conscience of the world that would produce peace.

10. Mr. ERDEMBILEG (Mongolia) said that the question of enhancing the effectiveness of the principle of non-use of force in international relations was one of the most important matters before the Sixth Committee and was directly connected with the strengthening of international peace and security, the consolidation of détente and the creation of additional guarantees for the security of nations. The progressive development and codification of that principle, as embodied in Article 2, paragraph 4, of the United Nations Charter, was an extremely important task which called for defining the responsibilities of States and creating the necessary legal prerequisites for more effective implementation of the provisions of the Charter. His delegation fully supported the initiative of the Soviet Union calling for the conclusion of a world treaty on the non-use of force in international relations and the transformation of that principle into a basic law of international relations. The repeated violations of the principle of non-use of force in the post-war period had undermined international peace and security. Since the ratification of the United Nations Charter, profound changes calling for the strengthening of that principle had taken place in the world. The appearance of nuclear and other weapons of mass destruction presented a threat to international peace and had intensified the arms race. Yet, the threat of nuclear catastrophe did not remove the danger of wars involving the use of so-called conventional weapons. Since 1945, more than 100 wars had broken out and millions of lives had been lost. Explosive trouble-spots still existed in various parts of the world posing a threat to international peace and security. It was therefore logical that States should take decisive steps to prevent aggression and armed conflict and to ban the use or threat of force in international relations. His Government felt that the actions of States which engaged in propaganda and preparations for war, interfered in the internal affairs of other countries by pressure and blackmail, and made claims on the territory of neighbouring States were a clear threat of the use of force.

11. His delegation felt that the positive changes that had occurred in recent years in international relations, such as the change from confrontation to dialogue and co-operation, created favourable conditions for enhancing the effectiveness of the principle of non-use of force in international relations. The Soviet proposal for the conclusion of an international convention on the strengthening of guarantees of the security of non-nuclear States was yet another example of the determination of States to take practical measures prohibiting the use of nuclear weapons by nuclear Powers against non-nuclear States. The adoption of that convention would have a favourable effect on the international atmosphere and would strengthen trust between States, as had once again been affirmed in the Declaration of the States Parties to the Warsaw Pact signed recently in Moscow. In that context, his delegation felt that the problem of enhancing the effectiveness of the principle of

(Mr. Erdembileg, Mongolia)

non-use of force in international relations should be solved together with the problem of prohibiting nuclear weapons. The necessary legal prerequisites in that regard already existed. The principle of non-use of force was reflected in a number of bilateral and multilateral treaties, in documents adopted by the non-aligned countries and in the Final Act of the European Conference on Security and Co-operation. Furthermore, in recent years the United Nations had adopted such international legal instruments as the Declaration on Principles of International Law and the Declaration on the Strengthening of International Security, which provided a further legal basis for the elaboration of universally binding rules of law in that regard.

12. His delegation felt that the Special Committee had begun its work in a businesslike manner and that the general discussion in which States had set forth their positions had been fruitful. The report showed that the members of the Special Committee recognized the need to enhance the effectiveness of the principle of non-use of force in international relations and that the overwhelming majority of them regarded the Soviet draft treaty as an acceptable basis for the elaboration of a world treaty on the subject. The report also showed that those who were opposed to the conclusion of a treaty had not advanced any sound arguments in support of their obstructionist position. His delegation felt that the drafting and adoption of such a treaty, which was fully in keeping with the purposes and principles of the United Nations Charter, would serve to enhance the effectiveness of the Charter and further the noble goals of the Organization. It believed that the Special Committee had made progress in carrying out its mandate and that the General Assembly should extend that mandate, as called for in draft resolution A/C.6/33/L.7.

13. Mr. FRANCIS (Jamaica) said that when the Special Committee had been established at the thirty-second session of the General Assembly, it had been expected that the Committee's deliberations would be tedious and protracted; the Committee's first report showed that that had been the case. He agreed with the representative of Liberia that the question of the non-use of force was probably the most complex and delicate issue ever assigned to the Sixth Committee. Essentially, the Special Committee's mandate called for the drafting of a treaty on the non-use of force in international relations, which would involve the abandonment of the final option in the exercise of State power.

