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at 3 p.m.  
New York

SUMMARY RECORD OF THE 17th MEETING

Chairman: Mr. HAYASHI (Japan)

later: Mr. GOERNER (German Democratic Republic)

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

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

AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued) (A/39/41, A/39/440; A/39/134-S/16418; A/39/360; A/C.6/39/3)

1. Mr. RASON (Madagascar) said that the international community had originally considered the adoption of a world treaty on the non-use of force to be one of the most effective ways of preserving peace and strengthening international security and had established the Special Committee for that purpose. Seven years later, the international situation had scarcely improved, and that Committee had still not reached any agreement on either its terms of reference or its work.
2. Some delegations had consistently opposed the idea of elaborating any normative instrument on that question, fearing that it might weaken the principles of the Charter and might even run counter to the objectives sought. They believed that the use of force stemmed from a failure to apply existing norms.
3. However, his delegation was among those which felt that a world treaty should be concluded as a matter of urgency. The adoption of a binding universal instrument would create specific obligations and would help to ensure the effective implementation of the purposes and principles of the Charter, a step which was essential in view of the confrontation between the great Powers, the growing gap between the developed and the developing countries and the increasingly frequent use of force.
4. His delegation supported any effort to ensure respect for the principle of non-use of force, for example, through the elaboration of an international legal instrument which would strengthen the provisions of Article 2, paragraph 4, of the Charter. The conclusion of a treaty on that topic would give greater weight to commitments not to use any type of weapon and could constitute a safeguard against war. While respecting every aspect of the collective security system, such an instrument must reaffirm the legitimate right of all peoples to use any means at their disposal to achieve self-determination, independence and territorial integrity and must prohibit threats against the sovereignty of States.
5. His delegation would refrain from commenting on the second and third parts of the Special Committee's report (A/39/41), until its Working Group had taken a decision on the informal paper submitted by the Chairman. In his delegation's opinion, the informal paper should be considered in the same manner as the others distributed thus far. Lastly, since the Special Committee had not yet completed its work, his delegation favoured the renewal of its mandate.
6. Mr. BHINDER (Pakistan) said that it was heartening to note that almost all representatives had recognized the importance of the principle of non-use of force and that their differences related only to methodology and form. His delegation felt that the principle of non-use of force had been adequately laid down in Article 2, paragraphs 3 and 4, of the Charter and in the relevant resolutions and declarations of the General Assembly.

(Mr. Bhinder, Pakistan)

7. As to the work of the Special Committee, his delegation believed that, whether the future document was a treaty, declaration, agreement or convention, the main question was its effectiveness. Regrettably, the future document might face the same fate as the provisions of the Charter, which, while enjoying universal recognition, had been repeatedly disregarded. Accordingly, the unreserved commitment of States to fulfil their obligations and to settle their disputes by peaceful means was the prerequisite for the success of any international instrument on the non-use of force.

8. Pakistan's conviction that the peaceful settlement of disputes was the only way to achieve lasting peace and security was reflected in the fact that it had always welcomed the role played by the United Nations in that regard. In fact, failure to settle disputes peacefully, lack of faith in the collective security system and denial of the right of peoples to self-determination were the primary causes of the use of force in international relations. However, his delegation felt that the use of force could not be eliminated without general and complete disarmament.

9. With regard to the various "headings" discussed in the report of the Working Group (A/39/41, paras. 49-127), his delegation considered, tentatively, that, in "heading" B, the word "general" made the "heading" itself too general and should therefore be deleted. "Heading" C was directly related to "heading" B and was thus necessary. The threat or use of force must entail specific consequences, otherwise no useful purpose could be served. As to "heading" D, since the proposed treaty related to the non-use of force, any exception should take the form of a proviso in "heading" B. "Heading" E dealt with the vital subject of the peaceful settlement of disputes and should be considered thoroughly. "Heading" G was important in order to ensure the non-use of force in international relations and should contain effective provisions for the adoption of disarmament and confidence-building measures by all nations.

10. Mr. LOULICHKI (Morocco) observed that the Special Committee had been established because of the need to remedy the discrepancy between the cardinal principle of the Charter prohibiting the use or threat of force in international relations and its cynical flouting in actual practice together with an unprecedented development of weapons of mass destruction.

11. Seven years later, the Special Committee was still absorbed in the discussion of the organization of its work and an unproductive general debate. Successive General Assembly resolutions had sought to break that stalemate in the Special Committee. Resolution 38/133, for instance, had requested the Special Committee to continue the elaboration of the formulas of the working paper containing the main elements of the principle of non-use of force in international relations, and had also made a point of requesting the Special Committee to concentrate its work in the framework of its Working Group. Thus, at the latest session of the Special Committee, its non-aligned members had not favoured the holding of a general debate and most of them had abstained from taking part in it.

