



**REPORT OF THE SPECIAL COMMITTEE
ON PRINCIPLES OF INTERNATIONAL LAW
CONCERNING FRIENDLY RELATIONS
AND CO-OPERATION AMONG STATES**

GENERAL ASSEMBLY

OFFICIAL RECORDS : TWENTY-FOURTH SESSION

SUPPLEMENT No. 19 (A/7619)

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New York, 1969

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. INTRODUCTION

A. Adoption and organization of the report

1. Pursuant to General Assembly resolution 2463 (XXIII) of 20 December 1968, the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, as reconstituted by General Assembly resolution 2103 (XX) (see paragraph 9 below) held its fourth session at United Nations Headquarters, New York, from 18 August to 19 September 1969. At the last meeting of the session (109th meeting) on 19 September 1969, the Special Committee adopted without objection the draft report presented by its Rapporteur subject to the inclusion, in the final version, of the reports of the Drafting Committee, the summary of the debate at the concluding stage of the Special Committee's work, and the decisions taken by the Special Committee.

2. The introduction to this report (chapter I) briefly recalls the background of the work of the Special Committee and describes its composition, terms of reference, and the organization of the session. The remainder of the report is organized in general in accordance with the terms of reference of the Special Committee at its 1969 session, the agenda adopted and the decision regarding the organization of work for the session (see paragraphs 19, 20, 22 and 23 below). Chapter II is, therefore, divided into three sections. Sections 1 and 2 deal respectively, with the consideration of the principle concerning the prohibition of the threat or use of force and the principle of equal rights and self-determination of peoples. Each of the above sections is arranged as follows: first, the texts before the Special Committee on the principle concerned are set out; secondly, an account is given of the debate in the Special Committee; thirdly, the text of the Drafting Committee report on each principle is given together with a summary of statements made in the Special Committee prior to the adoption of the particular report concerned. Section 3 is devoted to the general comments, made at the final stage of the session, on the work of the 1969 session of the Special Committee, the reports of the Drafting Committee and the organization of the next session of the Special Committee.

B. Background of the work of the Special Committee

3. The item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" was discussed by the General Assembly at its seventeenth, eighteenth, twentieth, twenty-first, twenty-second and twenty-third sessions. These discussions resulted, inter alia, in the adoption of General Assembly resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of

16 December 1963, 2103 (XX) of 20 December 1965, 2181 (XXI) of 12 December 1966, 2327 (XXII) of 18 December 1967 and 2463 (XXIII) of 20 December 1968. 1/

1. Action taken by the General Assembly at its seventeenth session (General Assembly resolution 1815 (XVII))

4. By resolution 1815 (XVII) the General Assembly resolved to undertake, pursuant to Article 13 of the Charter, a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations with a view to their progressive development and codification. The same resolution listed those principles as being notably the following seven: 2/

(a) The principle that States shall refrain in their international relations from 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;

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;

(d) The principle of sovereign equality of States;

(e) The duty of States to co-operate with one another in accordance with the Charter;

(f) The principle of equal rights and self-determination of peoples;

(g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter.

1/ Other resolutions adopted by the Assembly in connexion with the item are resolution 1816 (XVII) of 18 December 1962, on technical assistance to promote the teaching, study, dissemination and wider appreciation of international law, and resolutions 1967 (XVIII) of 16 December 1963, 2104 (XX) of 20 December 1965 and 2182 (XXI) of 12 December 1966 on the question of methods of fact-finding. As these resolutions are not related to the terms of reference of the Special Committee at its 1969 session, they are not set out in the body of the present report.

2/ The principles are here listed in the order in which they were studied by the Special Committees in 1964 and 1966 and in the General Assembly at its eighteenth, twentieth and twenty-first sessions; the order of the principles as given in paragraph 1 of resolution 1815 (XVII) is somewhat different.

2. Action taken by the General Assembly at its eighteenth session
(General Assembly resolution 1966 (XVIII))

5. The first four of the above principles were studied by the General Assembly at its eighteenth session. At that session the Assembly adopted resolution 1966 (XVIII), whereby it decided to establish a Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, which was requested to study the first four principles and to "draw up a report containing, for the purpose of the progressive development and codification of the four principles so as to secure their more effective application, the conclusions of its study and its recommendations". By the same resolution the Assembly decided to consider the report of the Special Committee at its nineteenth session, and also to study at that session the last three of the seven principles listed in paragraph 4 above.

3. The work of the Special Committee established by General Assembly
resolution 1966 (XVIII) (the "1964 Special Committee")

6. The Special Committee established under General Assembly resolution 1966 (XVIII), referred to hereafter in the present report as the 1964 Special Committee ^{3/} met in Mexico City at the invitation of the Government of Mexico, from 27 August to 2 October 1964, and adopted a report to the General Assembly. ^{4/} That report stated that, in regard to the principle of sovereign equality of States, the 1964 Special Committee had unanimously adopted, on the recommendation of its Drafting Committee, a text setting out points of consensus and a list itemizing various proposals and views on which there was no consensus but for which there was support. ^{5/} That was the only principle on which such a text was adopted by the 1964 Special Committee. On the principle concerning the prohibition of the threat or use of force, the Drafting Committee submitted two papers to the 1964 Special Committee; ^{6/} the first of them (Paper No. 1) contained a draft text formulating points of consensus, but the second (Paper No. 2) stated that the 1964 Committee had been unable to reach any consensus on the scope or content of the principle. By majority votes the 1964 Special Committee decided to put the second paper to the vote first and then adopted that paper. ^{7/} The 1964 Special Committee was likewise unable to reach any consensus

^{3/} The 1964 Special Committee was composed of the following twenty-seven Member States: Argentina, Australia, Burma*, Cameroon, Canada, Czechoslovakia, Dahomey, France, Ghana, Guatemala, India, Italy, Japan, Lebanon, Madagascar, Mexico, Netherlands, Nigeria, Poland, Romania, Sweden, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia.

* Burma was appointed to replace Afghanistan, one of the States originally appointed to serve in the Committee, which had resigned from membership before the Committee's session (see A/5689 and A/5727).

^{4/} Official Records of the General Assembly, Twentieth Session, Annexes, agenda items 90 and 94, document A/5746.

^{5/} Ibid., para. 339.

^{6/} Ibid., para. 106.

^{7/} Ibid., paras. 107 and 108.

on the principle concerning the peaceful settlement of international disputes and the principle concerning non-intervention. 8/

4. Action taken by the General Assembly at its nineteenth and twentieth sessions (General Assembly resolution 2103 (XX))

7. The report of the 1964 Special Committee was not considered by the General Assembly at its nineteenth session. In view of the situation prevailing at the session, 9/ the Secretary-General included the item relating to the report in the provisional agenda of the twentieth session of the General Assembly.

8. At its twentieth session, the General Assembly considered the report of the 1964 Special Committee, and also studied the last three principles set out in paragraph 4 above. In conjunction therewith, the Assembly considered an item entitled "Observance by Member States of the principles relating to the sovereignty of States, their territorial integrity, non-interference in their domestic affairs, the peaceful settlement of disputes and the condemnation of subversive activities", which had been proposed by Madagascar for inclusion in the agenda of the nineteenth session of the General Assembly, 10/ but in regard to which no decision on inclusion had been taken at that session; when proposed again by Madagascar, the item was included in the agenda of the twentieth session as item 94. 11/

9. At its twentieth session the General Assembly adopted resolution 2103 (XX) by which it decided to reconstitute the 1964 Special Committee, to be composed of the members of that Committee 12/ and of four other Member States, 13/ in order to complete the consideration and elaboration of the seven principles set forth in paragraph 4 above. The Special Committee as thus reconstituted was requested to continue the consideration of the first four principles, "having full regard to matters on which the previous Special Committee was unable to reach agreement and to the measure of progress achieved on particular matters", to consider the last three principles, and to submit a comprehensive report on the results of its study of the seven principles, "including its conclusions and recommendations, with a view to enabling the General Assembly to adopt a declaration containing an enunciation of these principles". By part B of the same resolution the General Assembly requested the reconstituted Special Committee to take into consideration the request for inclusion in the agenda of the item proposed by Madagascar, which is mentioned in paragraph 8 above, and the discussion of that item at the twentieth session.

8/ Ibid., paras. 201 and 292.

9/ Ibid., Nineteenth Session, Annexes, annex No. 2, document A/5884, para. 6.

10/ Ibid., documents A/5757 and Add.1.

11/ Ibid., Twentieth Session, Annexes, agenda items 90 and 94, document A/5937.

12/ See foot-note 3 above.

13/ Algeria, Chile, Kenya and Syria.

5. Work of the Special Committee as reconstituted by General Assembly resolution 2103 (XX); action taken by the General Assembly at its twenty-first and twenty-second sessions (General Assembly resolutions 2181 (XXI) and 2397 (XXII))

10. The Special Committee, as reconstituted by General Assembly resolution 2103 (XX), 14/ held sessions at United Nations Headquarters from 8 March to 25 April 1966, at the United Nations office at Geneva from 17 July to 19 August 1967 and at United Nations Headquarters from 9 to 30 September 1968. At each session, the Special Committee adopted a report to the General Assembly. 15/

11. The reports of the Special Committee on its 1966, 1967 and 1968 sessions were considered by the General Assembly at its twenty-first, twenty-second and twenty-third sessions, respectively. That consideration resulted in the adoption by the General Assembly of resolutions 2181 (XXI) of 12 December 1966, 2327 (XXII) of 18 December 1967 16/ and 2463 (XXIII) of 20 December 1968.

12. A brief account by principle is given below of the results achieved by the Special Committee at each of its three sessions, as reported to the General Assembly, and of the action taken by the Assembly on the basis of the reports of the Special Committee on its 1966 and 1967 sessions (General Assembly resolutions 2181 (XXI) and 2327 (XXII)). As regards General Assembly resolution 2463 (XXIII), its relevant provisions are set out below in section D of this chapter, under the subject of terms of reference.

14/ The Special Committee has had the same composition since 1966 namely the thirty-one Member States listed in paragraph 18 below.

15/ For the reports of the three sessions, see respectively Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 87, document A/6230; ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799; ibid., Twenty-third Session, agenda item 87, document A/7326.

16/ The Sixth Committee, to which the General Assembly had referred the agenda item relating to the report of the 1967 Special Committee, also had before it a letter dated 8 November 1967 from the President of the General Assembly to the Chairman of the Sixth Committee (A/C.6/383) transmitting a communication from the Chairman of the Fourth Committee, reproduced in the annex to that document. The communication referred to the Fourth Committee's decision to transmit to the Chairman of the Sixth Committee, in connexion with the latter's consideration of the item on principles of international law concerning friendly relations and co-operation among States, the statements made by the representative of South Africa at the 1697th and 1704th meetings of the Fourth Committee, on 19 and 27 October 1967, during the discussion on Southern Rhodesia in connexion with agenda item 23 (Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples). The General Assembly had taken note of the Fourth Committee's decision at its 1594th plenary meeting on 3 November 1967.