14. There were two pre-conditions for the conclusion of a multilateral treaty on the non-use of force in the contemporary world: firstly, there must be complete understanding among the permanent members of the Security Council with regard to military, strategic and political considerations, and secondly, as far as the other Members of the United Nations were concerned, there must be implicit confidence in the practical effectiveness of the international security system rather than satisfaction with the mere existence of the necessary machinery. States were not diabolical entities nor were they led by irrational human beings; yet, they resorted to the use of force despite Article 2, paragraph 4, of the Charter. Although he agreed with the statement by the late Mr. Amado that States were not children, he nevertheless believed that they resembled children in that they would resort to force in their relations with other States if they knew that no effective sanctions would be applied as a result.

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(Mr. Francis, Jamaica)

15. Article 2, paragraph 4, of the Charter, although organically related to paragraph 3 of that article, prescribed a separate and independent obligation. In an institutional sense, however, Article 2, paragraph 4, had not been expected to stand alone; it was to be buttressed by the effective implementation of Chapter VII of the Charter, and account should be taken of that fact when it was argued that a treaty on the non-use of force was not necessary in the light of the existence of Article 2, paragraph 4, of the Charter. His delegation hoped and believed that the mandate of the Special Committee would afford the guardians of the international security system established under Chapter VII of the Charter a new opportunity to achieve the degree of understanding necessary to ensure the effective operation of that system.

16. He agreed with the view that the rights of peoples in the struggle for self-determination should be preserved in the treaty and that account should be taken of article 7 of the definition of aggression contained in General Assembly resolution 3314 (XXIX) and also of resolution 2625 (XXV) in so far as it provided for the right of peoples to use force in the struggle for independence and liberation. The report properly reflected the belief that any breach of the treaty would give rise to sanctions under Chapter VII of the Charter. He suggested that provision should be made in the treaty for the retention by the Security Council of its competence, under Article 39 of the Charter to determine the application of sanctions.

17. The question of the non-use of force was unquestionably inseparable from that of the peaceful settlement of disputes, and the latter was therefore implicit in the Special Committee's mandate. To attempt to conclude a treaty or other instrument without combining the two elements would be a futile endeavour. He thoroughly agreed with the suggestion by the representative of Canada that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should transmit its recommendations concerning the peaceful settlement of disputes to the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations. Clearly, the question of the peaceful settlement of disputes was within the terms of reference of the Special Committee on the Charter; if the suggestion by the representative of Canada was taken up, the two Committees could avoid duplicating their efforts. It might be appropriate to incorporate that suggestion into the draft resolution on the report of the Special Committee on the Charter (A/C.6/33/L.8) so that the Special Committee could take appropriate action at its next session.

18. In conclusion, he urged the members of the Special Committee on Non-Use of Force to proceed with their work in the customary spirit of conciliation. He was sure that a great measure of success would emerge from their deliberations.

19. Mr. BOUZIRI (Tunisia) said his delegation did not believe that it was desirable for the Special Committee to continue to consider the question of the peaceful settlement of disputes together with that of the non-use of force. The first of those two questions fell within the competence of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. Not only would it be a waste of time and money for two Committees

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(Mr. Bouziri, Tunisia)

to deal with the same question but there would also be the risk of their reaching different conclusions, as suggested in paragraph 17 of the report. Furthermore, the Special Committee on the Charter had already reached an advanced stage in its consideration of the question of the peaceful settlement of disputes and it would not be appropriate to remove the item from its agenda; that Committee was also considering the very important question of the maintenance of international peace and security, which was very closely linked to the peaceful settlement of disputes. Finally, there was a legal distinction to be drawn between the question of the non-use of force and that of the peaceful settlement of disputes. The former was a negative principle prohibiting the performance of a specific action, whereas the latter was an active principle requiring certain actions, such as negotiations and recourse to arbitration, to be performed. For all those reasons, his delegation felt that the Special Committee on Non-Use of Force should cease to concern itself with the question of the peaceful settlement of disputes.

20. Although his delegation would prefer that the legal instrument to be concluded should take the form of a treaty, it believed that the reservations expressed in the Sixth Committee and in the Special Committee should be examined closely and that careful thought should be given to the situation which might arise if numerous countries could not become parties to such a treaty. If that should happen, it would not be sufficient to describe those which had signed as the good countries and those which had not as the bad ones.