(Mr. Loulichki, Morocco)

12. The course of that general debate had again underscored the differences concerning the interpretation of the Special Committee's mandate and the final form of the instrument it was to elaborate. Within the Working Group, agreement had been reached on at least three of the "headings". There could have been broader agreement if the content of certain other "headings" had been discussed further and if their real function had been less disputed.

13. The need to enhance the effectiveness of the principle of non-use of force underlay all the Special Committee's work and it could therefore not restrict itself to repeating the prohibition contained in Article 2, paragraph 4, of the Charter, but should adapt the principle to the changing realities of international relations. That was a sensitive and complex enterprise and called for sustained effort and the exhausting of all possible approaches to promote conditions for the effective observance of the principle.

14. Once the Working Group had completed its discussions, the Chairman of the Special Committee had presented his general conclusions to the Special Committee and submitted a compilation of the various proposals on the "headings". His delegation had supported the Chairman's initiative in principle, but would have preferred it if he had submitted a more comprehensive document and carried his conclusions through to their logical conclusion.

15. In view of the meagre results of its 1984 session, the time had come to give the Special Committee clear and more specific guidelines for the next stage of its work, the substantive discussions and the elaboration of formulas. Moreover, the Special Committee would make greater progress if it were to hold consultations on the organization of work before the opening of its next session.

16. Mr. McKENZIE (Trinidad and Tobago) praised the Special Committee for successfully producing its report in the face of considerable difficulties and commended its Chairman for his constructive contribution to its work.

17. Referring to the "headings" discussed in the first part of the Working Group's report (A/39/41, paras. 54-120), he observed that most of the debate on "heading" A had centred on the feasibility of conducting a study of the type mentioned in paragraph 63 of the 1983 report (A/38/41). In his delegation's opinion, the work of carrying out the proposed study might interfere with the task of drafting, at the earliest possible date, a world treaty on the non-use of force, and might not produce any significant results. Moreover, his delegation considered it inadvisable to engage in a political exercise in a legal committee.

18. However, his delegation viewed "heading" B as highly desirable. A world treaty on the non-use of force could provide an answer to the question of how to maintain peace and could significantly enhance the effectiveness of the United Nations by eliminating threats to international peace and security.

19. As to "heading" C, his delegation believed that the world treaty should contain a direct reference to the relevant provisions of the Charter, in particular Articles 11 and 14 and Chapter VII.

(Mr. McKenzie, Trinidad and Tobago)

20. His delegation favoured the deletion of "heading" D, which might expand the scope of the exceptions to the principle of non-use of force beyond what was defined in the Charter. Moreover, the Charter gave the Security Council primary responsibility for the maintenance of peace and security through an organized procedure in which the use of force was authorized against aggressor States.
21. The subject covered by "heading" E was of fundamental importance in order to ensure the effectiveness of the world treaty, as was explained in paragraph 100 of the report. However, care should be taken not to over-emphasize the principle of the peaceful settlement of disputes, since the Special Committee's mandate focused on strengthening the principle of non-use of force.
22. His delegation supported the suggestion that, because of its vagueness, the wording of "heading" F should be reformulated to read: "Role of the United Nations in enhancing the effectiveness of the principle of non-use of force". The value of that "heading" lay in the fact that it provided an opportunity to elaborate a framework for ensuring optimum use of the possibilities offered by the Charter. Moreover, "heading" F could be used to strengthen the system on which States must be able to rely if they were to adhere more strictly to the principle of non-use of force. In that connection, his delegation agreed with the view expressed at the end of paragraph 114 of the report.
23. With regard to "heading" G, there was an obvious link between the non-use of force and disarmament, but disarmament should not be over-emphasized, since it was being given ample attention in other forums. However, the concept of confidence-building measures should be further developed.
24. His delegation regarded the compilation made by the Special Committee's Chairman of the three official proposals (A/39/41, para. 123) as a positive step which was intended to highlight areas of agreement as well as differences and to foster discussion of the "headings". It was therefore a useful framework which should guide the Special Committee in its future work.
25. Referring to the compilation of proposals, under "heading" A, he explained that his delegation favoured the inclusion of a preamble similar to that contained in the draft World Treaty and of paragraph 3 of the revised working paper of the non-aligned countries, in its entirety.
26. Under "heading" B, particular consideration should be given to paragraph 16 of the non-aligned working paper and to item (1) of the working paper of five Western European countries. Similarly, the idea behind article I, paragraph 3, of the draft World Treaty deserved consideration.
27. In connection with "heading" C, his delegation believed that, to be both credible and effective, the world treaty must make direct reference to the provisions of the Charter which concerned the implementation of enforcement measures against a State which used force against the territory of another State.