(a) Principles concerning the peaceful settlement of international disputes and the sovereign equality of States

13. As regards the principle concerning the peaceful settlement of international disputes and the principle of sovereign equality of States, the Special Committee, at its 1966 session, unanimously adopted the texts setting out points of consensus which had been recommended by the Drafting Committee. 17/ By resolution 2181 (XXI), the General Assembly, having requested the Special Committee to consider as a matter of priority, at its 1967 session, the remaining five principles, further requested it to examine any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee on the principle concerning the peaceful settlement of disputes and the principle of sovereign equality of States. At its 1967 session, the Special Committee referred the two principles to the Drafting Committee. The Drafting Committee, having referred the principles to a working group, took note of the report of the Working Group and transmitted it to the Special Committee for its information. As reported by the Drafting Committee, the Working Group agreed on the desirability of maintaining the areas of agreement already achieved in the formulation agreed by the 1966 Special Committee on the principle concerning the peaceful settlement of disputes, and the consensus text agreed by the 1966 Special Committee on the principle of sovereign equality of States. 18/ The Special Committee took note of the Drafting Committee's report and transmitted it to the General Assembly. 19/

(b) Principles concerning the duty of States to co-operate and the good faith fulfilment of Charter obligations

14. As regards the principle concerning the duty of States to co-operate and the principle of good faith fulfilment, the Special Committee, at its 1966 session, took note of a report by the Drafting Committee that it had been unable to present an agreed formulation thereof. 20/ By resolution 2181 (XXI), the General Assembly requested the Special Committee, at its 1967 session, to complete the formulation of the two principles. At that session, the Special Committee referred the principles to the Drafting Committee. The Drafting Committee, having referred them to working groups, considered the reports of the working groups and accepted the texts set out therein, as expressing the consensus of the Drafting Committee. 21/ The Special Committee took note of the Drafting Committee's reports and transmitted them to the General Assembly. 22/

17/ Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 87, document A/6230, paras. 272 and 413.

18/ Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799, para. 438

19/ Ibid., para. 474.

20/ Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 87, document A/6230, paras. 454 and 565.

21/ Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799, paras. 161 and 285.

22/ Ibid., para. 474.

(c) Principle concerning non-intervention

15. As regards the principle concerning non-intervention, the Special Committee, at its 1966 session, adopted a resolution whereby it decided that "the Special Committee will abide by General Assembly resolution 2131 (XX) of 21 December 1965" (the resolution entitled "Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty"), and instructed the Drafting Committee to direct its work on the principle "towards the consideration of additional proposals, with the aim of widening the area of agreement of General Assembly resolution 2131 (XX)". 23/ The report of the Drafting Committee, that no agreement was reached on the additional proposals made, was taken note of by the Special Committee. 24/ By resolution 2181 (XXI), the General Assembly requested the Special Committee, at its 1967 session, to consider proposals on the principle with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX). At the 1967 session, the Special Committee referred the principle to the Drafting Committee. The Drafting Committee took note that there was no report from the Working Group to which the principle had been referred, and reported accordingly to the Special Committee. 25/ The Special Committee took note of the Drafting Committee's report and transmitted it to the General Assembly. 26/ By resolution 2327 (XXII), the General Assembly requested the Special Committee, at its 1968 session, to consider proposals compatible with General Assembly resolution 2131 (XX), with the aim of widening the area of agreement already expressed in that resolution. At its 1968 session, the Special Committee decided that, owing to the lack of time, it was unable to consider the item of its agenda relating to the principle. 27/

(d) Principle concerning the prohibition of the threat or use of force

16. As regards the principle concerning the prohibition of the threat or use of force, the Special Committee, at its 1966 session, took note of a report by the Drafting Committee that it had been unable to present an agreed formulation thereof. 28/ By resolution 2181 (XX), the General Assembly requested the Special Committee, at its 1967 session, to complete the formulation of the principle. At that session, the Special Committee referred the principle to the Drafting Committee. The Drafting Committee decided to transmit to the Special Committee for consideration the report of the Working Group to which the principle had been referred. That report listed points of agreement and points of disagreement. 29/

23/ Ibid., Twenty-first Session, Annexes, agenda item 87, document A/6230, para. 341.

24/ Ibid., para. 353.

25/ Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799, para. 365.

26/ Ibid., para. 474.

27/ Ibid., Twenty-third Session, agenda item 87, document A/7326, para. 204.

28/ Ibid., Twenty-first Session, Annexes, agenda item 87, document A/6230, para. 155.

29/ Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799, para. 107.

The Special Committee took note of the Drafting Committee's report and transmitted it to the General Assembly. 30/ By resolution 2327 (XXII), the General Assembly requested the Special Committee, at its 1968 session, to complete the formulation of the principle. At that session, the Special Committee adopted the report of the Drafting Committee, to which the principle had been referred. That report extended the points of agreement contained in the report of the Working Group at the 1967 session. It also contained points on which no agreement was reached and a number of proposals which had been submitted as a basis for further negotiations. 31/

(e) Principle concerning equal rights and self-determination of peoples

17. As regards the principle of equal rights and self-determination, the Special Committee, at its 1966 session, took note of a report by the Drafting Committee that it had been unable to present an agreed formulation of the principle. 32/ By resolution 2181 (XX) the General Assembly requested the Special Committee, at its 1967 session, to complete the formulation of the principle. At that session, the Special Committee referred the principle to the Drafting Committee. The Drafting Committee, having considered the report of the Working Group to which the principle had been referred, concluded that the areas of agreement recorded in that report were hardly sufficient to justify transmitting it to the Special Committee for its information. 33/ The Special Committee took note of the Drafting Committee's report and transmitted it to the General Assembly. 30/ By resolution 2327 (XXII), the General Assembly requested the Special Committee, at its 1968 session, to complete the formulation of the principle. At that session, the Special Committee adopted the report of the Drafting Committee, to which the principle had been referred. That report stated that, owing to the lack of time, the Drafting Committee had not been able to carry out a study in depth of the proposals concerning the principle. 34/

C. Composition of the Special Committee

18. In accordance with General Assembly resolutions 1966 (XVIII), 2103 (XX) and 2463 (XXIII), the Special Committee is composed of the following thirty-one Member States: Algeria, Argentina, Australia, Burma, Cameroon, Canada, Chile, Czechoslovakia, Dahomey, France, Ghana, Guatemala, India, Italy, Japan, Kenya, Lebanon, Madagascar, Mexico, Netherlands, Nigeria, Poland, Romania, Sweden, Syria, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia. The list of representatives at the 1969 session is contained in the annex to the present report.

30/ Ibid., para. 474.

31/ Ibid., Twenty-third Session, agenda item 87, document A/7326, para. 134.

32/ Ibid., Twenty-first Session, Annexes, agenda item 87, document A/6230, para. 520.

33/ Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799, para. 231.

34/ Ibid., Twenty-third Session, agenda item 87, document A/7326, para. 203.

D. Terms of reference given to the Special Committee by General Assembly resolution 2463 (XXIII)

19. By resolution 2463 (XXIII), the General Assembly took note of the report of the Special Committee on its 1968 session, and decided to ask the Special Committee to meet in 1969 in order to continue and complete its work. Also by resolution 2463 (XXIII), the General Assembly:

".....

"4. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the previous and present sessions of the General Assembly and in the 1964, 1966, 1967 and 1968 sessions of the Special Committee, to endeavour to resolve, in the light of General Assembly resolution 2327 (XXII), all relevant questions relating to the formulation of the seven principles, in order to complete its work as far as possible, and to submit a comprehensive report to the General Assembly at its twenty-fourth session;

"5. Calls upon the members of the Special Committee to devote their utmost efforts to ensuring the success of the Special Committee's session, in particular by undertaking, in the period preceding the session, such consultations and other preparatory measures as they may deem necessary;"

20. General Assembly resolution 2463 (XXIII) reproduced without change the text of the draft resolution recommended by the Sixth Committee. 35/ Before adopting that draft resolution, the Sixth Committee heard the following statement from its Chairman:

"If the Sixth Committee approves this draft resolution, it is on the understanding that there is consensus in the Committee on the following:

"First, the Special Committee should devote itself to completing the work on the formulations of the principle prohibiting the threat or use of force and the principle of equal rights and self-determination of peoples;

"Secondly, if any time is left, it should address itself to other work relating to other principles;

"Thirdly, the above understanding is wholly without prejudice to the positions of any delegations that have been taken with regard to any particular principle concerning friendly relations." 36/

E. Organization of the 1969 session of the Special Committee

21. By operative paragraph 3 of its resolution 2463 (XXIII), the General Assembly asked the Special Committee "to meet in 1969 in New York, Geneva or any other suitable place for which the Secretary-General receives an invitation". No such

35/ Ibid., Twenty-third Session, Annexes, agenda item 87, document A/7429, paras. 71 and 73.

36/ Ibid., para. 71.

invitation having been received, the Special Committee met at United Nations Headquarters, New York, and held thirteen meetings in the course of a five-week session from 18 August to 19 September 1969. At the first meeting of its session (97th meeting), on 18 August 1969, the Special Committee elected the Chairman and at the second meeting (98th meeting), on 19 August 1969, it elected the Vice-Chairmen and Rapporteur. The officers so elected were the following:

<u>Chairman:</u>	Mr. Milan Sahovic (Yugoslavia)
<u>Vice-Chairmen:</u>	Mr. S.P. Jagota (India) Mr. A.W. Robertson (Canada)
<u>Rapporteur:</u>	Mr. E. Sam (Ghana)

The session was opened on behalf of the Secretary-General by Mr. Constantin A. Stavropoulos, the Legal Counsel. Mr. Anatoly P. Movchan, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary. Mr. John Scott, Mr. Vladimir Prusa, Mr. Eduardo Valencia-Ospina and Mr. Kenneth Keith served as Assistant Secretaries.

22. At the first meeting of the session (97th meeting), on 18 August 1969, the Special Committee adopted the following agenda (A/AC.125/10):

1. Opening of the session
2. Election of the Chairman
3. Adoption of the agenda
4. Election of the Vice-Chairmen and of the Rapporteur
5. Organization of the work
6. Completion of the Special Committee's work, in the light of the debate which took place in the Sixth Committee during the twenty-third and preceding sessions of the General Assembly and in the 1964, 1966, 1967 and 1968 sessions of the Special Committee, by endeavouring to resolve, in the light of General Assembly resolution 2327 (XXII), all relevant questions relating to the formulation of the seven principles
/Paragraph 4 of General Assembly resolution 2463 (XXIII)/
7. Submission to the General Assembly at its twenty-fourth session of a comprehensive report
/Paragraph 4 of General Assembly resolution 2463 (XXIII)/

23. At the 98th, 99th and 100th meetings, on 19, 20 and 21 August 1969, the Special Committee discussed the organization of its work. Having in mind operative paragraph 4 of General Assembly resolution 2463 (XXIII) (see paragraph 19 above), as well as the statement made by the Chairman of the Sixth Committee at the twenty-third session of the General Assembly regarding the future work of the Special Committee (see paragraph 20 above), the Special Committee agreed to concentrate at the present session on completing its work on the formulation of the principle concerning the prohibition of the threat or use of force and the principle of equal rights and self-determination of peoples. At

the 10th meeting, the Special Committee, as required by General Assembly resolution 2292 (XXII) entitled "Publications and documentation of the United Nations", considered the form of its report to the General Assembly. It decided that the report should be in the same form as in previous years, although due account should be taken of the need for brevity and the saving of unnecessary expenditure.