21. It was clear from the statement by the Chairman of the Special Committee that if the effectiveness of the principle set forth in Article 2, paragraph 4, of the Charter was to be enhanced, the treaty should go beyond the provisions of the Charter. In the course of the discussion on the report of the Special Committee on the Charter, his delegation had expressed the wish that the Charter should be supplemented; it was therefore pleased at the fact that the Soviet draft treaty went beyond the provisions of the Charter in order to make the latter more effective.

22. In paragraph 61 of the report, it was stated that the treaty must have the support of the permanent members of the Security Council. However, apart from any reservations as to the substance of the instrument, several members of the Security Council had expressed serious reservations as to whether it should take the form of a treaty. Efforts should therefore be made on all sides to overcome such obstacles. Finally, his delegation believed that the treaty or other instrument should include three provisions calling for the progressive dismantling of military pacts and alliances, non-recognition of the doctrine of "limited sovereignty" and recognition of the right of self-defence and of the right to use force pursuant to Article 51 of the Charter. It was clear to his delegation that the instrument finally concluded should reflect not a world divided into blocs but one in which all countries were free and sovereign and from which military alliances were absent. The draft submitted by the Soviet delegation therefore seemed obscure in parts and incomplete.

23. His delegation believed that the mandate of the Special Committee should be renewed, and, despite the reservations it had expressed regarding operative paragraph 2 of draft resolution A/C.6/33/L.7, it would vote in favour of the draft.

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24. Mr. ROSENSTOCK (United States of America) said that the drafting of a treaty on the non-use of force was both time-wasting and dangerous. His delegation's opposition to such a treaty did not signify opposition to the principle of the non-use of force, but rather to an essentially pernicious and unproductive way of dealing with the problem. If there had been any doubt as to the imperative character of Article 2, paragraph 4, of the Charter, or if the outbreaks of violence that had occurred since 1945 might have been prevented, given a more detailed understanding of that paragraph, there might be a case for considering the elaboration of a suitable instrument relating to the use of force. His delegation saw no evidence that that was so, and it challenged the main proponent of the item under consideration to demonstrate otherwise.

25. As long as the Members of the United Nations distracted themselves with treaties pledging not to do what they were already legally prohibited from doing, they would fail to concentrate on the real problems existing in the world, such as privation, denial of human rights and the inability of the international system, as embodied in the United Nations, to elaborate machinery which would provide a satisfactory, or at least sufficiently utilized, alternative to the use of force through dispute settlement and collective security.

26. The monumental contribution of the United Nations Charter was the treatment of the prohibition of the threat or use of force in the context of a comprehensive collective-security system. All aspects of that system were interrelated and vital. The lesson of the period preceding the Second World War had been that the prohibition of the use of force was not enough. If States were to be led away from the use of force as a means of settling disputes, they must be prevailed upon to settle those disputes by peaceful means and their fears and anxieties must be met by a functioning, comprehensive collective-security system. In that regard, he had been impressed by the observations made by the representative of Jamaica. To concentrate, at the current stage, on the prohibition of the use of force, rather than on the functioning of the system as a whole, would mark a tragic step backward into the retrogressive development of law and institutions.

27. Those who contributed so little to alleviating the economic plight of developing countries might wish to distract the international community from the problems of poverty and want; those who did not accord basic human rights to their own nationals might wish to distract it from human rights concerns; those who feared third-party dispute settlement might wish to distract it from dispute-settlement machinery as a viable alternative to the use of force; those who violated the principle of collective responsibility for peace-keeping by refusing to pay even for forces duly approved by the Security Council might wish to distract the international community from that breach of the Charter; and those who elaborated obnoxious doctrines in order to justify invasion of a country and prevent that country from freely choosing its own social and economic system might wish to make the international community forget what they had done or, even worse, to trap it into acceding to an instrument which could be used to justify such an invasion. The United Nations must not let itself be distracted by the chimera of a draft treaty.

