



SUMMARY RECORD OF THE 56th MEETING

Chairman: Mr. FERRARI-BRAVO (Italy)

CONTENTS

ORGANIZATION OF WORK

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)

AGENDA ITEM 121: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

* This record is subject to correction. Corrections should be incorporated in a copy of the record and should be sent *within one week of the date of publication* to the Chief, Official Records Editing Section, room A-3550.

Corrections will be issued shortly after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL
A/C.6/33/SR.56
5 December 1978
ENGLISH
ORIGINAL: FRENCH

The meeting was called to order at 3.15 p.m.

ORGANIZATION OF WORK

1. The CHAIRMAN observed that many agenda items had not yet been considered and appealed to members of the Committee to accelerate their work. In particular, they should make progress in the preparation of draft resolutions.

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/33/33, A/33/65, A/33/206 and Corr.1, A/C.6/33/L.8)

2. The CHAIRMAN announced that Chad, Chile, India, Jordan, Rwanda and Swaziland had become sponsors of draft resolution A/C.6/33/L.8.

3. Mr. ROMULO (Philippines), introducing draft resolution A/C.6/33/L.8 on behalf of its sponsors, said that its basic aim was to extend the mandate of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. Consideration of that question provided Member States for the first time with an opportunity to search for ways of improving the Organization and adapting it to new circumstances, and also to air their views and develop practical proposals. Furthermore, it was imperative that the 100 States which had not participated in the design of the Organization should now have an opportunity to make their views known. It was true that the Charter of the United Nations had exceeded the hopes of the founders of the Organization, particularly in economic and social areas and in decolonization. Although based on unchanging principles, the Charter had shown itself to be a flexible and adaptable instrument. However, there had been absolutely no way for the founders to foresee the momentous developments in world affairs since that time - the emancipation of two thirds of the world's people and the interdependence of States in the economic and security spheres. If foreseen, those developments were only dimly foreshadowed in the Charter. That instrument, the product of the pre-atomic age, was insufficient as it stood to provide for the current needs of humanity; its further elaboration through ancillary covenants and agreements or through specific and limited changes was not only essential but inescapable. Member States now had an opportunity to make a major contribution to the improvement of the Organization and therefore to the security and well-being of the peoples of the world. Other opportunities might arise, but none would be better than that provided by the work of the Special Committee.

4. The States Members of the Organization showed a growing interest in the activities of the Special Committee. The major Powers were participating increasingly, and many constructive suggestions had been put forward, particularly with regard to the peaceful settlement of disputes. The Committee was, however, only at the commencement of its work; its task was considerable and difficult. In the area of the peaceful settlement of disputes, for example, it was necessary

(Mr. Romulo, Philippines)

to go beyond the simple cataloguing of possible next steps, and to consider in depth some specific proposals. Only after a probing consideration of such proposals could the Special Committee recommend to the General Assembly those which commended themselves generally.

5. It was preferable to adopt a step-by-step approach towards completion of the work of the Special Committee rather than to urge easy solutions, even good ones, or solutions of whose wisdom not all were convinced. At the same time, his delegation felt that the consensus approach, while desirable, could not be allowed to stand in the way of recommendations which a strong majority supported. There should be general agreement on all substantive decisions which the Special Committee, or, upon its recommendations, the General Assembly, would take on the issues before them. Substantive decisions meant those which might imply amendments to the Charter. On the other hand, for procedural issues, such as those which concerned the programme of work of the Special Committee, a vote should not be avoided when its only aim was to escape from a position of stalemate. Certainly, it was sometimes difficult to draw a distinction between substantive and procedural questions; no efforts should be spared in order to achieve generally accepted solutions, but it would not be advisable to abandon the practice of resorting to a vote on purely procedural issues. The time had come for detailed consideration of each of the proposals to be discussed by the Committee and for the drafting of recommendations. That task would require substantial time, since it involved a review, after 33 years, of the nature and capabilities of the Organization.

6. Some delegations feared that the Special Committee was trying to go too far, while others feared that it was too constricted in its agenda and in its approach to the subject before it. Provided such attitudes did not involve confrontation, they would be helpful in keeping the work of the Committee in balance. At the same time, it should be beyond doubt that almost all the members of the Committee wished to review more closely the major functional and jurisdictional problems of the United Nations. They wanted to present to the General Assembly recommendations which, once enacted, would significantly modernize, improve and enlarge the role of the Organization.

7. It would be desirable that meetings of the Working Group of the Special Committee should be serviced with summary records, which would relieve the Special Committee's Chairman of the task of giving oral summaries of meetings. Also, it no longer seemed necessary, at the stage the Special Committee had reached in its work, to obscure the names of the authors of various proposals or comments made in the Committee.

8. Draft resolution A/C.6/33/L.8 closely followed the resolutions of previous years; it maintained but did not alter the Committee's mandate and reaffirmed the principles which should govern the discharging of that mandate. The sponsors of

(Mr. Romulo, Philippines)

the draft resolution believed that it reflected the progress made by the Special Committee in its work and the general will of its membership, as well as the will of the General Assembly. Referring to paragraph 3 (b), he said that after completing its work on the question of the peaceful settlement of disputes, the Special Committee should immediately continue its work on the maintenance of international peace and security.

9. Because of the very large sponsorship of the draft resolution, he hoped that the Committee would adopt it unanimously.

10. To an ever-increasing degree the United Nations was focusing the interests and concerns of mankind as a whole. With nearly universal membership, its responsibilities were expanding rapidly into new areas: world resources, space, the sea, food, population, the new international economic order, environmental protection and health, human rights, peace-keeping and disarmament. That trend was both inescapable and desirable. Only the concert of nations could decide what was good for the international community. Currently the United Nations could not entirely satisfy the requirements of peace, security and well-being of the human race, partly because certain States were still "adolescent", and partly because of the Organization's own "adolescence" and some inadequacies of its initial structure. Time would remedy the first defect, while the Special Committee could play an important part in remedying the second. It could be said that its work had been well begun.