24. At the 102nd and 103rd meetings, on 25 and 28 August 1969, the Special Committee agreed to the suggestion of its Chairman that the Drafting Committee for the 1969 session be constituted as follows: Argentina, Australia, Cameroon, Chile, Czechoslovakia, France, India, Italy and Sweden (a joint membership, each of the two delegations to take part according to the questions under discussion), Japan, Kenya and the United Arab Republic (a joint membership, each of the two delegations to take part according to the questions under discussion), Lebanon, Mexico, Nigeria, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia. It was further agreed that the Rapporteur could participate ex officio in the proceedings of the Drafting Committee. Also, on the suggestion of its Chairman, the Special Committee elected Mr. Sergio González Gálvez (Mexico) as Chairman of the Drafting Committee.

25. As soon as the Special Committee completed the initial discussion of each of the principles concerning the prohibition of the threat or use of force and equal rights and self-determination of peoples (see paragraph 23 above), it referred them to the Drafting Committee. Subsequently, the Special Committee considered the reports of the Drafting Committee and took decisions thereon.

II. COMPLETION OF THE SPECIAL COMMITTEE'S WORK IN THE LIGHT OF THE DEBATE WHICH TOOK PLACE IN THE SIXTH COMMITTEE DURING THE TWENTY-THIRD AND PRECEDING SESSIONS OF THE GENERAL ASSEMBLY AND IN THE 1964, 1966, 1967 AND 1968 SESSIONS OF THE SPECIAL COMMITTEE, BY ENDEAVOURING TO RESOLVE, IN THE LIGHT OF GENERAL ASSEMBLY RESOLUTION 2327 (XXIII), ALL RELEVANT QUESTIONS RELATING TO THE FORMULATION OF THE SEVEN PRINCIPLES

Section 1: The principle that States shall refrain in their international relations from 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

A. Texts before the Special Committee

1. Report of the Drafting Committee adopted by the 1968 Special Committee

26. The report of the Drafting Committee on the principle that States shall refrain in their international relations from 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, which was adopted by the Special Committee in 1968 (see paragraph 16 above), read as follows:

The Drafting Committee considered all proposals on the same basis. It took as the basis for its work the report adopted by the Drafting Committee at the 1967 session (see A/7326, paragraph 58). In view of the close interrelationship between the various components of the principle, it was understood that agreement on one particular point would not prejudice the position of members with regard to other points or to the statement of the principle as a whole. It was also understood that questions of drafting were of great importance.

1. General prohibition of force

There was agreement on the following statement:

"Every State has the duty to refrain in its international relations from 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.

"Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues."

2. Consequences and corollaries of the prohibition of the threat or use of force

There was agreement on the following statements:

"A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

"In accordance with the Purposes and Principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression."

3. Use of force in territorial disputes and boundary problems

There was agreement in principle that every State has the duty to refrain from the threat or use of force to violate the existing boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

There was no agreement whether there should be a reference to international lines of demarcation in this connexion. Nevertheless, the following formulae were advanced with a view to providing some basis for discussion:

"Every State likewise has the duty to refrain from the threat or use of force to violate internationally agreed lines of demarcation; but this is without prejudice to the rights, claims or positions of the parties concerned with regard to the status of territories divided by such lines.

"Every State likewise has the duty to refrain from the threat or use of force to violate lines of territorial demarcation established by or in accordance with an international agreement or a decision of the Security Council of the United Nations. Nothing in the foregoing shall, however, be construed as prejudicing the position of any party with regard to the territorial status of such lines or of the territories concerned."

4. Acts of reprisal

There was agreement on the following statement:

"States have a duty to refrain from acts of reprisal involving the use of force."

5. Organization of armed bands

There was agreement on the following statement:

"Every State has the duty to refrain from organizing or encouraging the organization of irregular or volunteer forces or armed bands, including mercenaries, for incursion into the territory of another state."

There was also agreement that such a statement could be included under the principle prohibiting the threat or use of force and under the principle of non-intervention in matters within the domestic jurisdiction of any State.

Some delegations, however, continued to believe that the formulation of this point under the principle prohibiting the threat or use of force would have to include the following additional words: "if such acts of intervention involve the use of force without affecting the scope of Article 51 of the Charter".

No agreement was reached on the application of this rule to situations where force is used to deprive peoples of dependent territories of the right to self-determination.

6. Instigation of civil strife and terrorist acts

There was agreement in principle that every State has the duty to refrain from involvement in civil strife and terrorist acts in another State.

There was also agreement that a statement on this point could be included under the principle prohibiting the threat or use of force and under the principle of non-intervention in matters within the domestic jurisdiction of any State. Some delegations, however, continued to believe that the formulation of this point under the principle prohibiting the threat or use of force would have to include the following language: "if such acts of intervention involve the use of force and without affecting the scope of Article 51 of the Charter".

No agreement was reached on the application of this point to situations where force is used to deprive peoples of dependent territories of the right to self-determination.

7. Military occupation and non-recognition of situations brought about by the illegal threat or use of force

There was no agreement on the inclusion of a statement to the effect that the territory of a State may never be the object of military occupation or other measures of force on any grounds whatsoever.

Nor was there agreement whether a statement should be included requiring that situations brought about by an illegal threat or use of force would not be recognized.

Nevertheless, the following formula was advanced with a view to providing some basis for discussion:

"The territory of a State may not, on any grounds whatsoever, be the object of military occupation resulting from the illegal use of armed force in contradiction of the provisions of the Charter.

"The territory of a State may not, on any grounds whatsoever, be the object of acquisition by another State, following the use of armed force.

"No territorial acquisition or special advantages obtained by the illicit use of force shall be recognized as legal."

8. Armed force or repressive measures against colonial peoples, the position of territories under colonial rule, and the Charter obligations with respect to dependent territories

There was no agreement on the inclusion of a statement on a duty of States to refrain from the use of force against peoples of dependent territories.

9. Economic, political and other forms of pressure

There was no agreement whether the duty to refrain from the threat or use of "force" included a duty to refrain from economic, political or any other form of pressure against the political independence or territorial integrity of a State. No agreement was reached on the inclusion of a definition of the term "force" in a statement of this principle.

10. Agreement for general and complete disarmament under effective international control

There was agreement on the inclusion of the concept of general and complete disarmament under effective international control as a corollary to the principle prohibiting the threat or use of force. There was also agreement to include in that statement a reference to measures to reduce international tensions and strengthen confidence among States. Such a statement could read as follows:

"All States [shall] [should] pursue negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt measures to reduce international tensions and strengthen confidence among States."

11. Making the United Nations security system more effective

There was agreement on the following statement:

"All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based upon the Charter more effective."

12. Legal use of force

There was agreement that nothing in the foregoing paragraphs is intended to affect the provisions of the Charter concerning the lawful use of force.

There was agreement also that a possible formulation might read as follows:

"Nothing in the foregoing paragraphs is intended to affect the provisions of the Charter concerning the lawful use of force."

Several delegations continued to believe that the use of force by peoples of dependent territories in self-defence against colonial domination in the exercise of their right of self-determination was a lawful use of force under the Charter and that this should be stated in the formulation of this principle.

2. Written proposals and amendments

27. In addition to the report referred to in the preceding paragraph, the 1969 Special Committee had before it the following proposals and amendments:

(a) The proposal contained in part I of the draft declaration submitted by Czechoslovakia to the Special Committee in 1966 (A/AC.125/L.16);

(b) The proposal by Australia, Canada, the United Kingdom and the United States submitted to the Special Committee in 1966 (A/AC.125/L.22);

(c) The proposal contained in part I of the draft declaration submitted to the Special Committee by the United Kingdom in 1967 (A/AC.125/L.44);

(d) The amendment submitted in 1967 to the Special Committee by Italy and the Netherlands to the foregoing United Kingdom proposal (A/AC.125/L.51);

(e) The amendment submitted in 1969 to the Special Committee by Italy to the foregoing United Kingdom proposal (A/AC.125/L.69);

(f) The proposal contained in part I of the draft declaration submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia at the Special Committee's 1967 session (A/AC.125/L.48), the wording of that proposal being identical with the proposal submitted to the Special Committee in 1966 by Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Madagascar, Nigeria, the United Arab Republic and Yugoslavia and reproduced in paragraph 26 of the report of the 1966 Special Committee;

(g) The proposal submitted in 1967 to the Special Committee by Argentina, Chile, Guatemala, Mexico and Venezuela (A/AC.125/L.49/Rev.1);

(h) The proposals concerning certain elements of the principle submitted in 1969 to the Special Committee by Romania (A/AC.125/L.70, and Corr.1 (Russian only) and Corr.2 (English only));

(i) The proposal submitted in 1969 to the Special Committee by the Union of Soviet Socialist Republics relating to paragraph 3 of the report of the 1968 Drafting Committee (A/AC.125/L.71);

(j) The proposal submitted in 1969 to the Special Committee by Cameroon, India and the United Arab Republic relating to paragraph 7 of the report of the 1968 Drafting Committee (A/AC.125/L.72/Rev.1);

(k) The proposal submitted in 1969 to the Special Committee by the Union of Soviet Socialist Republics relating to paragraph 12 of the report of the 1968 Drafting Committee (A/AC.125/L.73).

28. The texts of the foregoing proposals and amendments are given below in the order in which they were submitted to the Special Committee, the text of the amendment following the proposal it was intended to amend.

29. Proposal submitted in 1966 by Czechoslovakia (A/AC.125/L.16, part I): 37/

1. Every State has the duty to refrain in its international relations from the threat or use of force against the territorial or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

2. Accordingly, the planning, preparation, initiation and waging of wars of aggression constitute international crimes against peace, giving rise to political and material responsibility of States and to penal liability of the perpetrators of those crimes. Any propaganda for war, incitement to or fomenting of war, and any propaganda for preventive war and for striking the first nuclear blow is prohibited.

3. Every State has the duty to refrain from all aimed actions or repressive measures of any kind directed against peoples struggling against colonialism for their freedom and independence.

4. Every State has the duty to refrain from the threat or use of force to violate the existing boundaries of another State.

5. Every State has the duty to refrain from economic, political or any other form of pressure aimed against the political independence or territorial integrity of any State, and from undertaking acts of reprisal.

6. All States shall act in such a manner that an agreement for general and complete disarmament under effective international control will be reached as speedily as possible and will be strictly observed, in order to secure full effectiveness for the prohibition of the threat or use of force.