(Mr. McKenzie, Trinidad and Tobago)

28. Any provision to be included in the world treaty in connection with "heading" D must be drafted along the lines suggested in item (4) of the working paper of the five Western countries and in paragraph 11 of the non-aligned working paper. The provision must also be formulated so as to reaffirm the principle of individual or collective self-defence embodied in Article 51 of the Charter. However, all that might well be irrelevant in the case of a nuclear attack, when there would be no possibility of either defence or protection by the United Nations.

29. As to "heading" E, his delegation supported the ideas set forth in all three of the proposed texts and would endorse any acceptable combination of them.

30. Under "heading" F, his delegation considered paragraphs 6 and 7 of the revised working paper of the non-aligned countries to be the most comprehensive and acceptable proposal.

31. The ideas contained in the two texts submitted under "heading" G should be reformulated before being discussed for inclusion in the world treaty.

32. Lastly, he called for an extension of the Special Committee's mandate and proposed that, at its next session, it should discuss the informal paper submitted by its Chairman, together with any new proposals, as a composite working document containing the main elements of the principle of non-use of force.

33. Mr. DROUSHIOTIS (Cyprus) said that the manifestations of international lawlessness rampant in the world demonstrated the need for effective action, through the United Nations, in favour of universal application of the principle of non-use of force in international relations. His delegation's position on the matter was broadly reflected in paragraphs 43 to 48 of the Special Committee's report (A/39/41).

34. His delegation's approach to the subject was based on two considerations: first, that the principle of non-use of force in international relations was the cornerstone of the United Nations; and, second, that although the principle in question was a principle of jus cogens which was firmly entrenched in Article 2, paragraph 4, of the Charter, it had repeatedly been violated with impunity. Therefore, a more drastic way had to be found of enhancing its effectiveness and ensuring its scrupulous application.

35. The work of the Special Committee had been impeded by the three divergent approaches to the question taken by its members. Of those three approaches, two were mutually exclusive: the third would permit the drafting of formulas relating to the principle of non-use of force without prejudicing the form they would take. With that approach in mind, the 10 non-aligned members of the Special Committee, including Cyprus, had submitted a working paper which the Committee had considered at its 1981 session. A revised paper had been considered at the 1982 session and at its 1983 session the Committee had started work aimed at the elaboration of formulas relating to the principle of the non-use of force. So far, that was the only initiative that might provide common ground for discussion by all Committee members.

(Mr. Droushiotis, Cyprus)

36. Since the drafting of the Charter, a wealth of jurisprudence and practice concerning the principle had been accumulated. If that wealth could be collected and distilled and if the gaps and loopholes which had permitted violations of the principle of non-use of force could be filled, the Special Committee's work would be furthered.

37. The primary task of the Special Committee was to enhance the effectiveness of the principle of non-use of force. It was for that reason that Cyprus, a victim of aggression and foreign occupation, had always supported the initiative from its beginnings in the Sixth Committee. In view of the importance of the legal regulation of the use of force in international relations, his delegation favoured renewal of the Committee's mandate.

38. Mr. ZHULATI (Albania) said that while discussions on the principle of non-use of force in international relations dragged on in the Sixth Committee the international political climate continued to deteriorate. His delegation harboured no illusions about the efficacy of academic talk and a few resolutions in restraining policies of aggression and other forms of the use of force against sovereign States and peoples.

39. It was important to concentrate on the essence of the problem rather than on sterile discussions and abstract formulas. The reasons for the flagrant violation of the principle of non-use of force should be made public, as should the identity of those who used force for aggressive purposes against the freedom and independence of peoples. There was evidence to show that the crises in the world were attributable to the aggressive actions of the imperialist super-Powers, the United States and the Soviet Union, and of other warmongering and reactionary forces. The Soviet social imperialists, who brought their stale proposal on the conclusion of a world treaty on the non-use of force in international relations to every session of the Assembly had, like the United States imperialists, who disliked the Soviet proposal, made the use of force a systematic element of their foreign policy directed against the national sovereignty of peoples. There were many examples in recent and contemporary history to show that the use of force, not the non-use of force, was the principle permeating the policies of the two super-Powers in international relations. The successive interventions of the United States imperialists in Korea, Viet Nam, Kampuchea and the Middle East, their encouragement and support of the Israeli Zionists against the Palestinians, Lebanese and other Arab peoples, their interferences in Central America and Africa, and the creation of the rapid deployment force, provided clear evidence of the leading principles of the foreign policy of United States imperialism. It was when the Sixth Committee had been discussing the value of the principle of non-use of force at the thirty-eighth session that the United States had launched its infamous aggression against Grenada, set up the economic and military blockade of Nicaragua and increased its intervention and pressure against other countries of Central America in order to crush the liberation struggle of the peoples of that region. During that same period the United States imperialists had reinforced their military presence in Europe by stationing their Cruise and Pershing II missiles there. They had not hesitated to send their marines to Lebanon and to encourage and back up Israel in its criminal acts against the Palestinian people.