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.99)

11. Mr. JACOVIDES (Cyprus) said that the principle prohibiting the threat or use of force in international relations constituted the very corner-stone of the United Nations system. Despite the fact that it was a peremptory norm of international law and was firmly entrenched in Article 2, paragraph 2, of the Charter, it had been violated time and again with impunity. Consequently, a more drastic way must be found to enhance its effectiveness and to ensure its strict application.

12. The Conference of Ministers for Foreign Affairs of Non-Aligned Countries held at Belgrade in July 1978 had reaffirmed that it was essential to arrive at a binding and universal international agreement under which a firm commitment would be made not to use force in international relations and not to intervene on any pretext in the internal affairs of any State. States which sought remedies to their grievances could approach the appropriate organs of international organizations, in particular the United Nations, instead of taking the law into their own hands by the unilateral use of force.

(Mr. Jacovides, Cyprus)

13. During the 33 years since the adoption of the Charter, in spite of all the hopes placed in the United Nations at the time of its creation, there had been more than 100 local wars and international armed conflicts. The international community had tried to combat international lawlessness by studying such issues as the protection of diplomats, aerial hijacking and the taking of hostages. Such efforts were useful and laudable, but it was no less important to take effective measures to combat the much more destructive phenomenon of lawlessness manifested by States which resorted to force in violation of their obligations under the Charter and under peremptory norms of international law.

14. The report of the Special Committee (A/33/41) showed that the work carried out in that Committee and its Working Group had been constructive, even though different approaches had been adopted by different members.

15. His delegation's position was stated in detail in the summary records of the Special Committee's meetings (A/AC.193/SR.7 and SR.12). Cyprus had been the victim of aggression, invasion and occupation, with the consequent uprooting of more than a third of its indigenous population, the gross violation of human rights and a systematic attempt to change its demographic structure. Thus, it had had and continued to have bitter experience of the violation of the principle of non-use of force in international relations. His delegation therefore was all the more convinced of the need to improve the existing legal situation.

16. The Charter, which had been supplemented by such instruments as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and the Definition of Aggression, was an admirable document. None the less, in the past 33 years, a wealth of jurisprudence had been accumulated both within and outside the United Nations system, and a number of loop-holes had come to light. For that reason, his delegation supported the Soviet initiative. A world treaty on the non-use of force in international relations would not detract from the Charter but should be aimed at enhancing the effectiveness of its provisions, which must prevail over those of any other international agreement, as provided in its Article 103. In the area of human rights, the provisions of the Charter had already been supplemented and expanded through the adoption of the two International Covenants on Human Rights. It should be possible to do the same thing in the area of non-use of force.

17. His delegation had suggested that certain improvements might be made in the draft treaty proposed by the Soviet Union. One such suggestion dealt with the exceptions to the application of the principle of non-use of force recognized under the Charter, namely, individual and collective self-defence, collective enforcement measures as provided for under Chapter VII of the Charter, and the struggle of recognized liberation movements. His delegation had proposed adding to article I of the draft treaty a fourth paragraph to the effect that the enforcement measures provided for in Chapter VII of the Charter would be applied against States which violated the obligations they had assumed under the treaty. Reference should also be made to Article 2, paragraph 5, of the Charter. In that connexion, article 27 of the International Law Commission's draft articles on

(Mr. Jacovides, Cyprus)

international responsibility might also be useful. There should also be explicit reference to the rights of countries and peoples that had been the victims of aggression and foreign occupation, to the unacceptability of the acquisition of territory occupied by force and to the non-recognition of faits accomplis. Article III of the draft treaty should contain a reference to Article 103 of the Charter, and also to the relevant provisions of the Vienna Convention on the Law of Treaties, in particular articles 52 and 53 thereof regarding treaties imposed by the threat or use of force and treaties containing provisions in violation of peremptory norms of international law (jus cogens). States must be prevented from abusing the anachronistic provisions of past treaties purporting to confer on a State the right to intervene by force in another State, as had happened in 1974 with the invasion of Cyprus, for which article 4 of the so-called "Treaty of Guarantee" of 1960 had been used as a pretext. With reference to article V of the draft treaty, he drew attention to the proposal made by the President of Cyprus at the special session of the General Assembly devoted to disarmament that the Republic of Cyprus should be totally demilitarized and disarmed as part of a just solution of the Cyprus problem based on the relevant United Nations resolutions. That proposal related to, and in fact went a good deal beyond, the measures envisaged in article V.

18. His delegation, which was a sponsor of draft resolution A/C.6/33/L.7 and Corr.1, hoped that the Committee would adopt it. The Special Committee would have not only to continue its work with the goal of drafting at the earliest possible date a world treaty on the non-use of force in international relations but also to study the question of the peaceful settlement of disputes. His delegation attached the greatest importance to the latter. However, duplication of work with the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should be avoided. It should also be borne in mind that, if the Special Committee was to be productive, the scope of its work should not be over-extended.

19. If the drafting by the Special Committee of a world treaty on the non-use of force proved to be practicable, that would undoubtedly constitute a valuable contribution. If, on the other hand, it emerged that the difficulties were insurmountable and the work of the Special Committee resulted only in a declaration or resolution, that would at least serve as a reminder of the cardinal importance the world attached to the strict application of the principle prohibiting the use of force in international relations.

20. Mr. GAYAMA (Congo) said that, although the Charter unambiguously laid down the principles of non-use of force and peaceful settlement of disputes, the world was constantly being ravaged by war. The use of force by States against other, often weaker States violated the principle of sovereign equality of States.