7. Nothing in the foregoing paragraphs affects the use of force either pursuant to a decision of the Security Council made in conformity with the Charter of the United Nations, or in the exercise of the right to individual or collective self-defence if an armed attack occurs, in accordance with Article 51 of the Charter of the United Nations, or in self-defence of people against colonial domination in the exercise of the right of self-determination.

30. Proposal submitted in 1966 by Australia, Canada, the United Kingdom of Great Britain and Northern Ireland and the United States of America (A/AC.125/L.22) (this proposal contained in full the text of Paper No. 1, section I, in paragraph 106 of the report of the 1964 Special Committee, with certain additions, which are underlined in the text given below): 38/

1. Every State has the duty to refrain in its international relations from 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.

37/ Ibid., Twenty-first Session, Annexes, agenda item 87, document A/6230, para. 25.

38/ Ibid., para. 27.

2. In accordance with the foregoing fundamental principle, and without limiting its generality:

(a) Wars of aggression constitute international crimes against peace.

(b) Every State has the duty to refrain from organizing or encouraging the organization of irregular or volunteer forces or armed bands within its territory or any other territory for incursions into the territory of another State or across international lines of demarcation, and to refrain from acts of armed reprisal or attack.

(c) Every State has the duty to refrain from instigating, assisting or organizing civil strife or committing terrorist acts in another State or across international lines of demarcation, or from conniving at or acquiescing in organized activities directed towards such ends, when such acts involve a threat or use of force.

(d) Every State has the duty to refrain from the threat or use of force to violate the existing boundaries of another State or other international lines of demarcation, or as a means of solving its international disputes, including territorial disputes and problems concerning frontiers between States.

3. Nothing in the foregoing paragraphs is intended to affect the provisions of the Charter concerning the lawful use of force, when undertaken by or under the authority of a competent United Nations organ or by a regional agency acting in accordance with the Charter, or in exercise of the inherent right of individual or collective self-defence.

31. Proposal submitted in 1967 by the United Kingdom of Great Britain and Northern Ireland (A/AC.125/L.44, part I): 39/

1. Every State has a duty to refrain in its international relations from 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.

2. In accordance with the foregoing fundamental principle, and without limiting its generality:

(a) Wars of aggression constitute international crimes against peace, for which there is responsibility under international law. Consequently, States shall refrain from inciting or waging wars of aggression.

(b) Every State has the duty to refrain from organizing or encouraging the organization of irregular or volunteer forces or armed bands within its territory or any other territory for incursion into the territory of another State, or across international lines of demarcation, and to refrain from acts of armed reprisal or attack.

39/ Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799, para. 24.

(c) Every State has the duty to refrain from instigating, assisting or organizing civil strife or committing terrorist acts in another State or from conniving at or acquiescing in organized activities directed toward such ends, when such acts involve the threat or use of force.

(d) Every State has the duty to refrain from the threat or use of force to violate the existing boundaries of another State or other international lines of demarcation or as a means of solving its international disputes, including territorial disputes and problems concerning frontiers between States.

3. Nothing in the foregoing paragraphs is intended to prejudice the lawful use of force when undertaken by or under the authority of a competent United Nations organ or by a regional agency acting in accordance with the Charter, or in exercise of the inherent right of individual or collective self-defence.

32. Amendment submitted in 1967 by Italy and the Netherlands (A/AC.125/L.51) adding the following to the United Kingdom proposal (A/AC.125/L.44, part I): 40/

4. In order to ensure the implementation of the prohibition of the threat or use of force and to contribute to the maintenance of international peace and security, the Members of the United Nations:

(a) Shall comply fully and in good faith with the provisions of the United Nations Charter concerning the political, economic, social and educational advancement of Non-Self-Governing Territories, and shall do their utmost, in the light of the relevant resolutions of the General Assembly, to ensure the peaceful exercise of self-determination on the part of the inhabitants of those Territories;

(b) Should favour the free exchange of information and ideas essential to international understanding and peace, and take appropriate steps to discourage propaganda against peace, in the light of General Assembly resolutions 110 (II), 290 (IV), 381 (V) and 819 (IX);

(c) Shall comply in good faith with the obligations placed upon them by the Charter with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system fully effective.

5. In order to promote the development of the rule of law in the international community, all States should endeavour to secure the early conclusion of a universal treaty of general and complete disarmament, accompanied by the provisions necessary for the effective supervision and control of disarmament measures, for the maintenance of peace and security and for the peaceful settlement of international disputes, and in the meantime should endeavour to agree upon such partial or collateral arms control and disarmament measures as would be susceptible of reducing international tension and of ensuring progress towards general and complete disarmament.

40/ Ibid., para. 25.

33. Amendment submitted in 1969 by Italy (A/AC.125/L.69) to the United Kingdom proposal (A/AC.125/L.44, part I):

1. Delete in sub-paragraph (b) of paragraph 2 the expression "or across international lines of demarcation,".

2. Delete sub-paragraph (d) of paragraph 2.

34. Proposal submitted in 1967 by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (A/AC.125/L.48): 41/

1. Every State has the duty to refrain in its international relations from 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; such threat or use of force shall never be used as a means of settling international issues.

2. The meaning of the term "force" shall include:

(a) The use by a State of its regular military, naval or air forces and of irregular or voluntary forces;

(b) All forms of pressure, including those of a political and economic character, which have the effect of threatening the territorial integrity or political independence of any State.

3. Wars of aggression constitute international crimes against peace. Consequently, any propaganda which encourages the threat or use of force against the territorial integrity and political independence of another State is prohibited.

4. The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized.

5. No threat or use of force shall be permitted to violate the existing boundaries of a State and any situation brought about by such threat or use of force shall not be recognized by other States.

6. The prohibition of the use of force shall not affect either the use of force pursuant to a decision by a competent organ of the United Nations made in conformity with the Charter, or the right of States to take, in case of armed attack, measures of individual or collective self-defence in accordance with Article 51 of the Charter, or the right of peoples to self-defence against colonial domination, in the exercise of their right to self-determination.

7. Nothing in the present chapter shall be construed to include people and territories under colonial rule as an integral part of a State.

41/ Ibid., para. 26.

35. Proposal submitted in 1967 by Argentina, Chile, Guatemala, Mexico and Venezuela (A/AC.125/L.49/Rev.1): 42/

1. Every State has the duty to refrain in its international relations from 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; such threat or use of force shall never be used as a means of settling international issues.

2. In accordance with the foregoing fundamental principle, and without limiting its generality:

(a) Wars of aggression constitute international crimes against peace for which there is responsibility under international law. Consequently, States shall refrain from provoking or engaging in wars of aggression and shall also prohibit, in the light of each country's constitutional system, any propaganda which encourages such acts.

(b) Every State has the duty to refrain from organizing or encouraging the organization of irregular or volunteer forces or armed bands within its territory or any other territory for incursion into the territory of another State, or across international lines of demarcation.

(c) Every State shall also refrain from organizing, supporting, encouraging, financing, instigating or tolerating subversive or terrorist armed activities aimed at changing the régime of another State by violence and from intervening in a civil war of another State, when such acts of intervention involve a use of force.

(d) Every State has the duty to refrain from armed reprisals.

(e) The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever.

(f) Every State has the duty to refrain from the threat or use of force to violate the existing boundaries of another State or any other lines of demarcation, or as a means of solving its international disputes, including territorial disputes and problems concerning frontiers between States.

(g) Every State has the duty to refrain from the use or threat of force against those dependent peoples to which General Assembly resolution 1514 (XV) on the granting of independence to colonial countries and peoples is applicable.

(h) In accordance with the United Nations Charter, no territorial acquisitions or special advantages obtained by force or by other means of coercion shall be recognized.

42/ Ibid., para. 27.

(i) All States are under the obligation to continue negotiations for the early conclusion of a world disarmament treaty. In the meantime, they shall carry out measures to reduce international tension, and in particular refrain from promoting the unnecessary acquisition of military equipment.

3. (a) Nothing in the foregoing paragraphs is intended to prejudice the lawful use of force when undertaken by or under the authority of a competent United Nations organ or by a regional agency or in the exercise of the inherent right of individual or collective self-defence in accordance with the United Nations Charter.

(b) The right of individual or collective self-defence, recognized by Article 51 of the Charter, may be exercised only in confronting armed attack, without prejudice to the right of a State which is subject to subversive or terrorist acts supported by one or more other States, to take reasonable and appropriate measures to safeguard its institutions.

(c) The use of force by regional agencies, except in the case of self-defence, requires the express authorization of the Security Council, in accordance with Article 53 of the Charter.

36. Proposals submitted in 1969 by Romania concerning certain elements of the principle (A/AC.125/L.70 and Corr.1 (Russian only) and Corr.2 (English only)):

(a) Proposal for a statement on the consequences and corollaries of the threat or use of force

"A war of aggression or any other act of aggression constitutes a crime against the peace, for which there is responsibility under international law.

"In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression or any other acts of aggression."

(b) Proposal for a statement prohibiting economic, political, military and other forms of pressure

"Every State has the duty to refrain in its international relations from the threat or use of pressure in any form whatever, military, political or economic, to compel another State to act in a manner contrary to its political independence or territorial integrity or in any other manner inconsistent with the purposes of the United Nations."

(c) Proposal for a statement on general disarmament and measures to reduce international tensions and strengthen confidence among States

"All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States."

37. Proposal submitted in 1969 by the Union of Soviet Socialist Republics relating to paragraph 3 of the report of the 1968 Drafting Committee (A/AC.125/L.71)

Use of force in territorial disputes and
boundary problems

Paragraph 3 of the definition of the principle should read as follows:

"Every State has the duty to refrain from the use of force to violate the existing boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States."

38. Proposal submitted in 1969 by Cameroon, India and the United Arab Republic relating to paragraph 7 of the report of the 1968 Drafting Committee (A/AC.125/L.72/Rev.1)

Military occupation and non-recognition of situations brought
about by the illegal threat or use of force

After paragraph 7 of the definitions of the principle, add a paragraph 7A to read as follows:

"Likewise, the territory/area which constitutes the common heritage of mankind in which mankind has a common interest may not, on any ground whatsoever, be the object of military occupation or acquisition by any State, resulting from the threat or use of force; nor shall any such occupation or acquisition be recognized by any State."

39. Proposal submitted in 1969 by the Union of Soviet Socialist Republics relating to paragraph 12 of the report of the 1968 Drafting Committee (A/AC.125/L.73):

Legal use of force

Paragraph 12 of the definition of the principle should read as follows:

"Nothing in the foregoing paragraphs is intended to affect the provisions of the Charter concerning the lawful use of force, including its use by dependent peoples in the exercise of their inalienable right to self-determination in accordance with General Assembly resolution 1514 (XV)."