(Mr. Zhulati, Albania)

40. The record of the Soviet social imperialists was no better. How could the Soviet social imperialists claim to defend the principle of non-use of force in international relations when it was known that they had occupied Czechoslovakia in 1968, committed an act of barbarous aggression against Afghanistan and were still endeavouring to suppress the resistance of the heroic Afghan people? Also, the Soviet social imperialists were stationing their SS-20 missiles in Eastern Europe.
41. The super-Powers were responsible for the outbreak of the war between Iran and Iraq which was causing great losses to the peoples of both countries. As a result of the policy of the super-Powers in the Middle East, the Palestinian and Lebanese peoples were living through one of the greatest tragedies of modern times. In southern Africa, the Pretoria régime, with the support of the United States and other imperialist Powers, was continuing its occupation of Namibia and committing aggressive acts against other countries of the region.
42. Could it be that force was being used in international relations simply because there was not a universal treaty on the non-use of force? Would the existence of such a treaty put an end to the unbridled arms race, trade in arms, incitement to conflict and racial and national oppression as practised by the two super-Powers and other reactionary forces? It would be too naive to believe that the signing of a treaty such as that submitted by the Soviet Union would eliminate the use of force from international relations. The main reason for the use of force was the hegemonistic and aggressive policy of the two super-Powers. The aims of the latter in allegedly endeavouring to enhance respect of the principle of non-use of force were to deceive peoples and distract their attention from the arms race and aggressive acts against their freedom and independence, and to compel peoples to abandon their legitimate right to oppose arbitrary acts by the super-Powers.
43. His delegation refuted the demagogic proposals of the super-Powers on the non-use of force in international relations. It supported the peoples fighting to consolidate their national independence and sovereignty and those resolutely and vigilantly fighting to frustrate the warmongering plans of the imperialist super-Powers.
44. Mr. TREVES (Italy) said that Italy attached the utmost importance to the principle that States should refrain from the use or threat of force. It considered that at the current stage of international relations the most appropriate forum for constructive consideration of that principle was the Conference on Security and Co-operation in Europe, in particular, the Stockholm Conference. In the opinion of his Government, the principle of non-use of force could be reaffirmed but it would be unwise and counterproductive to resort to a world treaty of general scope for that purpose. That did not mean that treaty provisions on very specific aspects of the principle might not help to strengthen it. Thus, Italy had fully agreed with the amendment to the Chicago Convention on International Civil Aviation adopted by an extraordinary session of the Assembly of the International Civil Aviation Organization in 1984 in which application of the



(Mr. Treves, Italy)

principle to the very technical field of civil aviation had been spelt out. The ways and means of enhancing the effectiveness of the principle should consist mainly of the adoption of measures designed to build up confidence and increase security, which was possible within a framework such as the Stockholm Conference rather than the wider framework of the United Nations.

45. It was clear from the Special Committee's report that the Committee had made little or no progress at its 1984 session. Delegations had held divergent views on most items of substance and no effort had been made to take seriously into consideration the reasons that had led many delegations to vote against or abstain from voting on General Assembly resolution 38/133.

46. The frustrating debate on the "headings" could not be shortened or eliminated by procedural devices such as the Chairman's informal paper (A/39/41, para. 123), the sole effect of which had been to prevent crystallization of the few "headings" on which agreement had been within sight. The paper did not attempt to identify those "headings" on which agreement was possible, nor did it take into consideration the many proposals made during the debates in 1983 and 1984. In the opinion of his delegation the paper could not therefore serve as a basis for future deliberations of the Special Committee.