21. His delegation was gratified at the work done by the Special Committee and favoured the renewal of its mandate.

22. As clear a definition as possible should be given of the concept of force, which must be considered the negation of law. It would hardly be possible to mention in an instrument on the non-use of force in international relations all manifestations of force which prevented the establishment of true peace, especially those exercised against peoples whose only offence was their refusal to conform to the line dictated by foreign or transnational interests. When the proposed treaty was being drafted, conditions which prevented the use of legitimate force, such as application of the sanctions provided for in Chapter VII of the Charter, should also be scrutinized.
23. As a practical matter, it was necessary to delimitate clearly the respective areas of competence of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations and the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.
24. Mr. DIA (Senegal) noted that the tide was running strongly in favour of the drafting of a world treaty on the non-use of force in international relations. Senegal had always emphasized the importance it attached to the conclusion of such a treaty.
25. The main purpose of a treaty of that kind would be to create the climate of trust that was necessary if progress was to be achieved on disarmament and on strengthening international security. Nevertheless, any such undertaking inevitably raised serious problems, since the *raison d'être* of the Charter itself was to prevent the use of force in international relations. The question of the relationship between the Charter and the proposed treaty was therefore of crucial importance. If the treaty was to command wide support, it must aim at remedying the defects and filling the gaps which had been conducive to the violation of the Charter principles and must not be a mere repetition of the Charter.
26. It was urgently necessary to ensure that the rule of law prevailed in international relations and that the States Members of the United Nations complied strictly with their obligations. The various activities undertaken in the past to develop the principles of the Charter must therefore be continued, since the Charter had proved incapable of preventing the use of force in international relations and had not been very effective against new forms of use of force which were more subtle because they employed certain Charter principles as a screen. For instance, some countries had taken advantage of the general character of the prohibition set forth in Article 2, paragraph 4, of the Charter to justify their imperialist, colonialist, neo-colonialist and racist intrigues. Consequently, the initiative for the drafting of an international treaty, in so far as it was designed to close the loop-holes left by the Charter, deserved support.
27. The concept of force and use of force must be adequately defined so as to cover, in addition to conventional military force, subversion and economic pressure; the treaty must involve positive commitments in the field of disarmament, including nuclear disarmament; it must expressly reaffirm the legitimacy of the

(Mr. Dia, Senegal)

struggle of peoples against colonialism, imperialism, racism and expansionism; it must contain provisions concerning its implementation; lastly, it must have the support of the permanent members of the Security Council which were nuclear Powers. Those five elements were all the more necessary in that the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States specified that the principles set forth in it were interrelated and could not be applied or interpreted in isolation.

28. His delegation was in favour of renewing the mandate of the Special Committee and supported draft resolution A/C.6/33/L.7 and Corr.1.

29. Mr. CHAUDHRI (Pakistan) said that his country endorsed the principle of non-use of force in international relations as enunciated in Article 2, paragraph 4, of the United Nations Charter, which had been reaffirmed in various forums, including the Bandung Conference, where the principles of peaceful coexistence, setting out the positive elements of an agreement among nations to renounce the use or threat of use of force, had been proclaimed. Despite all such declarations of intent, there had been no abatement of conflicts among States and force was being used to settle disputes. His delegation believed that the continued use of force in international relations was due to the unequal size and potential of States, so that the threat of force remained implicit even when force was not used. Powerful States had not hesitated in the past to use or threaten to use force when they believed it would serve their interests. Persistence of injustice and the suppression of the legitimate rights of certain peoples was an additional cause of conflict in the present-day world. International inequality and injustice were being accentuated by the growing disparity between nations. Accordingly, any effort at promoting the non-use of force in international relations could not be divorced from the task of establishing a just and equitable world order.

30. Although the initiative to outlaw the use of force in international relations was inspired by a sincere desire for peace, any treaty drafted for that purpose would be effective only if it provided safeguards against resort to force by powerful States in the pursuit of their national goals and helped to remove injustices and inequalities which were the underlying causes of conflict.

31. His delegation believed that any legal instrument regarding the non-use of force should have a number of elements. Firstly, all States should fully comply with the principles of the United Nations Charter and with United Nations decisions. Secondly, the prohibition of the use of force should be without prejudice to the fulfilment of the legitimate rights of peoples by all the means provided in the Charter, including the resolution of disputes in accordance with binding international decisions as well as the inherent right of self-defence. Thirdly, the treaty should provide machinery for obligatory settlement of disputes and for securing compliance with the Charter and binding decisions of the United Nations. Fourthly, States should be expressly forbidden to interfere in the internal affairs of other States. Fifthly, all States should commit themselves to transforming the unequal international relationship and to creating a more democratic and just world order.

(Mr. Chaudhri, Pakistan)

32. His delegation supported draft resolution A/C.6/33/L.7 and Corr.1, renewing the mandate of the Special Committee, and suggested that paragraphs 12 and 26 of the Final Document of the tenth special session of the General Assembly (A/S-10/23), devoted to disarmament, might form a basis for the work of the Special Committee.

33. Mr. MAKAREVITCH (Ukrainian Soviet Socialist Republic) said that his delegation attached tremendous importance to the work of the Special Committee, whose first session had clearly shown that the time was ripe for the Soviet proposal concerning the drafting of an international treaty on the non-use of force in international relations. At that session, some interesting points had been expressed and constructive suggestions made, all of which should be duly taken into account.