B. Debate

1. General comments

40. The principle that States shall refrain in their international relations from the threat or use of force was discussed by the Special Committee at its 101st and 102nd meetings, on 22 and 25 August 1969. In view of the extensive debates in previous sessions of the Special Committee on this principle, only a few members found it necessary to submit additional comments in 1969 before the principle and the various proposals and amendments were submitted to the Drafting Committee.

41. In so far as any general comments were made, several representatives expressed the importance attached by their Governments to the progressive development of international law, in particular the seven principles before the Special Committee. The view was expressed that, to the extent that a General Assembly Declaration on the Principles of International Law concerning Friendly Relations could bring about a real improvement of international relations under the rule of law, it could be supported by all Governments. The adoption of such a Declaration, during the twenty-fifth anniversary session of the General Assembly, would do much to give reason a prime place in international life, to promote respect for international law, and to bring about the peaceful settlement of international problems. The view was also expressed that, while recognizing the importance of the twenty-fifth anniversary of the United Nations, the Special Committee should continue to bear in mind the delicate and complex nature of its task.

42. One representative stressed the importance of determining the scope of the principles under consideration in the light of the purposes of the Charter and a system of international relationships based on mutual friendship, confidence and esteem between States. That representative also stated that account must also be taken of current economic and social conditions, as expressed both in the Charter and other recent international instruments to express in legal form certain realities of international life.

43. Another representative stressed the areas of agreement arrived at during the previous session of the Special Committee on the principle of prohibiting the threat or use of force, and expressed the hope that, instead of reopening discussion on agreed points, the Committee would concentrate on widening the scope of those points and seeking agreement on new ideas put forward during the 1969 session.

44. In the paragraphs which follow, under headings corresponding to those contained in the report of the Drafting Committee adopted by the 1968 Special Committee (see paragraph 26 above), an account is given of the specific proposals before the Special Committee and suggestions advanced during the 1969 session, regarding the principle relating to the prohibition of the threat or use of force.

2. General prohibition of force

45. All of the proposals submitted to the Special Committee prior to its 1969 session contained general statements of the principle relating to the prohibition of force, namely: paragraph 1 of the proposal by Czechoslovakia (see paragraph 29 above); paragraph 1 of the proposal by Australia, Canada, the United Kingdom and the United States (see paragraph 30 above); paragraph 1 of the proposal by the United Kingdom (see paragraph 31 above); paragraph 1 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above), and paragraph 1 of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above).

46. The first three of the foregoing proposals, while extending the obligations laid down in Article 2, paragraph 4, of the Charter to all States, limited the general statement to a transcription of the terms of that paragraph. The other two proposals, after the transcription of Article 2, paragraph 4, of the Charter, added that "such threat or use of force shall never be used as a means of settling international issues".

47. The Working Group established by the 1967 Drafting Committee of the Special Committee prepared an agreed statement of the general prohibition of the threat or use of force (see A/7326, paragraph 28).

48. This was further elaborated upon in paragraph 1 of the report of the Drafting Committee adopted by the 1968 Special Committee (see paragraph 26 above). The agreed statement in that paragraph contained a transcription of Article 2, paragraph 4, of the Charter, extending the obligations therein to all States, and a further sentence to the effect that such a threat or use of force violated international law and the Charter, and should never be employed as a means of settling international issues.

49. In 1969 no new written proposals were submitted to the Special Committee to amend the general statement of the prohibition of the threat or use of force just mentioned, nor were any oral suggestions to this effect made during the general consideration of the principle.

3. Consequences and corollaries of the prohibition of the threat or use of force

(a) Wars of aggression

50. All the proposals submitted to the Special Committee prior to its 1969 session contained references to wars of aggression, namely: paragraph 2 of the proposal by Czechoslovakia (see paragraph 29 above); paragraph 2 (a) of the proposal by Australia, Canada, the United Kingdom and the United States (see paragraph 30 above); paragraph 2 (a) of the proposal of the United Kingdom (see paragraph 31 above); paragraph 3 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above); and paragraph 2 (a) of the proposal of Argentina, Chile, Guatemala, Mexico, Venezuela (see paragraph 35 above).

51. A common feature of all these proposals was the statement that wars of aggression constitute international crimes against peace. The Czechoslovak proposal referred in addition to the political and material responsibility of States and the penal liability of individuals in the planning, preparation, initiation and waging of wars of aggression. The proposals of the United Kingdom and of Argentina, Chile, Guatemala, Mexico and Venezuela also stated that there is responsibility under international law for wars of aggression and that States must refrain from inciting or waging such wars.

52. The Working Group established by the 1967 Drafting Committee of the Special Committee included, in paragraph 2 of its report, a section entitled "Consequences and corollaries of the prohibition of the threat or use of force", which indicated in sub-paragraphs 1 and 2, that there was agreement in principle that a war of aggression constituted a crime against peace and that the concept of responsibility for such a war should be included (see A/7326, paragraph 28).

53. The report of the Drafting Committee adopted by the 1968 Special Committee contained, in paragraph 2, an agreed statement on both these points (see paragraph 26 above). This statement was to the effect that a war of aggression constitutes a crime against peace, for which there is responsibility under international law.

54. The proposal submitted by Romania to the 1969 Special Committee contained, in paragraph (a), a reformulation of the agreed statement on wars of aggression and responsibility therefor, by extending the statement to other acts of aggression (see paragraph 35 above).

55. In the course of the general debate, one representative indicated that his delegation still preferred the proposal originally made by Czechoslovakia (see paragraph 29 above) to the agreed statement on wars of aggression in the report of the 1968 Drafting Committee, and believed that the words "A war of aggression" in that statement should be replaced by the words "The planning, preparation, initiation and waging of wars of aggression" to show that war was the culmination of a process, all stages of which were no less a crime than war itself. Another representative, sharing similar views, felt that the formula in the report of the 1968 Drafting Committee should be widened to cover all "acts of aggression" which would also conform to the wording in Article 1, paragraph 1, and Article 39 of the Charter and to the ideas advanced in the Special Committee on the Question of Defining Aggression.

(b) war propaganda

56. A number of the proposals submitted to the Special Committee prior to 1969 contained provisions concerning war propaganda, namely: paragraph 2 of the proposal submitted by Czechoslovakia (see paragraph 29 above), paragraph 3 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above) and paragraph 2 (a) of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above).

57. The Czechoslovak proposal prohibited any incitement to war or fomenting of war, and any propaganda for preventive war or for striking the first nuclear blow. The proposal submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia prohibited any propaganda which encourages the threat or use of force against the territorial integrity and political independence of another State. The proposal by Argentina, Chile, Guatemala, Mexico and Venezuela prohibited, in the light of each country's constitutional system, any propaganda which encourages wars of aggression. Paragraph 4 (b) of the amendment to the United Kingdom proposal submitted by Italy and the Netherlands (see paragraph 32 above), provided that the Members of the United Nations should favour the free exchange of information and ideas essential to international understanding and peace, and take appropriate steps to discourage propaganda against peace, in the light of General Assembly resolutions 110 (II), 290 (IV), 381 (V) and 819 (IX).

58. Paragraph 2 (3) of the report of the 1967 Working Group stated that there had been no agreement whether a statement on that subject should be included (see paragraph 28 of the report of the 1968 Special Committee (A/7326)).

59. Paragraph 2 of the report of the Drafting Committee, adopted by the 1968 Special Committee (see paragraph 26 above), contained an agreed statement that, in accordance with the purposes and principles of the United Nations, States had a duty to refrain from propaganda for wars of aggression.

60. The proposal submitted by Romania to the 1969 Special Committee contained, in paragraph (a), a reformulation of the agreed statement of propaganda for wars of aggression, extending the duty of States to refrain also from propaganda for any other act of aggression.

61. In support of the last-mentioned proposal, it was stressed that all acts of aggression were crimes against peace (see, also, the arguments set forth in paragraph 55 above).

4. Use of force in territorial disputes and boundary problems

62. All the proposals submitted to the Special Committee contained provisions prohibiting the use of force in territorial disputes and boundary claims (see paragraphs 29 to 31, 34 and 35 above).

63. Paragraph 2 (d) of the proposal by Australia, Canada, the United Kingdom and the United States (see paragraph 30 above), paragraph 2 (d) of the proposal by the United Kingdom (see paragraph 31 above) and paragraph 2 (f) of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above) referred expressly to "international lines of demarcation" in their formulation of this prohibition. Paragraph 5 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above) also contained a sentence relating to the non-recognition of situations brought about by the threat or use of force in violation of the existing boundaries of a State. The comments on this point are discussed in the section relating to military occupation and non-recognition of situations brought about by the illegal threat or use of force (see paragraphs 77 to 81 below).

64. The Working Group established by the 1967 Drafting Committee of the Special Committee indicated, in paragraph 3 of its report, that there was agreement inter alia in principle that every State had the duty to refrain from the threat or use of force to violate the existing boundaries of another State or as a means of solving international disputes. There was no agreement, however, on whether there should be a reference to international lines of demarcation in this connexion (see paragraph 28 of the report of the 1968 Special Committee (A/7326)).

65. The report of the Drafting Committee, adopted by the 1968 Special Committee, indicated that while there was agreement on the first of these points, there was once again no agreement on the second, although certain formulae had been advanced in this connexion to provide a basis for discussion (see paragraph 26 above).

66. The amendment submitted during the 1969 session of the Special Committee by Italy (see paragraph 33 above) to the United Kingdom proposal (see paragraph 31 above), provided for the deletion of the reference to international lines of demarcation in sub-paragraph (b) of paragraph 2 of that proposal and also the deletion of sub-paragraph (d). The Union of Soviet Socialist Republics also submitted a proposal to the Special Committee in 1969 to reformulate the agreement in principle on the use of force in territorial disputes and boundary problems, to provide that every State had the duty to refrain from the use of force to violate existing boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States (see paragraph 37 above).

67. In the course of the general debate, one representative, in support of the Italian amendment (see paragraph 33 above), expressed the view that any reference to territorial disputes and boundary problems should be omitted, so as not to imply an intention to restrict the scope of the prohibition of the use of force only to violations of boundaries. The prohibition of the use of force, both in the Charter and in other instruments, was much wider, in that, in addition to violations of State boundaries, it extended to the use of force on the high seas or in outer space or in any other manner which constituted, even by surreptitious means, an attempt upon the integrity and independence of a State.

68. Another representative felt that it was necessary to mention boundary questions and territorial disputes, and that failure to do so would only obscure the law. The same representative considered that international lines of demarcation could not be equated fully with boundaries. He suggested that, if international lines of demarcation established by international agreement were to be mentioned, they should be qualified as follows: "subject to the context of the special circumstances of the case at issue, including the terms, and validity, of the treaty or agreement in which the lines of demarcation have been agreed upon". One representative said that he believed reference to international lines of demarcation should be entirely omitted, as such lines had their own legal régime which was adequately protected by the law of treaties.