47. The work of the Special Committee should be redirected towards attainment of objectives that could win the support of all delegations. In the current situation, that objective could not be the conclusion of a world treaty. Indication of the kind of measures likely to build up confidence and increase security, including measures concerning respect for human rights and the peaceful settlement of disputes, would constitute the best way to give expression to and enhance the effect of the principle of the non-use of force. His delegation would be open to discussions concerning the drafting of a resolution reaffirming the principle, provided it was made clear that the effectiveness of the principle would be enhanced by the adoption of concrete measures for building up confidence and increasing security. His delegation did not agree that the Committee should agree first on formulas to be contained in a future instrument on the matter, leaving for a later stage determination of its form. In that respect, other ideas, such as those expressed by Egypt, France and China at the previous meeting (A/C.6/39/SR.16), appeared more promising.

48. Were the Special Committee's mandate to be reformulated in accordance with suggestions to that end, the deadlock towards which the Committee was heading might be avoided. It was true that work remained to be done in determining the "headings" of the items to be considered. It seemed clear, however, that so long as there was no consensus on the Special Committee's final objective there would be no consensus on entering the stage of concrete formulations and thus revitalizing the Special Committee.

49. Mr. BEN ABDALLAH (Tunisia) said that the international climate in recent years had become particularly difficult, with a succession of conflicts jeopardizing world peace and impeding co-operation between nations. That was particularly disturbing, since resort to force and aggression was widespread among certain régimes for whom violence was the chosen instrument of policy in defiance of all the humanitarian principles and political and juridical norms by which the international order was guided. Efforts to restore peace in Africa, the Middle East and Asia had proved fruitless, placing the innocent populations of those regions in a tragic situation and jeopardizing the third world's chances of recovery and hence the stability of the international community. The intensification of the arms race, the strengthening of military alliances and the development of coalitions also contributed to the deterioration of the international environment.

50. The United Nations must react. Drawing strength from its achievements and prestige, it must reinforce the means available to it for ensuring the maintenance of international peace and live up to the great hopes placed in it. Tunisia had never ceased to support any initiative aimed at strengthening legal instruments capable of preventing conflicts and threats to peace. The report of the Special Committee had accordingly been very closely considered by his delegation, which in 1984 had participated actively in the Special Committee's work as an observer.

51. At the thirty-eighth session, the Special Committee had been invited to continue the elaboration of the formulas set forth in the working paper containing the main elements of the principle of non-use of force in international relations by focusing on the various "headings" in the document submitted by Mr. El Araby. While it was true that no formal agreement had been reached and that the debates had soon revealed some deep-seated differences on substantive matters, efforts had been made to find common ground and despite the deplorably slow progress made in the Committee's work it was still hoped that the work would be continued in a constructive vein. To that end, his delegation considered that the work done by the Special Committee should be seriously evaluated in a calm climate, devoid of partisan emotions which might distort meanings and thus lessen the chances of finding ways to enhance the principle of non-use of force in international relations.

52. A reading of the Special Committee's report showed that the substantial difficulties encountered did not call in question the usefulness of drafting a legal instrument which would enhance and develop the principle of non-use of force. In that connection, his delegation wished to make certain comments which might guide the Special Committee in its future work.

53. First, his delegation considered that attention should not be concentrated entirely on the question of the form to be taken by the legal instrument, to the detriment of the Special Committee's work. Tunisia had indeed expressed its preference for a normative instrument with binding force, but the main point was still to reach an agreement which could identify ways of really enhancing the principle of non-use of force. The compilation of proposals could give an impetus to the Special Committee's work by promoting overall agreement on some points

(Mr. Ben Abdallah, Tunisia)

pending a more general agreement inter alia on the form of the future legal instrument. His delegation also considered that, once it had been updated, the informal paper submitted by the Chairman of the Special Committee could provide a useful basis for continuation of the Committee's work pursuant to the mandate assigned to it by Assembly resolution 33/133.

54. With regard to "heading" A, his delegation considered that the idea of force should be properly defined so as to include, in addition to the conventional concept of military force, all forms of coercion, such as economic or political coercion or hostile propaganda and resort to activities such as subversion, pressure, intimidation and support of terrorism. "Heading" D must include the right to self-defence as embodied in Article 51 of the Charter and provide for the legitimacy of the struggle of peoples against foreign occupation, colonialism, racism and any form of hegemony and imperialism. So far as "heading" E was concerned, his delegation considered that peaceful settlement of disputes was an essential corollary to the principle of non-use of force. Enhancement of the principle of the peaceful settlement of disputes through the adoption of new means for the settlement of conflicts would give a new and constructive scope to the principle of non-use of force, to the extent that preventive means would come into their own in international relations. With respect to "heading" G, positive commitments in the field of conventional and nuclear disarmament should be included in any legal instrument on the enhancement of the principle of non-use of force. In that way, the conditions necessary for international peace and security based on justice and law would be established.