34. The Special Committee should now proceed to the practical phase of its work and consider the articles proposed by the Soviet Union. It was encouraging to note that most delegations regarded the draft treaty submitted by the Soviet delegation as a good basis for the future work of the Special Committee. First and foremost, the treaty should reaffirm the general obligation deriving from Article 2, paragraph 4, of the Charter; States parties to the treaty should undertake not to resort, in international relations, to the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Compliance with that obligation would help to strengthen the principles of sovereign equality of States, territorial integrity, non-interference in the internal affairs of States and peaceful settlement of disputes, and also to restrain the arms race. The treaty should therefore specify the scope of the obligation very clearly and stipulate that States should take domestic measures to ensure respect for the principle of non-use of force. It should be noted that the obligation which the future treaty would impose on the States parties to it would in no way affect the general obligation not to resort to the use of force, which was incumbent on other States in accordance with the Charter. It could not therefore be claimed, as had been done by some delegations, that the proposed treaty would detract from the Charter. After all, many principles which had been enunciated in the Charter had subsequently been confirmed and strengthened. For instance, the two International Covenants on Human Rights confirmed and developed the general principle of respect for human rights and fundamental freedoms, without limiting that principle or casting any doubt whatever on it.

35. The purpose of the treaty would be to prevent acts of aggression and other violations of the Charter, to create additional safeguards for international security and to strengthen the effectiveness of the principle of non-use of force, which covered the use of conventional weapons, nuclear weapons and other types of weapons of mass destruction. A number of delegations had already pointed out to the Sixth Committee that the principle of non-use of force had not been intended to refer only to prohibition of the use of nuclear weapons. That idea, which had already been expressed in many United Nations declarations, resolutions and decisions, should now be put in the form of rules of international law. What was needed was to strengthen the principle of non-use of force on a broader front, taking in limitation of the arms race and disarmament. The treaty must therefore contain a clause whereby States committed themselves to take action to reduce the risk of conflicts and to achieve the ultimate goal of general and complete disarmament under effective control.

(Mr. Makarevitch, Ukrainian SSR)

36. Both in the Special Committee and in the Sixth Committee, several delegations had rightly stressed that the treaty should reserve the right of States to individual and collective self-defence, as set forth in Article 51 of the Charter. Moreover, in his delegation's view, the treaty should not infringe on the right of States and peoples to fight for the elimination of the consequences of acts of aggression and the restoration of the territories which had been taken from them as a result of aggression. Aggression must be distinguished from the legitimate right to repulse acts of aggression and eliminate their consequences. It was clear also that the treaty should not infringe on the right of peoples to struggle, by all available means, for their national liberation and independence, as enshrined in the Charter and in various resolutions of the United Nations.

37. The fact that delegations were, on the whole, of the same opinion with regard to the constituent elements of the treaty confirmed that it was now time to pass to a study of the draft treaty. His delegation was convinced that, if the Special Committee was inspired with a spirit of co-operation and compromise, it would succeed in preparing a generally acceptable treaty text. In the Sixth Committee, the great majority of delegations had shown great interest in the treaty, and many of them had made specific suggestions with a view to ensuring the success of the work of the Special Committee. Only a few discordant notes had been heard. Some had adopted a resolutely negative attitude and had denigrated the Soviet initiative and tried to impede the work of the Special Committee, but their efforts had not received majority support. Moreover, they had not put forward valid arguments in support of their position but had confined themselves to demagogy. He hoped that the work of the Special Committee would continue in a constructive spirit, with a view to arriving at the conclusion of a treaty as quickly as possible.

38. Miss OLIVEROS (Argentina) said that the principle of the duty to refrain from recourse to war was already set forth in the Covenant of the League of Nations and had been taken up and considerably developed in Article 2, paragraph 4, of the Charter of the United Nations; paragraph 3 of the same Article, concerning the peaceful settlement of disputes, constituted the corollary thereto. However, no prohibition was effective in itself unless it was based on the will of the States to which it was addressed. That was borne out by the history of international relations over the past 33 years, viewed in the light of the principles set forth in the Charter.

39. The opinions expressed in the report (A/33/41) deserved careful study, firstly, because the subject was a sensitive one and, secondly, because there was a close relation between that subject and other United Nations activities aimed at the establishment of a new international order to facilitate the harmonious coexistence of States without infringing on their individual status. In the Declaration which they had adopted recently in Belgrade, the Ministers for Foreign Affairs of non-aligned countries had expressed their concern over setbacks to the process of détente and the dangerous tendencies towards reviving manifestations of the cold war; they had reaffirmed that lasting peace could not be built on a policy of balance of power, spheres of influence, rivalry between blocs and the arms race; consequently, they had reiterated that one of the fundamental goals of their policy was to eliminate the threat or use of force and pressures from international relations.

(Miss Oliveros, Argentina)

40. The Soviet initiative for the elaboration of a treaty on the non-use of force should be taken into consideration, and the mandate of the Special Committee should be renewed so that it could manage to work out an effective system of collective security of which the ultimate aim should be to give concrete effect to the purposes and principles of the United Nations.

41. Her delegation was deeply convinced that every State should solemnly accept the obligation to try to settle their international problems by peaceful means by using negotiation and equity. International political problems called for political solutions, and countries parties to a dispute had an obligation to negotiate with a view to arriving at compromise solutions. The maintenance of peace depended on a dialogue, and the principal advantage of the Organization was that it constituted a centre for an ongoing exchange of opinions with a view to the establishment of a more equitable international order. In that connexion, the Special Committee was of irrefutable importance, because it made it possible to proceed to an analysis of the principles which were enshrined in the Charter but which were not fully applied in current international relations. The work of the Special Committee should therefore be continued, on the understanding that the conclusions reached by it would in no way weaken the principles already recognized by the international community.