5. Acts of reprisal

69. All except one of the proposals submitted to the Special Committee prior to its 1969 session contained provisions prohibiting acts of reprisal or acts of armed reprisal and attack, namely: paragraph 5 of the proposal submitted by Czechoslovakia (see paragraph 27 above), paragraph 2 (b) of the proposal by Australia, Canada, the United Kingdom and the United States (see paragraph 30 above), paragraph 2 (b) of the proposal by the United Kingdom (see paragraph 31 above) and paragraph 2 (d) of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above).

70. The Working Group established by the 1967 Drafting Committee of the Special Committee stated that there was agreement that every State had the duty to refrain from acts of armed reprisal, but that there was no agreement on whether this statement should extend to acts of this nature not involving the use of armed force (see paragraph 28 of the report of the 1968 Special Committee (A/7326)).

71. The report of the Drafting Committee adopted by the 1968 Special Committee indicated that States had a duty to refrain from acts of reprisal involving the use of force (see paragraph 26 above).

72. No special comment was made on the formulation just mentioned during the debate in 1969 on the principle relating to the prohibition of the threat or use of force.

6. Organization of armed bands and instigation of civil strife and terrorist acts

73. Most of the proposals submitted to the Special Committee, prior to its 1969 session, contained provisions which, either directly or by virtue of their

definitions of armed force, would have the effect of prohibiting the organization of armed bands for incursion into the territory of another State or involvement in civil strife and terrorist acts in another State. In this respect, paragraphs 2 (b) and (c) of the proposal of Australia, Canada, the United Kingdom and the United States (see paragraph 30 above) and of the proposal of the United Kingdom (see paragraph 31 above) contained provisions forbidding the organization of irregular or volunteer forces or armed bands for incursion into the territory of another State and certain acts of terrorism and acts instigating civil strife in other States, when such acts involve the threat or use of force. According to paragraphs 2 (b) and (c) of the proposal of Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above), States should refrain from all those acts as well as from intervening in a civil war in another State when such acts of intervention involve the use of force. Paragraph 2 (a) of the proposal of Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above) provided that the term "force" should include inter alia the use of regular military, naval or air forces and of irregular or voluntary forces.

74. Paragraphs 5 and 6 of the report of the Working Group established by the 1967 Drafting Committee, dealt with the organization of armed bands and instigation of civil strife and terrorist acts (see A/7326, paragraph 28). The report indicated there was agreement in principle that States must refrain from organizing or encouraging the organization of armed bands for incursions into other States and also from involvement in civil strife in other States. However there was no agreement whether the statements on these two points should be included under the prohibition of the threat or use of force or under the principle of non-intervention. Likewise there was no agreement on the application of these two duties in situations where force was used to deprive peoples of dependent territories of the right of self-determination.

75. The organization of armed bands and instigation of civil strife and terrorist acts were covered in paragraphs 5 and 6 of the report of the Drafting Committee adopted by the 1968 Special Committee (see paragraph 26 above). The report indicated that there was agreement on a statement that every State had the duty to refrain from organizing or encouraging the organization of irregular or volunteer forces or armed bands, including mercenaries, for incursion into the territory of another State. There was also agreement in principle that every State had the duty to refrain from involvement in civil strife and terrorist acts in another State. It was further agreed that statements on these points could be included under the prohibition of the threat or use of force or under the principle of non-intervention. Some delegations, however, believed that if the statements were included under the prohibition of the threat or use of force they should include the words "if such acts of intervention involve the use of force without affecting the scope of Article 51 of the Charter". Finally, the report of the Drafting Committee indicated that there was still no agreement on the application of the statements in question to situations where force was used to deprive peoples of dependent territories of the right to self-determination.

76. There was no particular comment during the general debate in the 1969 Special Committee on the organization of armed bands, or on the instigation of civil strife and terrorist acts. Comments made on the use of force against colonial peoples, or by such peoples in the exercise of their right of self-determination, are considered in connexion with the legal uses of force (see paragraphs 111 to 116 below).

7. Military occupation and non-recognition of situations brought about by the illegal threat or use of force

77. Several of the proposals submitted to the Special Committee prior to its 1969 session related to military occupation and non-recognition of situations brought about by the threat or use of force. In this respect paragraph 4 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above) and paragraph 2 (e) of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above) contained a provision declaring the territory of a State to be inviolable and prohibiting military occupation, even if temporary, and other measures of force taken by a State against the territory of another State. The first of these proposals also provided that no territorial acquisitions or special advantages obtained either by force or by other means of coercion should be recognized. A similar provision, preceded by the words "in accordance with the United Nations Charter", was contained in paragraph 2 (h) of the Latin American proposal.

78. It was indicated in paragraph 7 of the report of the Working Group established by the 1967 Drafting Committee that there was no agreement on the inclusion of statements relating to military occupation and non-recognition of situations brought about by the illegal threat or use of force (see A/7326, paragraph 28).

79. Paragraph 7 of the report of the Drafting Committee, adopted by the 1968 Special Committee, indicated continuing disagreement on the foregoing points, although it contained a formula which had been advanced to provide some basis for discussion (see paragraph 26 above).

80. A proposal was submitted to the Special Committee in 1969 by Cameroon, India and the United Arab Republic to the effect that the territory/area (which constitutes the common heritage of mankind) (in which mankind has a common interest) may not, on any ground whatsoever, be the object of military occupation or acquisition by any State, resulting from the threat or use of force; nor shall any such occupation or acquisition be recognized by any State (see paragraph 38 above).

81. In the general debate in the 1969 Special Committee, several representatives considered that there was merit in the formula relating to military occupation and non-recognition of situations brought about by the illegal threat or use of force which had been advanced as a basis for discussion in the 1968 Drafting Committee (see paragraph 26 above). One of these representatives advanced for consideration a new formulation on the point of non-recognition, to the effect that every State had a duty to refrain from measures constituting or implying co-operation in, or support of, the policies of another State in respect of territorial acquisitions or political privileges obtained by the latter State through the illegal use of force.

8. Armed force or repressive measures against colonial peoples, the position of territories under colonial rule, and the Charter obligations with respect to dependent territories

82. Several of the proposals submitted to the Special Committee, prior to its 1969 session, contained provisions on armed force or repressive measures against colonial peoples. In this respect, paragraph 3 of the proposal submitted by Czechoslovakia (see paragraph 29 above) provided that every State had the duty to refrain from all armed actions or repressive measures of any kind directed against peoples struggling against colonialism for their freedom and independence. Paragraph 2 (g) of the proposal submitted by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above) stated that every State had the duty to refrain from the use or threat of force against those dependent peoples to which General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, was applicable. In addition, paragraph 7 of the proposal submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above) provided that nothing in the formulation of the principle of the prohibition of the threat or use of force should be construed to include peoples and territories under colonial rule as an integral part of a State. Finally, paragraph 4 (a) of the amendment submitted by Italy and the Netherlands (see paragraph 32 above) provided that the Members of the United Nations should comply fully and in good faith with the provisions of the Charter concerning the political, economic, social and educational advancement of Non-Self-Governing Territories and should do their utmost, in the light of the relevant resolutions of the General Assembly, to ensure the peaceful exercise of self-determination on the part of the inhabitants of those Territories.

83. The report of the Working Group established by the 1967 Drafting Committee indicated, in paragraph 8, that there was no agreement on the inclusion of a statement on a duty of States to refrain from the use of force against peoples of dependent territories (see A/7326, paragraph 28).

84. An identical statement on the absence of any agreement appeared in paragraph 8 of the report of the Drafting Committee adopted by the 1968 Special Committee (see paragraph 26 above).

85. In the general debate during the 1969 session of the Special Committee comments relating to peoples of colonial or dependent territories were made within the context of the use of force by such peoples in self-defence against colonial domination, and will be found in paragraphs 111 to 116 below of the present report.

9. Economic, political and other forms of pressure

86. Two of the proposals submitted to the Special Committee prior to its 1969 session contained provisions to the effect that economic, political and other forms of pressure against the territorial integrity or political independence of any State were illegal uses of force, namely: paragraph 5 of the proposal of Czechoslovakia (see paragraph 29 above) and paragraph 2 (b) of the proposal of Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above).

87. The report of the Working Group established by the 1967 Drafting Committee stated, in paragraph 9, that there had been no agreement whether the duty to refrain from the threat or use of "force" included a duty to refrain from economic, political or any other forms of pressure against the political independence or territorial integrity of a State. Nor was agreement reached on the inclusion of a definition of the term "force" in a statement of the principle (see A/7326, paragraph 28).

88. An identical statement on the absence of any agreement appeared in paragraph 9 of the report of the Drafting Committee adopted by the 1968 Special Committee (see paragraph 26 above).

89. A proposal was submitted by Romania to the Special Committee, at its 1969 session, to the effect that a State had the duty to refrain from the threat or use of pressure in any form whatever, military, political or economic, to compel another State to act contrary to its political independence or territorial integrity or in any other manner inconsistent with the purposes of the United Nations.

90. In the general debate in the course of the 1969 session of the Special Committee, some representatives expressed the view that a statement of the principle should contain a definition of the term "force" in its broadest sense. This interpretation was justified by the terms of the Charter itself, including Article 2, paragraph 4, which prohibited 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.

91. Moreover, in the view of these representatives, Article 2, paragraph 4, must be interpreted in the light of the Preamble and of Articles 41 and 42 of the Charter which referred to the employment of measures not involving the use of armed force. Furthermore, the term "force" was used in its broadest sense in the Declarations of Bandung, Belgrade, and Cairo, and by the General Assembly in its resolutions 2131 (XX) and 2160 (XXI) ("Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty" and "Strict observance of the prohibitions of the threat or use of force in international relations, and of the right of peoples to self-determination"). Prohibition of undue pressure was also sanctioned in other international instruments, such as article 51 of the Vienna Convention on the Law of Treaties and in the Declaration on the Prohibition of Military, Political or Economic Coercion adopted by the Vienna Conference on the Law of Treaties. The Charter must be interpreted in the light of articles 31 and 32 of the Vienna Convention, which provided that a treaty was to be interpreted in good faith and in accordance with the normal meaning to be attributed to the terms in their context and in the light of the subject matter and purpose of the treaty. The word "force" could hardly be given a restrictive meaning merely because the words "armed force" appeared in some of the provisions of the Charter.

92. Other representatives could not agree with a broad definition of the use of the term "force" in the principle under consideration. It was their view that the drafting history and the logic of the text of the Charter would not support such an interpretation. To extend that term in Article 2, paragraph 4, of the Charter beyond "armed force" would be incompatible with the seventh paragraph of the Preamble to the Charter, which proclaimed the determination of the signatories of

the Charter "to ensure, by... the institution of methods, that armed force shall not be used, save in the common interest." It would also be incompatible with the wording of Article 51, which provided for the right of self-defence if an armed attack occurred. In addition, it was inevitable and indeed desirable that States would seek to influence one another. The objective of international law was not to prevent, through too wide a definition of the word "force", such activity but rather to ensure that it was compatible with the principles of sovereign equality of States and self-determination of peoples.