55. In conclusion, he said that his delegation favoured renewal of the Special Committee's mandate, bearing in mind all comments, and was ready to assist in the drafting of an instrument acceptable by all.

56. Mr. Goerner (German Democratic Republic) took the Chair.

57. Mr. BERMAN (United Kingdom) paid a tribute to the precise and balanced introduction of the Special Committee's report (A/39/41) by the representative of India, but inquired whether it was necessary or even helpful to the conduct of the Sixth Committee's work to make it a fixed practice that the chairman of every intersessional committee should appear before it to present his committee's report. The practice was clearly useful in the case of highly technical and lengthy reports such as those of the International Law Commission and UNCITRAL, but should probably be discontinued across the board in the case of all other reports.

58. The Soviet delegation, in its statement on the item under consideration, had unfortunately added no new element to the substantive debate, nor had it removed the roadblock which had brought the Special Committee to a virtual standstill, by dropping its insistence on the drafting of the so-called world treaty on the non-use of force. It would be pointless to reiterate his own delegation's oft-repeated objections to such a treaty. What should be noted, however, was that the Soviet statement had, in order to discredit the position of the NATO States,

(Mr. Berman, United Kingdom)

alluded to alleged events in some other forum, not connected with the United Nations, in which the vast majority of the Committee were not participants. The allusions had been so opaque that even the United Kingdom delegation, which was an active participant in the European Disarmament Conference in Stockholm, had had difficulty in understanding what the Soviet representative had been driving at. If the point was that the Soviet Government truly believed that the Bonn Declaration reaffirming that NATO weapons would be used only in response to attack - in complete accord with the United Nations Charter - was somehow inconsistent with the NATO States' refusal, both at the United Nations and in Stockholm, to countenance proposals which would undermine the Charter, then it had better explain the point more clearly, but should do so in Stockholm, where an attempt was being made to conduct a serious negotiation under a mandate radically different from the current mandate of the Special Committee.

59. Regarding the report of the Special Committee and in particular the Chairman's statement and Chairman's informal paper, reproduced in paragraphs 122 and 123 of the report the Chairman's highly controversial proposals were perhaps understandable in the light of the pressures exerted in a committee whose mandate had always been fundamentally contested. In view of the identity of the delegation which had asked the Chairman to present his conclusions, there was little doubt that its intent had been to have the Chairman enter into an intensive phase of consultations that might bring its members into a greater measure of agreement about the Special Committee's work. Indeed, it would be seen from paragraph 122 that consultations had begun on that basis, but it remained unclear why they had been suddenly broken off in order to enable a massive statement to be presented on the floor. What was more objectionable than the terms of the statement itself was the manner in which a certain group of delegations had immediately sought to take advantage of it to distort the work of the Special Committee in favour of their own point of view. It must surely be evident that if the Special Committee was ever to have any hope of finding a genuine measure of common ground, and certainly if it was to have any prospect at all of actually enhancing the effectiveness of the principle of non-use of force, that would not be achieved by springing procedural traps but by hard, good faith negotiations. In fact, it seemed clear that the Chairman's proposals had set the Special Committee's work back because they distorted and ignored the work which the Special Committee had already done by taking for granted the nature and content of the "headings", presupposing that agreement had been reached where it had not and ignoring numerous interesting proposals for revising the original "headings".

60. He wished to take up again the argument, based on an original Soviet proposal and heard in both the Special Committee and the Sixth Committee, to the effect that the proper course was to proceed with a drafting exercise without regard to the nature of what had been drafted, leaving the form of the instrument to be determined at a later stage. The idea of drafting in a vacuum ought to go against the very grain of a lawyer's professional pride and was fundamentally unacceptable to his Government. The reasons were simple: if the aim was simply to repeat the prohibitions contained in the Charter, then the drafting could be done in an afternoon; alternatively, if there was a consensus that the aim was to

(Mr. Berman, United Kingdom)

change or revise the rules contained in the Charter, then it would be better to set up a massive apparatus corresponding to that used in 1945 at the San Francisco Conference. If such a mechanism ever arrived at agreed proposals for new rules, then doubtless it would be better for those recommendations to be submitted to another of the Sixth Committee's intersessional bodies, not to the Special Committee. On the other hand, if the Special Committee was eventually able to agree that its aim was not to destroy or undermine the Charter but to seek a series of practical measures and recommendations which might genuinely enhance its effectiveness, that would have a most direct bearing on the nature and the formulation of the "headings", which after all represented the programme of activities under the rubric of enhancing the principle of non-use of force. Thus, the debate on the "headings" had a much deeper and more important function than the representative of Brazil, for instance, was willing to admit. There was thus no point in discussing the "headings" further while the current stalemate continued.