42. Mr. HALKIOPOULOS (Greece) said that, since the non-use of force was a fundamental principle of international law within the system of the Charter, no effort should be spared in order to give it a concrete and practical form. Although the Charter contained provisions prohibiting the threat or use of force, the need for reaffirming or even making more precise the terms of that prohibition had made itself felt, as was proved by the adoption, by the United Nations and in other forums, of a series of important texts confirming and complementing the provisions of the Charter and by the many armed conflicts which had broken out in the world. The future treaty, elaborated on the basis of the draft submitted by the Soviet Union, which was generally acceptable, should guarantee the application of Chapter VII of the Charter. The threat of an activation of the existing machinery for enforcement would serve as a serious deterrent against aggressors. Reference should be made also to Article 2, paragraph 5, of the Charter. It might be argued that it was not the legal machinery, however perfect it might be, that was lacking but the necessary vigilance or political will to apply it in the proper manner. It was regrettable that the enforcement measures provided for in Chapter VII of the Charter had remained a dead letter, precisely because of the lack of vigilance. The treaty should also make reference to Article 51 of the Charter, concerning the right of States to individual or collective self-defence, which derived logically from the right to independence.

43. With regard to the principle of peaceful settlement of disputes, it would be greatly strengthened if it was set forth in the text of the treaty. His delegation had already submitted to the Special Committee on the Charter of the United Nations and on the strengthening of the role of the Organization a proposal, in document A/AC.182/WG/18, for the drafting of an implementation agreement for the settlement of disputes, which would complement the pertinent provisions of the Charter at the procedural level and facilitate respect for the primary obligation to settle disputes by peaceful means.

(Mr. Halkiopoulos, Greece)

44. The Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations had made a good start on its task of consolidating normative rules concerning the application of the principle of non-use of force, which was the corner-stone of the whole United Nations system. The Special Committee should be provided with the necessary time and means to continue its work, and his delegation therefore supported the renewal of its mandate.

45. Mr. FIFOOT (United Kingdom) said that, as his delegation had stated in the Sixth Committee at the thirty-first session of the General Assembly, the principles of the non-use of force and the peaceful settlement of disputes were already enshrined in the Charter; the issue was therefore whether or not the Soviet proposal was likely to enhance their effectiveness. Two years later, that issue had still not been resolved.

46. It was not by repeating some of the words from the Charter, with variations based on the Declaration on Friendly Relations and the Final Act of the Helsinki Conference that a contribution could be made to enhancing the effectiveness of the principle of non-use of force in international relations. By so doing, the United Nations would fall into an error that was frequently and quite rightly denounced, namely that of preferring words to action.

47. Such an undertaking was fraught with hazard. If a treaty on the non-use of force was finally adopted, there would be two régimes, the régime of the Charter and the régime of the treaty. It was doubtful whether all States Members of the Organization would accede to the treaty. Would the negative imperative of the Charter prohibition on the non-use of force be any the less for those States which had not acceded to the treaty? It had been argued that a mere repetition of the provisions of the Charter could have no adverse effects on Charter obligations. That was overlooking the fact that the proposed treaty would inevitably be drafted in terms different from those of the Charter.

48. Views that the proposal to draft a treaty was ill-advised had been expressed both in the Special Committee and in the Sixth Committee. The Chairman of the Special Committee, when introducing the report of the Special Committee, had noted the deep divisions; it was therefore all the more surprising that he should have stated that the Special Committee had to draft a treaty which, by definition, went beyond the Charter. His delegation did not share the view that a majority in the Special Committee had expressed itself in favour of a treaty in general or of the Soviet proposal in particular. Opinion had been much more diverse. Some of the members had been in favour of the Soviet initiative, while others, while favouring the enhancement of the principle of non-use of force, did not consider that the drafting of a treaty was the right way to go about it.

49. His delegation did not believe that it would be in the interest of the international community to pursue that initiative, and it could not support draft resolution A/C.6/33/L.7.

(Mr. Fifoot, United Kingdom)

50. Furthermore, the mandate of the Special Committee set forth in resolution 32/152 did not require the Special Committee to pursue that path. There were other ways of enhancing the effectiveness of the principle of non-use of force in international relations. Efforts might be concentrated on the strengthening of mechanisms for resolving disputes otherwise than by force, with valuable cross-fertilization from the work of the Special Committee on the Charter. It would also be extremely useful to study the historical circumstances of instances of resort to force, in order to discover why the existing mechanisms had not been effective.

51. It was urgently necessary for the future of the Committee that it should renounce empty words. While the current debate had been in progress, there had been at least two instances of resort to force in international relations. No one had mentioned them, although they had raised matters which might enlighten the Committee in its consideration of those serious issues.

52. When examining the problems, the Special Committee should be wary of a priori solutions such as the draft treaty. It should be bold and get down to the real issues. That was the only way in which it could make a contribution to enhancing the effectiveness of the principle of non-use of force.

53. Mr. LYON (Chile) said that the faithful observation of the principles of international law and the fulfilment in good faith of obligations assumed were essential for the maintenance of peace. His delegation would therefore support any efforts aimed at ensuring the implementation of two principles enshrined in the United Nations Charter, namely, the non-use of force and the peaceful settlement of international disputes.

54. The issues before the Special Committee had great legal and political import, and its solutions to them must therefore be based on general consensus. The mandate given it by the General Assembly left the Committee entirely free to seek solutions, whether they involved the drafting of a treaty, a resolution, or a recommendation or any other means of enhancing the effectiveness of the principle of non-use of force in international relations. Several delegations had, moreover, proposed other solutions. His delegation believed that the principle of non-use of force was closely linked to other legal principles, such as those relating to the peaceful settlement of disputes, political independence, territorial integrity, non-interference in the internal affairs of States, the equal rights of peoples, the right of peoples to self-determination and the fulfilment in good faith of obligations assumed under the Charter. To oblige States to respect those principles more strictly and discharge the obligations placed on them by the Charter with regard to the peaceful settlement of their disputes would be a contribution to the enhancement of the principle of non-use of force. The report of the Special Committee proved extremely useful in that connexion, because it gave a systematic account of the differences of views among its members regarding the means which the Special Committee should use to fulfil its mandate. The principle of refraining from the threat or use of force in international relations and the principle of the peaceful settlement of disputes were set forth very clearly in the Charter of the United Nations and in many bilateral and multilateral international instruments currently in force. The Special Committee's task was to enhance those principles.