28. The elaboration of a redundant treaty was not only a gross misuse of scarce human and financial resources but was also dangerous. It would weaken treaty



(Mr. Rosenstock, United States)

obligations under the Charter to suggest that two treaties were better than one. If a new draft treaty were merely to repeat the Charter, a further danger lay in the conclusion that might be drawn if a particular State chose not to become a party. Would that State be relieved of its Charter obligations, or was the solemn act of becoming a party to a treaty to be reduced to meaninglessness since parties and non-parties would be in the same legal position? If the new treaty should differ from the Charter in any respect, the confusion would only be compounded. Nor would the serious and dangerous nature of the confusion be limited to Article 2, paragraph 4, of the Charter, since any change or clouding of the rules contained therein would affect Article 51 in particular and the entire collective-security mechanism as well. His delegation's wish to avoid confusion in the law relating to the non-use of force and in the Charter was prompted by the desire to take both seriously.

29. His delegation placed great emphasis on the peaceful settlement of disputes and therefore noted with some satisfaction that draft resolution A/C.6/33/L.7 treated peaceful settlement on an equal footing with the non-use of force. If the Special Committee devoted the bulk of its energies to analysing an appropriate response to the failure of States to settle disputes and elaborated machinery so that disputes did not fester until they finally exploded, it might serve a useful function. A mere repetition of Article 33 would provide no assistance in the area of peaceful settlement of disputes.

30. There were many ways of enhancing the effectiveness of the principle of non-use of force. Improving the resort to methods of peaceful settlement of disputes was clearly one, and improving the functioning of the collective-security system of the United Nations was another. His delegation had made a number of concrete suggestions in that regard in the Special Committee. He hoped that the Special Committee would focus on means of that sort to enhance the effectiveness of the principle of non-use of force.

31. The continued mention in draft resolution A/C.6/33/L.7 of the concept of a world treaty on the non-use of force could distract the Special Committee from the useful tasks it might perform. For that reason, his delegation could not support that draft. However, in view of the breadth of the Special Committee's mandate, his delegation was prepared to continue to participate in its work and to co-operate with it in examining reasonable measures that could be taken to diminish the threat or use of force.

32. Mr. BAROODY (Saudi Arabia) said that over the past 30 years there had been a trend away from open confrontations between the major Powers, possibly because of the existence of nuclear weapons, and towards covert and subversive activities involving interference in the internal affairs of States by intelligence agencies. In certain instances, those activities had led to the overthrow of régimes considered to be unfriendly by the intelligence agencies in question. The Special Committee should take account of such activities in its work. Accordingly, he proposed that the following paragraph should be inserted after paragraph 3 of draft resolution A/C.6/33/L.7:

(Mr. Baroody, Saudi Arabia)

"Recommends to the Special Committee to include in its studies the increase of covert interference in the affairs of other States calculated to bring about coups d'état by resorting to the surreptitious use of force from within those States."

#### ORGANIZATION OF WORK

33. Mr. KATEKA (United Republic of Tanzania) appealed to the Chairman not to allow decisions to be taken on draft resolutions in the Committee unless notice of the intention to do so had first been given in the Journal. That matter was of particular importance to missions with limited manpower.

34. The CHAIRMAN said that that point was well taken. He suggested that the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" should be included in the agenda for the following meeting to enable draft resolution A/C.6/33/L.8 to be introduced at that time.

35. Mr. ROSENSTOCK (United States of America) said that, while he agreed wholeheartedly with the views expressed by the Tanzanian representative and with the practice of adding items to the agendas of meetings at the appropriate time, the Committee should not adopt resolutions involving the timing and location of meetings until it had had an opportunity to hold informal consultations on the scheduling of meetings for 1979. A number of delegations had noted that the existing schedule for 1979 presented extreme difficulties. He expressed the hope that it would be possible to hold informal consultations at an early date.

36. Mr. GAVIRIA (Colombia) said that he agreed with the views expressed by the Tanzanian representative. He also felt that the Committee should proceed to the adoption of draft resolutions on items of which it had already concluded consideration. He wondered if there was any technical problem which might prevent the Committee from considering draft resolution A/C.6/33/L.8.

37. Mr. ROMANOV (Secretary of the Committee) said that the statement of the financial implications of draft resolution A/C.6/33/L.8 would be circulated to delegations on Monday, 27 November, in accordance with rule 153 of the rules of procedure. The Committee was, of course, master of its own procedure.

The meeting rose at 12.50 p.m.