61. The question which next confronted the Committee was whether there was any point in continuing the Special Committee under its current mandate. That fundamental point had been raised at the evaluation debate at the end of the Special Committee's session and was reflected in paragraph 143 of its report. His own delegation believed that there was no point in continuing the Special Committee. It would reconsider its position, however, if the Special Committee's mandate were substantially changed and adopted by consensus, and if its work was directed away from the idea of a new treaty or any other normative instrument on the non-use of force that would be equally subversive of the Charter, towards measures which by common agreement bolstered the clear Charter provisions on the threat or use of force.

62. Mrs. DIAGO (Cuba) said that her Government once again stressed the importance it attached to the codification and enhancement of the effectiveness of the Charter principle of non-use of force in international relations, as a means of ensuring its observance by all States.

63. Recent events throughout the world and particularly in the western hemisphere, had demonstrated that despite all the efforts of the United Nations, the principle was being repeatedly violated. As the Minister for Foreign Affairs of Cuba had observed in his recent statement to the General Assembly, imperialist aggression was threatening world peace and security, and the policies of the Reagan Administration were creating new areas of tension and rekindling old ones, thus making a mockery of the principle of the peaceful settlement of disputes. The dangers presented by the current world situation had been recognized by most of the representatives who had spoken in the General Assembly and by the Ministers of the non-aligned countries.

64. Cuba and the non-aligned countries were particularly concerned about the situation in Central America. There was imminent danger that the conflict might spread. The imperialist policy was to intervene by using neighbouring territories to organize incursions into Nicaragua and installing military bases openly intended to destabilize the Sandinista Government. The risk of a direct attack on Nicaragua, Cuba and other countries of the region had grown alarmingly. The United

(Mrs. Diago, Cuba)

States was conducting regular military manoeuvres with the Honduran army, using them as a pretext for maintaining an impressive military force in Central America. Its policy of threatening or using force had reached its climax in the invasion of Grenada. Underlying such actions was a strategy of resisting and reversing the process of change in the region. Internationally, the policy has expressed in an intensive programme to modernize nuclear and conventional arms, an accelerated increase of NATO forces and growing military budgets.

65. The stand taken by the Reagan Administration against negotiation to prevent an arms race in space was part of the same picture. Its intentions to militarize outer space were clear and had raised confrontation to new and dangerous levels, even as they violated important earlier agreements and threatened the delicate balance of arms control and disarmament agreements concluded by the international community.

66. As a member of the Special Committee, Cuba supported the renewal of its mandate to draft a treaty governing violations of the principle of non-use of force that would also include such questions as nuclear arms and political and economic pressure.

67. Cuba also supported the Mongolian proposal to include in the agenda of the thirty-ninth session an item entitled "Right of peoples to peace".

68. Mr. MUDHO (Kenya) said that, from the outset, there had been only three points of agreement on the item before the Committee: that all States were enjoined by the Charter to refrain from the use or threat of force in their relations with each other; that despite that provision there had been numerous instances of the use or threat of force by States; and that, consequently, it was desirable, and even necessary, to enhance the effectiveness of the principle of non-use of force in international relations. There was, however, a sharp and apparently irreconcilable division of opinion on the ways of achieving that goal. That division had resulted in a very amorphous and ambiguous mandate for the Special Committee, which had been given the task of either drafting a treaty or making such recommendations as it deemed appropriate. The result was paralysis.

69. His country had consistently and faithfully observed the Charter and, in particular, the clear provision of Article 2, paragraph 4, which stated that States should refrain from the threat or use of force. The only exceptions to that principle were the right to individual or collective self-defence, provided for under Article 51, although the exercise of that right was limited to the time before the United Nations, through the Security Council, took the measures necessary to maintain or restore international peace and security, and the right of peoples under colonial or foreign domination to resort to any means, including armed struggle, to gain their freedom and independence. Both those who opposed and those who favoured a treaty agreed that there was a clear Charter provision on the subject with only those two exceptions.

(Mr. Mudho, Kenya)

70. The non-aligned countries had a clear interest and duty to take a lead in seeking a way out of the current impasse. His delegation was ready and willing to join any genuine search for ways and means of enhancing the effectiveness of the principle of non-use of force in international relations. Those efforts should include, indeed, should begin with, a re-examination of the mandate of the Special Committee to make it more responsive to the problem at hand and his delegation's support or otherwise for the renewal of the mandate would be greatly influenced by the way it was reformulated.