(Mr. Lyon, Chile)

55. The Soviet Union had submitted a draft treaty. However, many delegations considered the preparation of a treaty dangerous, as it might jeopardize the basic equilibrium established in the Charter and cast doubts on its efficaciousness. A treaty to which only some of the States Members of the United Nations subscribed would definitely not lead to the desired goal. Thus the Special Committee, continuing to work by consensus, should seek other ways and, in particular, should consider the possibility of adopting effective measures to require States to adhere more rigorously to the obligations established in the Charter and in other international legal instruments, including those relating to the peaceful settlement of disputes and the use of the settlement procedures proposed in the Charter and in other legal instruments.

56. Like the Canadian delegation, his delegation believed it appropriate, once the Special Committee's mandate had been renewed, to set a time-limit within which States could transmit to the Special Committee their opinions or suggestions on different aspects of its mandate.

57. Mr. KPOTSRA (Togo) observed that hotbeds of tension and war were proliferating, as were ventures aimed at thwarting the struggle of small countries to obtain their political and economic emancipation. The proposal of the Soviet Union would help to ensure the supremacy of law in international relations and to secure stricter observance of the basic principle of international law set forth in Article 2, paragraph 4, of the Charter.

58. In the light of the work already performed on the subject, the Special Committee would definitely not reward the hopes placed in it unless it succeeded in preparing a definition of the notion of force which took account of current needs and problems. It would be scandalous to put out of reach of the scope of application of the future treaty economic and political pressures and subversive actions aimed at destabilization, which were nothing less than coercive measures used against small countries. The Conference of Ministers for Foreign Affairs of Non-Aligned Countries held at Belgrade and the representative of Saudi Arabia in the Sixth Committee had stressed the increase in interference in the internal affairs of independent countries.

59. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations set forth some norms and developed some principles. A restrictive interpretation of the notion of force would not be in keeping with the spirit of the Charter and the necessity of making the principle of non-use of force more effective. He recalled that his delegation, together with other delegations, had submitted a document containing a definition of the notion of force (A/AC.125/L.48).

60. At the preceding session of the General Assembly, his delegation, in a spirit of compromise, had expressed the hope that the Special Committee would be free to determine the nature of the document with which it would complete its work. It was, however, aware of the fact that enhancing the principle of non-use of force depended essentially on the legal nature of the final document. A declaration or a resolution, however comprehensive and normative, could not serve that purpose, as

(Mr. Kpotsra, Togo)

it would be devoid of any binding force. In that regard it was worth mentioning the use of mercenaries: although condemned by the General Assembly in many resolutions and declarations and, in particular, resolution 32/14, that practice had not yet ceased.

61. His delegation saw no point in continuing a parallel consideration of the questions of promotion of the peaceful settlement of disputes and strengthening of the collective security system provided by the Charter, as they were already being discussed in other organs. The Special Committee should perfect the work of the progressive development and codification of international law being carried out by the United Nations. The future world treaty on the non-use of force in international relations should provide a satisfactory definition of force covering all forms of oppression and coercion, reflect the exceptions provided for in Articles 42 and 51 of the Charter, embody positive commitments by Member States in the field of disarmament, reaffirm the legitimacy of the struggle of peoples against colonialism, imperialism and racism, and emphasize the obligation of States to settle their disputes peacefully by resorting to the means provided for in Articles 33 and 38 of the Charter and to any procedures which might be recommended by the Special Committee on the Charter. Some feared that the future world treaty would not secure the support of all Member States. It was difficult, however, to see why States committed to peace and justice should not wish to become parties to it. The United Nations should seek to ensure the disappearance of divagations and practices which sustained an atmosphere of tension in international relations and presented a real danger to the sovereignty of small States.

62. Mr. BALANDA (Zaire) said that the United Nations, in order to carry out its historic mission, namely the maintenance of international peace and security, must, of necessity, concern itself with prohibiting the use of force. His delegation therefore fully supported all efforts towards the conclusion, in accordance with General Assembly resolution 32/150, of a world treaty on the non-use of force in international relations.

63. In order for such a treaty to be fully effective, its scope of application must first of all be defined with precision. To that end, it was essential to elucidate the notion of force whose use was to be prohibited in international relations. The notion of force and its use should not be limited merely to military force but should cover other forms of force, such as subversion and coercion of every type, including blackmail. A very broad concept of what constituted force in international relations had been agreed on at the Conference of Ministers for Foreign Affairs of Non-Aligned Countries, held at Belgrade in July 1978. Thus it was important that the future treaty should take account of all forms of use of force as a national policy instrument of States.

64. His delegation considered that the future treaty should also contain a positive obligation requiring all States to reduce their armaments progressively, according to a time-table. The arms race must be halted because of the danger of massive destruction which loomed over mankind, and efforts should be redirected towards development and co-operation objectives. Co-operation, friendship and solidarity among peoples were the only true and really lasting guarantee of international peace and security.

/...

(Mr. Balanda, Zaire)

65. The future treaty must not give rise to duplication within the United Nations. The problem of the non-use of force was inherently bound up with the question of peaceful settlement of disputes, which was being studied by another committee. Thus the Special Committee on Non-Use of Force should not concern itself with the peaceful settlement of disputes.

66. The provisions of the future treaty should, on no account, jeopardize or weaken such basic principles of the Charter as the sovereign equality of States, non-interference in the domestic affairs of States, political independence and the right of self-determination.