93. Those representatives opposed to a broad definition of "force" believed that there was a possibility of reconciling the different viewpoints by including in the principle of non-intervention a statement on the prohibition of undesirable forms of political or economic pressure. In this connexion, one representative suggested a wording to the effect that every State had the duty to refrain from political or economic pressure of such magnitude and character as to leave to another State no choice than to accept a situation violating its territorial integrity or political independence.

10. Agreement for general and complete disarmament under effective international control

94. Some of the proposals submitted to the Special Committee, prior to its 1969 session, contained provisions relating to disarmament, namely: paragraph 6 of the proposal submitted by Czechoslovakia (see paragraph 29 above); paragraph 2 (i) of the proposal submitted by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above), and paragraph 5 of the amendment submitted by Italy and the Netherlands (see paragraph 32 above).

95. The report of the Working Group established by the 1967 Drafting Committee indicated, in paragraph 10, that there was agreement on the inclusion of the concept of general and complete disarmament under effective international control, and also agreement on a reference to measures to reduce international tensions and strengthen confidence among States. There then followed a draft statement to the effect that all States should pursue negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt measures to reduce international tensions and strengthen confidence among States (see A/7326, paragraph 28).

96. A paragraph identical to the foregoing appeared as paragraph 10 of the report of the Drafting Committee adopted by the 1968 Special Committee (see paragraph 26 above).

97. A proposal was submitted by Romania to the Special Committee, at its 1969 session, to the effect that in the draft statement referred to in paragraph 70 above, the opening phrase should read "All States shall pursue in good faith negotiations..." (see paragraph 36 above).

98. In the general debate in the Special Committee, at its 1969 session, one representative suggested orally that the draft statement referred to in paragraph 95 above should now, in light of the non-proliferation treaty, use the word "shall". Another proposed that the opening phrase of that statement might read "All States (shall) (should) promote and urge negotiations...", because the chances of success would not be enhanced if all States were obliged to take part in negotiations,

for which negotiations the Eighteen-Nation Committee on Disarmament seemed perfectly qualified. It was also suggested that the statement eventually adopted should mention that disarmament was to be undertaken "in order to promote the development of the rule of law in the international community," and that disarmament negotiations should be pursued in good faith.

11. Making the United Nations security system more effective

99. Paragraph 4 (c) of the amendment submitted by Italy and the Netherlands, prior to the 1969 session of the Special Committee, (see paragraph 32 above) provided that the Members of the United Nations should comply in good faith with obligations placed upon them by the Charter with respect to the maintenance of international peace and security and should endeavour to make the United Nations security system fully effective.

100. The report of the Working Group, established by the 1967 Drafting Committee, stated, in paragraph 11, that there was agreement in principle on the desirability of making the United Nations security system more effective but that there was no agreement on whether a statement to this effect should be included in the present context.

101. In paragraph 11 of the report of the Drafting Committee, adopted by the 1968 Special Committee, it was recorded that there was agreement on a statement that all States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based upon the Charter more effective.

102. There was no specific comment on the foregoing agreed statement in the course of the general debate during the 1969 session of the Special Committee, and no further proposals relating to it were submitted.

12. Legal use of force

103. All of the proposals submitted to the Special Committee, prior to its 1969 session, contained provisions on the lawful uses of force, variously covering the use of force on the decision of a competent organ of the United Nations, on the decision of a regional agency, in exercise of the right of individual or collective self-defence, and in self-defence against colonial domination.

104. So far as use of force on the decision of a competent organ of the United Nations is concerned, paragraph 7 of the proposal submitted by Czechoslovakia (see paragraph 29 above) included among the lawful uses of force the use of force pursuant to a decision of the Security Council adopted in conformity with the Charter of the United Nations. Paragraph 3 of the proposal submitted by Australia, Canada, the United Kingdom and the United States (see paragraph 30 above), paragraph 3 of the United Kingdom proposal (see paragraph 31 above), paragraph 6 of the proposal submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above), and paragraph 3 of the proposal submitted by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above) all referred to the lawful use of force by order of "a competent United Nations organ". The proposal of the non-aligned countries (see paragraph 34 above) mentioned the use of force

"pursuant to a decision" by such an organ, and the other proposals mentioned the use of force "when undertaken by or under the authority of" such an organ.

105. With respect to the use of force on the decision of a regional agency, the proposals submitted by Australia, Canada, the United Kingdom and the United States (see paragraph 30 above), by the United Kingdom (see paragraph 31 above) and by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above) referred in their respective paragraphs 3 to the lawful use of force by a "regional agency" acting in accordance with the United Nations Charter. The proposal submitted by the Latin American countries (see paragraph 35 above) further specified that "the use of force by regional agencies, except in the case of self-defence, requires the express authorization of the Security Council, in accordance with Article 53 of the United Nations Charter".

106. As regards the use of force in the exercise of the right of individual or collective self-defence, all the proposals submitted referred expressly to this as a lawful use of force. In paragraph 7 of the proposal submitted by Czechoslovakia (see paragraph 29 above) and in paragraph 6 of the proposal submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above), the reference was accompanied by the proviso that, as specified by Article 51 of the Charter, the right existed only in case of "armed attack". Paragraph 3 of the proposal submitted by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 35 above) also stipulated that the right of individual or collective self-defence, recognized by Article 51 of the Charter, might be exercised only in confronting "armed attack"; but it immediately added the words: "without prejudice to the right of a State which is subject to subversive or terrorist acts supported by one or more other States, to take reasonable and appropriate measures to safeguard its institutions". No express proviso of this kind accompanied the reference to the inherent right of individual or collective self-defence mentioned in paragraph 3 of the proposals submitted by Australia, Canada, the United Kingdom and the United States (see paragraph 30 above) and by the United Kingdom (see paragraph 31 above).

107. Reference to the right of peoples to defend themselves against colonial domination in the exercise of their right to self-determination was made in paragraph 7 of the proposal of Czechoslovakia (see paragraph 29 above) and in paragraph 6 of the proposal of Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 34 above).

108. In paragraph 12 of the report of the Working Group, established by the 1967 Drafting Committee, it was indicated that there was no agreement on the concept of "self-defence of peoples against colonial domination in the exercise of the right of self-determination" (see A/7326, paragraph 28).

109. The report of the Drafting Committee, adopted by the 1968 Special Committee, indicated in paragraph 12 that there was agreement on a possible formulation that "Nothing in the foregoing paragraphs is intended to affect the provisions of the Charter concerning the lawful use of force." However, several delegations continued to believe that the use of force by peoples of dependent territories in self-defence against colonial domination in the exercise of their right of self-determination was a lawful use of force under the Charter and that this should be stated in the formulation of the principle.

110. At the 1969 session of the Special Committee, the Union of Soviet Socialist Republics submitted a proposal to the effect that nothing in the foregoing paragraphs of the proposed statement of the prohibition of the threat or use of force was intended to affect the provisions of the Charter concerning the lawful use of force, including its use by dependent peoples in the exercise of their inalienable right to self-determination in accordance with General Assembly resolution 1514 (XV).

111. In the general debate in the Special Committee at its 1969 session, discussion centred around the question of the use of force by dependent peoples in the exercise of their right of self-determination. Some representatives considered that the lawfulness of the use of armed force for the purposes of the national liberation of colonized peoples should be proclaimed in the wording of the principle relating to the prohibition of the threat or use of force. It was, in their view, the task of the Special Committee to codify this existing right, as the Declaration it was to prepare must reflect the customs and realities of existing social life.

112. In support of the foregoing views, it was argued that over half of the States Members of the United Nations were former colonies, many of which had had to use force to obtain their liberation. Examples could be found from every continent, and spread over a very considerable period of time. The legitimacy of the States which had achieved independence through revolution could not be questioned, and it was therefore illogical to deny the right to use force in their struggle for liberation to peoples still under colonial domination.

113. It was also said that both the General Assembly and the Security Council had adopted resolutions recognizing the legitimacy of the colonial peoples' struggle for independence, and that the use of force by colonial Powers against such a struggle was now considered a crime against humanity. To recognize an existing right of colonial peoples would not be an incitement to war, as such peoples had used force not as an end in itself, but as the only means they had of attaining a noble ideal. Nor was it correct that the liberation struggle violated lawful authority and infringed upon the territorial integrity of the metropolitan country. An authority which infringed fundamental human rights and was alien to the colonial peoples could not be a lawful one, and colonial territories had never formed part of the metropolitan territories of the colonial Powers. It was also said that there was no validity in the argument that the principles under consideration applied only as between States and that, since colonies were not States, they were outside the scope of the principle. This argument divided peoples into two categories with differing rights - colonial peoples and the rest. It would be improper for the United Nations, and contrary to existing realities, for the Organization to endorse such a view.

114. Other representatives could not accept the existence of a right of colonial peoples to use force. In this respect, it was pointed out that it would be contrary to the provisions of Chapter XI of the Charter to characterize every colonial situation as unlawful and thus conclude that the use of force to abolish such a situation was justified.

115. In the view of these representatives, if this matter were to be considered at all, it should be taken up within the context of the principle of equal rights and self-determination of peoples. This latter principle was not restricted to colonial peoples, but was of universal applicability. Self-determination, which

included freedom to choose the economic and social system under which one wished to live, belonged to all peoples and all nations, and not only to colonial peoples. Those States which recognized their obligations under Chapter XI of the Charter, relating to Non-Self-Governing Territories, accepted the principle of self-determination and were not disposed to defend the domination of one country by another anywhere in the world.

116. While recognizing that serious differences of opinion existed on this matter, some representatives felt that an area of consensus might be found and, in this respect, reference was made to the proposal formulated by Italy and the Netherlands in 1967 (see paragraph 32 above) which sought to reconcile two essential requirements, namely, the need for an early completion of the process of decolonization - especially where peoples were denied fundamental rights and freedoms - and the need to ensure that the process developed by peaceful means in the interest both of the welfare of those peoples and of local and global peace and security.

C. Consideration of the report of the Drafting Committee

1. Report of the Drafting Committee

117. The following report 43/ was submitted to the Special Committee by the Drafting Committee on the principle that States shall refrain in their international relations from 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.

The Drafting Committee considered all proposals on an equal footing. It took as a basis for its work the report of the Drafting Committee at the 1968 session which had been adopted by the Special Committee (see A/7326, paragraphs 111 and 134). In view of the close interrelationship between the various components of the principle it was recognized that agreement on one particular point would not prejudice the position of members with regard to other points or to the statement of the principle as a whole. It was also understood that questions of drafting were of great importance.

The Drafting Committee decided not to discuss those points of the principle on which statements were agreed in 1968. For convenience, these points (points 1, 2, 4 and 11) are included below.

1. General prohibition of force

There was agreement on the following statement:

"Every State has the duty to refrain in its international relations from 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.

43/ Previously issued under the symbol A/AC.125/L.77.

"Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues."

2. Consequences and corollaries of the prohibition of the threat or use of force

There was agreement on the following statements:

"A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

"In accordance with the Purposes and Principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression."