71. Mr. ROSENSTOCK (United States of America), speaking in exercise of the right of reply, said that it was clear from the statements made by the representatives of Albania and Cuba that those who slavishly attacked Soviet proposals because they were Soviet proposals had nothing more to offer than those who slavishly supported Soviet proposals because they were Soviet proposals. His delegation had no objection to a discussion of specific cases if it was undertaken with a view to helping to enhance the effectiveness of the principle. Indeed, if the Special Committee had any *raison d'être* at all, it was perhaps to serve as a forum for examining the facts with a view to identifying the problem and the solution. The Special Committee, or even the Sixth Committee, could examine in detail what had transpired and what was transpiring in Grenada. It could examine arms shipments, attempts at subversion in El Salvador, the role of Cuban troops as the far-flung mercenaries of the Soviet empire, and other cases. Such a discussion should, however, be undertaken with a view to shedding some light on the issue. If, for example, Cuba believed that the actions of the United States and the Organization of Eastern Caribbean States were a violation of the Charter, he wondered why that country thought that another treaty to the same end would help. If, on the other hand, Cuba shared his delegation's view that the action was fully consistent with the Charter, he wondered what amendments to the Charter or parallel legal instruments it wished to suggest to bar such action. References to specific cases, if unrelated to the task before the Committee, merely demonstrated that the Soviet Union and its allies were not proposing anything serious with a view to a better world but were simply creating yet another of their agitation propaganda platforms, and wasting the time of the Committee.

72. Mrs. DIAGO (Cuba), speaking in exercise of the right of reply, said that the statement made by the representative of the United States was inappropriate, for that country was the main violator of the principle of non-use of force in international relations. Indeed, her country was a victim of such violations as economic blockade, attempted invasion and intrusions by United States spy planes into its airspace. As a member of the United Nations, Cuba felt that it had a right to express its views and a duty to curb the policies of the Reagan Administration, which were aimed at undermining détente and involved the use of force in various parts of the world and acts of aggression against independent States and countries fighting for self-determination.

73. Mr. PETROVSKY (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, said that his delegation rejected the slanderous remarks made

(Mr. Petrovsky, USSR)

by the United States representative and fully understood their purpose. The point of the attack was to destroy constructive work on an item which was supported by the vast majority of States. Noting that the United States used the same policy of obstructionism in the Special Committee, he called upon that country to proceed towards constructive work on what was a serious and complex topic and to refrain from hampering progress with procedural devices and slanderous comments that were unworthy of it.

74. Mr. ZHULATI (Albania), speaking in exercise of the right of reply, said that the United States had defended imperialism by distorting the facts. He was not surprised that the representative of that country was not pleased by Albania's statement on United States imperialism. Albania, however, would not be silent. World affairs were not the monopoly of the super-Powers. His country had its opinions and would express them openly. The attempts by the United States representative to defend his country's policy of hegemony and imperialism were futile. The facts were there for all to see. Albania wished to demonstrate that such policies were against the interests of the peoples of the world, international peace and security and the provisions of the Charter.

75. Mr. ROSENSTOCK (United States of America) said that he had not defended anything nor had he suggested that some delegations did not have the right to speak. He had simply expressed the hope that those who cited specific examples would do so in a way that was relevant to the item before the Committee. None of the three previous speakers had done so.

76. Mrs. DIAGO (Cuba) said that she would like to know what cases were more relevant to the matter at hand than the invasion of Grenada, the United States boycott of arms control negotiations, its refusal to examine ways to prevent an arms race in outer space, and its interventions in the Middle East and Central America.

77. Mr. PETROVSKY (Union of Soviet Socialist Republics) said that the United States wished to replace constructive work on the elaboration of an instrument providing legal guarantees against the use of force in international relations with a study of the various reasons and devices to which States resorted when they used force. There was nothing new in his approach; nor was there any point to it, since everyone knew the explanations and devices used by the United States since 1945.

78. The argument that a world treaty would create a parallel régime was also an old one. It was, however, absurd since the Charter itself provided that the obligations under the Charter would prevail in the event of a conflict with obligations under another international agreement. Such untenable arguments were unworthy of the United States.

79. Mr. ZHULATI (Albania) said that the reply of the United States representative contained nothing new. Therefore, his delegation wished to emphasize once again that the Albanian people and Government would never renounce their right to speak the truth openly and to denounce the policy of the super-Powers.