67. The treaty should take account of the use of force in the context of the liberation and self-determination of peoples; use in such situations should not be considered an instrument of national policy. The right of self-determination, which was embodied in the Charter, implied the effort to achieve liberation. The United Nations should therefore recognize that violence used in the context of self-determination of peoples and violence in the case of individual or collective self-defence were both legitimate exceptions to the principle of non-use of force.

68. It would be undesirable for the treaty, after its entry into force, merely to have the character of a declaration of intention. It should, first, specify precise obligations of conduct incumbent on States and, secondly, provide for severe sanctions against those who continued to use force in international relations. Great care should be taken over its drafting and its contents, lest it should invite, on the part of signatory or acceding States, reservations likely to weaken it.

69. Not only the use of force but also the direct or indirect threat of the use of force should be banned in international relations.

70. His delegation was convinced that the conclusion of a treaty on the non-use of force would enable the United Nations to play a preventive role and to guarantee collective security more effectively. Such a treaty would have important consequences for the maintenance of international peace and security. However, it would be wrong to conceal the fact that the credibility of the United Nations depended in the final analysis on the attitude of Member States towards the obligations which they assumed under the Charter. It was therefore essential, to ensure the success of the proposed treaty, that Member States should adjust themselves to current necessities and give evidence of a new state of mind.

71. His delegation was in favour of renewing the Special Committee's mandate.

72. Mr. MUNYAMA (Zambia) said that the report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations (A/33/41), which contained an exhaustive summary of its debate, provided a useful guide for those delegations which, like his own delegation, were not members of the Special Committee.

73. His delegation had fully supported resolution 32/150, by which the Special Committee had been set up, because of its fundamental interest in the creation of a

(Mr. Munyama, Zambia)

more rational world order from which the use or the threat of the use of force were completely eliminated. It was fully committed to the principle of non-use of force in international relations and viewed that principle, together with the corollary principle of peaceful settlement of disputes, as a cornerstone of the United Nations.

74. The main issue was enhancing the effectiveness of the principle of non-use of force, not the adoption of any particular draft treaty. The approach of the Special Committee should be to determine why so many States resorted to the threat or the use of force despite the numerous treaties and declarations, and above all the United Nations Charter, prohibiting the use of force. The Special Committee should also determine what needed to be done to ensure that States did not resort to the use of force. While a world treaty might be the best solution in the latter case, his delegation was not convinced that the Soviet draft constituted the right answer. The draft failed to add anything to what was already stated in the Charter and other instruments. It contained no enforcement procedures; not did it indicate how States which arrogantly flouted the United Nations Charter might be compelled to scrupulously observe the treaty and refrain from the use of force.

75. His delegation believed that the Special Committee should retain the discretion afforded to it in resolution 32/150, namely, to decide, after considering ways of enhancing the principle of non-use of force, either to draft a world treaty or to recommend any other action it considered appropriate.

76. The use of force in international relations was not ascribable to a lack or inadequacy of principles and legal instruments prohibiting the use of force. If States fully observed Article 2 of the Charter, the Universal Declaration of Human Rights and numerous other such instruments, and if there was an effective system for the peaceful settlement of disputes and a viable system of collective responsibility, the use of force would not be a problem. The lack of an effective alternative to force, the refusal by militarily powerful States to give up the use of force, disregard for the territorial integrity of other States, interference in the internal affairs of other States, and the race to acquire weapons of mass destruction were responsible for the total ineffectiveness of the principle of non-use of force.

77. His delegation considered that the Special Committee should study the relationship between the principle of the non-use of force and the question of disarmament. He failed to see the logic of drafting a treaty that simply banned the use of force while the States that provoked and facilitated the use of force continued to produce weapons capable of destroying humanity. Because of its interest in a world free of force and being aware that that objective was far from being attained, his delegation supported the renewal of the Special Committee's mandate, on the understanding that a narrow view of that mandate would be avoided and that all proposals and suggestions would be considered.

78. Mr. FERRETTI (Italy) said that his Government was fully aware that the solution of most questions concerning international relations depended to a large extent on

(Mr. Ferretti, Italy)

the way in which the two fundamental principles embodied in the United Nations Charter, namely the non-use of force and the peaceful settlement of disputes, were conceived and applied. The enhancement of the effectiveness of those principles was therefore eminently desirable and Italy, which had always taken a constructive and open attitude, was quite ready to consider the Soviet proposal.

79. The excellent report before the Committee clearly brought out the many implications of a proposal such as the drafting of a treaty on the non-use of force and the divergent views expressed in that regard. Italy could not, however, accept the claim by the Chairman of the Special Committee to the effect that that body's task was primarily the drafting of a treaty on the non-use of force and that it was necessary to exclude from the scope of its work questions such as the strengthening of the system of collective security provided for in the Charter or the peaceful settlement of disputes. That tendency towards a narrow interpretation of the Special Committee's mandate appeared to be a dangerous trend, since only by developing all the legal and political aspects of the problem would it be possible to arrive at a solution acceptable to all.

80. Furthermore, his delegation had always taken the view that the strengthening of the principle of the non-use of force should be accompanied by the development of the principle of the peaceful settlement of disputes, since they were two aspects of the same problem. If the links which existed between those two principles were ignored, there was a danger that the effectiveness of the system provided for in the Charter would be reduced, rather than enhanced. The absence of an effective system for the peaceful settlement of disputes had the effect of hampering the Security Council in the discharge of its primary task, that of the maintenance of international peace and security, which sometimes led States to use force in an effort to settle a dispute. If the conclusion was reached that there was a need to draft a treaty on the non-use of force, only the establishment of effective machinery for the settlement of disputes would make it possible to ensure respect for the obligations assumed by virtue of that treaty. In that connexion, the regional systems for the settlement of disputes - which made it possible to arrive at positive solutions, since they interested homogeneous groups of States united by very close historical, political and economic ties - should occupy an important place.

81. His delegation would not oppose the continuation of the Special Committee's work if that was the wish of the majority of delegations. However, it had reservations with regard to the appropriateness of a treaty on the non-use of force, since it considered that a reformulation of the principle enunciated in Article 2, paragraph 4, of the Charter might alter its sense and have the effect of depriving, to a certain extent, the Security Council of the freedom of interpreting that fundamental principle of the United Nations system. Thus, the reaffirmation of the principle of the non-use of force in the form of a treaty would either serve no useful purpose if it was simply a question of repeating the provisions of the Charter, or would actually be dangerous. It would be preferable for the General Assembly to adopt a declaration or resolution on the non-use of force and on the peaceful settlement of disputes.

(Mr. Ferretti, Italy)

82. Turning to draft resolution A/C.6/33/L.7, he expressed the view that, in the last preambular paragraph, the two principles of the peaceful settlement of disputes and the non-use of force should be placed on an equal footing, in accordance with the Committee's mandate. In paragraph 2, the Special Committee should be left free to decide the final form which its work should take.

83. Lastly, his delegation considered that the invitation in paragraph 3 addressed to the Governments which had not yet done so to communicate their comments or to bring them up to date, in accordance with General Assembly resolution 31/9, should be worded in such a way that it was clear that Member States were called upon to state their views not only on the appropriateness of drafting a text on the non-use of force, but also on the problem of the peaceful settlement of disputes and the relationship between those two principles.

84. Mr. FREER (Costa Rica) considered that the adoption of a treaty on the non-use of force would strengthen the United Nations Charter, which was considered by many as a theoretical declaration without direct binding force for States. The Special Committee had been entrusted with the task of studying the means not only of promoting the non-use of force, but also of furthering the peaceful settlement of disputes, two closely linked principles which guaranteed the maintenance of international peace and security and which should therefore be considered jointly. The Special Committee should draft a text to which the majority of States, particularly those which possessed nuclear weapons, would be able to accede. The drafting of such a treaty formed part of the progressive development of international law and would go hand in hand with the establishment of new relations among States and the technological advances made in the military field. He noted that two thirds of the present State Members of the United Nations had not participated in drafting the Charter. The Charter should be reviewed and strengthened; it was with that in view that the General Assembly had established the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations and the Special Committee on the Charter.

85. The Sixth Committee should not confine itself to recommending renewal of the Special Committee's mandate, but, should, in the light of the discussions, prepare directives and define the criteria that would enable the different Committees to avoid confusion and the overlapping of activities. The draft text submitted by the Soviet Union could serve as a basis for the Special Committee's work, provided a bold and imaginative approach was taken to the question of the peaceful settlement of disputes, a logical corollary of the principle of the non-use of force in international relations.

86. His delegation therefore supported draft resolution A/C.6/33/L.7.

87. Mr. DUCHÊNE (Belgium) said that his delegation had listened with the utmost attention to the arguments of delegations which, in the Special Committee, had advocated the drafting of a world treaty on the non-use of force in international relations, but those arguments had been unconvincing. It was true that the principle of the non-use of force had already been affirmed a number of times in

(Mr. Duchêne, Belgium)

texts adopted by the United Nations. However, it should be stressed that those instruments did not relate exclusively to that principle, but concerned other aspects of relations among States. The question might therefore be asked whether it was appropriate to draft a treaty devoted entirely to the principle of the non-use of force. The text of the proposed draft treaty was based on existing texts and did not appear to contain any precise obligation which had not already been assumed by Member States. Consequently, there would appear to be no need to draft a new treaty and there was a danger that such a text might give rise to some confusion and create ambiguities. In addition, the text of the proposed draft treaty seemed to arrive at a narrower formulation of the principle of the non-use of force than that enunciated in the Charter and in the texts adopted by the General Assembly. That particularly applied to articles III and V of the draft text.

88. Belgium could not support draft resolution A/C.6/33/L.7. It was ready, however, to continue discussions within the Special Committee, if its mandate was renewed.

89. Mr. CABADA BARRIOS (Peru) said that the Special Committee's broad and vaguely defined mandate reflected the difficulties which the General Assembly had encountered during the adoption of its resolution 32/150. It was clear from the Special Committee's report, the statement by its Chairman and the discussion in the Sixth Committee that the Special Committee's mandate could not be defined with enough precision. Some considered that the Special Committee should speedily draft a world treaty along the lines of the draft text submitted by the Soviet Union. Others advocated the preparation of the treaty but wished it to include a revised form of the concept of force, including the concepts of subversion and economic aggression. In that connexion, the Saudi Arabian proposal deserved careful consideration, since it was based on the positions and arguments expressed by many countries of the third world, especially the non-aligned countries. Yet others hoped that the Special Committee would merely submit recommendations which would make it possible to enhance the effectiveness of the principle of non-use of force, but opposed the drafting of a treaty which would weaken the principle enunciated in the Charter. Lastly, a varied group of countries wished to await the outcome of the Special Committee's work and to study the views expressed in the Sixth Committee.

90. The division between the supporters and the opponents of the drafting of a treaty had been accentuated, a situation which threatened to call into question the Special Committee's very existence. If, to achieve true effectiveness, an agreement on the non-use of force should receive the unconditional support of all States, the agreements or resolutions which the Special Committee would adopt should be based on a consensus.

91. If the adoption of a world treaty could not be achieved, it seemed to be premature to recommend that the Special Committee should draft "at the earliest possible date" a treaty of that kind, since that approach would jeopardize its chances of success. The Special Committee should continue the consideration of the question by expanding the definition of force to include the concepts of subversion and economic aggression.