3. Use of force in territorial disputes and boundary problems

There was agreement on the following statement:

"Every State has the duty to refrain from the threat or use of force to violate the existing boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States."

The possibility was discussed of including sub-paragraphs on the following lines:

"Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation /lines of territorial demarcation/ which are established by an international agreement binding on it or by a decision of the Security Council, or which it is otherwise mandatory under international law for it to respect.

"Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status of such lines under their special régimes or as affecting their temporary character."

4. Acts of reprisal

There was agreement on the following statement:

"States have a duty to refrain from acts of reprisal involving the use of force."

5. Organization of armed bands

There was agreement on the following statement:

"Every State has the duty to refrain from organizing or encouraging the organization of irregular or volunteer forces or armed bands, including mercenaries, for incursion into the territory of another State."

A proposal was made to supplement the agreed formulation as follows:

"This provision, in so far as it concerns volunteer forces, shall not apply to cases affecting the application of Article 51 of the Charter or the right of peoples of dependent Territories to self-determination."

The view was expressed that the following words should be added to this formulation:

"when the acts referred to in the present paragraph involve a threat or use of force."

6. Instigation of civil strife and terrorist acts

There was agreement in principle that every State has the duty to refrain from involvement in civil strife and terrorist acts in another State. Accordingly, the possibility was discussed of including a statement on the following lines:

"Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force."

A proposal was made to supplement both points 5 and 6 as follows:

"Peoples subjected to colonial oppression are entitled in their legitimate struggle to seek and to receive all support in accordance with the purposes and principles of the Charter and with the provisions of resolution 1514 (XV)."

7. Military occupation and non-recognition of situations brought about by the illegal threat or use of force

There was agreement on the following statement, subject however to whether or not the words in square brackets are to be included:

"The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or

use of force. No territorial acquisition resulting from the threat or use of force in contravention of the provisions of the Charter shall be recognized as legal. The foregoing is without prejudice to action taken by the Security Council in accordance with the provisions of the Charter."

7-A. A proposal was made to add a paragraph to read as follows:

"Likewise, the Territory/area which constitutes the common heritage of mankind in which mankind has a common interest may not, on any ground whatsoever, be the object of military occupation or acquisition by any State, resulting from the threat or use of force; nor shall any such occupation or acquisition be recognized by any State."

The proposal was considered. It was decided to consider it further at a later stage of the work on this item.

8. Armed force or repressive measures against colonial peoples, the position of Territories under colonial rule, and the Charter obligations with respect to dependent Territories

There was no agreement on the inclusion of a statement on the duty of States to refrain from the use of force against peoples of dependent Territories. Nevertheless, the following formula was advanced with a view to providing a basis for discussion:

"Every State has the duty to refrain from the threat or use of force any forcible action which deprives dependent peoples peoples under foreign domination peoples under foreign domination as well as under any other form of colonialism peoples under foreign domination or colonial peoples of their right to self-determination and freedom and independence."

9. Economic, political and other forms of pressure

See Other decisions taken by the Drafting Committee below.

10. Agreement for general and complete disarmament under effective international control

There was agreement on the following statement.

"All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States."

11. Making the United Nations security system more effective

There was agreement on the following statement:

"All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based upon the Charter more effective."

12. Legal use of force

There was agreement that the following statement shall be included:

"Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful."

A number of delegations continued to believe that the use of force by peoples of dependent Territories in self-defence against colonial domination in the exercise of their right of self-determination was a lawful use of force under the Charter and that this should be stated in the formulation of this principle.

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Other decisions taken by the Drafting Committee

Military, political, economic coercion

The possibility was discussed of including at an appropriate place in the declaration the following statement:

"Every State has the duty to refrain in its international relations from the military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State."

2. Comments by members of the Special Committee

118. The above report of the Drafting Committee was discussed at the 109th meeting of the Special Committee after the report had been introduced, in the absence of the Chairman of the Drafting Committee, by the representative of Mexico. Statements were made by the representatives of the United States, Czechoslovakia, Kenya, France, the USSR, Nigeria, Cameroon, Chile, Syria, Italy, the United Arab Republic, Romania, the United Kingdom, Japan, Australia, Ghana and Argentina. A summary of those statements, as they related to the substance of the report of the Drafting Committee and the results achieved, is given below in the order in which they were made.

119. The representative of the United States of America said his delegation was disappointed that the Special Committee had been unable to reach agreement on the principle prohibiting the threat or use of force. His delegation had been willing to move towards the positions of others on every outstanding point. Unfortunately, some delegations had lacked the political will to negotiate towards what might have become a mutually advantageous agreed statement. As a result, his delegation had had to withdraw the comprehensive proposal it had submitted on 18 September 1969 for the resolution of all the outstanding problems in the formulation of the principle. The positive nature of that proposal had been praised by several delegations. However, its rejection had set a destructive process in motion; new conditions had been imposed and reservations had been restated as had been recorded particularly with regard to the agreed statement on the prohibition of organizing armed bands for incursion into the territory of another State. His delegation had not changed its views on the general statements agreed in 1968 concerning the prohibition against force, wars of aggression, war propaganda and acts of reprisal, and on strengthening the ability of the United Nations to keep the peace. It welcomed the progress that had been made this year on the subject of international lines of demarcation. A comparison between the new text (see paragraph 117 above, point 3) and the original text on demarcation lines, which had been proposed by Australia, Canada, the United Kingdom and the United States in 1966 (A/AC.125/L.22, paragraph 2 (d)) would provide evidence of the spirit of compromise adopted by those four countries. Progress had also been made on the subjects of the organization of armed bands and the instigation of civil strife and terrorist acts (see paragraph 117 above, points 5 and 6) notwithstanding the reservations that had been entered. The provision against instigating civil strife and terrorist acts was important. It should be made clear that the word "encouraging" in the agreed statement on armed bands should also be taken to cover organization, instigation, assistance and participation, which were the actions referred to in the statement on civil strife and terrorist acts, and that acquiescence in the organization by alien sources of armed bands on national territory could be as much a violation of national responsibilities as acquiescence in civil strife and terrorist acts perpetrated by foreigners on and from the territory of the State. There had been near-agreement on the statement concerning military occupation and non-recognition of situations brought about by the illegal threat or use of force. The text followed closely the ideas of the Charter of the Organization of American States, and the principle it embodied had been recognized under United States law for almost twenty years. It was regrettable that the USSR delegation, unsupported by any other member of the Committee, had insisted on the inclusion of the words "in contravention of the provisions of the Charter" in the third sentence of the statement. If the USSR had adopted a more conciliatory approach to the other points, the United States would have been willing to withdraw its objection to those words, despite the fact that they were capable of misinterpretation and might be dangerous in future application. It was regrettable that no agreement had been reached on the question of the use of force against peoples seeking to enjoy their right to self-determination.

120. The representative of Czechoslovakia emphasized that a modern formulation of the general principles of international law must contain a clear statement of the duty of States to refrain from repressive measures against colonial peoples struggling for independence and of the right of every such people to seek and receive assistance from other States. Without those components, no formulation could be acceptable.

121. The representative of Kenya stated with regard to point 3 of the principle of the non-use of force (see paragraph 117 above) that his delegation had been opposed to the inclusion of any reference to international lines of demarcation, because of the temporary and imprecise nature of such lines. In a spirit of compromise, however, it had agreed to the formulation contained in the report and was prepared to accept either of the suggested wordings. With regard to points 5 and 6 his delegation had been able to accept the formulation which had resulted from consultations, but only on the understanding that it did not prejudice the duty of States to render assistance to people subjected to colonial oppression in their legitimate struggle for self-determination. Point 7 was a direct corollary of the prohibition of the threat or use of force and was not open to compromise. His delegation was totally opposed to the inclusion in the final text of the words reproduced in brackets. Their inclusion would imply that it was possible to acquire the territory of another State. That was extremely dangerous, legally false and contrary to the Charter, which proclaimed the inviolability of territorial integrity. The right of self-defence did not constitute a right to seek a unilateral solution to the problem of aggression by diminishing or destroying other States. He regretted that no agreement had been reached on the inclusion of a statement on point 8. If it could be argued that a colonial authority was entitled to repress by force peoples whose only crime was to claim their right to self-determination, then there could be no hope of reaching agreement. If those who opposed the inclusion of the statement on point 8 were motivated by the consideration that force might be sanctioned when genuinely used to maintain law and order or, perhaps, to contain civil or tribal wars within the community, his delegation would be more than willing to work out a formulation taking that consideration into account. Some delegations, however, had shown themselves unwilling even to discuss the prohibition of the use of force against colonial peoples or its corollary - the right of colonial peoples to use force in self-defence - with a view to establishing what the difficulties were and how they could be resolved. His delegation sincerely hoped that at the next session there would be a serious attempt to face those problems in a constructive spirit. No progress could be made until they were solved. His delegation was willing to negotiate with those which opposed the inclusion of statements on those points. Moreover, his delegation was convinced that the text of the principle of the non-use of force would be incomplete and unacceptable without provisions prohibiting not only military, but also economic, political and other forms of coercion.

122. The representative of France pointed out that there was now a broad area of agreement on the principle of the non-use of force, which could be broadened still further if members would bear in mind that they were codifying a principle already proclaimed in the Charter. Clearly, neither the Special Committee nor the General Assembly could adopt any formulation which would expand or diminish the scope of the Charter. The Charter had dealt with the principle on the level of international law and relations between States, and the Special Committee must do the same and not try to apply it where it was not applicable.

123. The representative of the Union of Soviet Socialist Republics said that the main obstacle now standing in the way of the completion of the Committee's work was the question whether international law should legalize the liberation struggle of colonial peoples. In the political sense, that struggle had already been legalized by the decisions of the General Assembly and the Security Council and

the heroic sacrifices made in the cause of liberation. It had not yet, however, been legalized in the juridical sense. Although most delegations felt that the colonial struggle must be recognized as legal in the juridical sense and had adopted the position that the exertion of military, political, economic or any other form of coercion for neo-colonial ends was inadmissible, that view was not unanimous. He agreed with the United States representative that what was needed for the completion of the Special Committee's work was political will. It was regrettable that a few delegations still refused to recognize the legitimacy of the colonial peoples' struggle for freedom. The members of the Committee, who represented the various legal systems of the world, must take account of realities and could not ignore the course of history. By the laws of nature, if not the laws of man, the liberation movements would succeed in all parts of the world. Some delegations even refused to recognize the validity of the term "colony", preferring to employ instead some political euphemism, such as "protectorate" or "dependent Territory", and had even asked for the deletion of the term "colonial" in some elements of the principles, as if that concept had no substance.

124. The representative of Nigeria stressed his delegation's belief that the term "force" as employed in Article 2, paragraph 4, of the United Nations Charter was not limited to armed force. He had hoped that the debates of the 1969 session of the United Nations Conference on the Law of Treaties would have helped to clarify that point. However, those members of the Committee who had opposed the inclusion of an explicit statement regarding the inadmissibility of "military, political, economic or any other form of coercion" had not disagreed with the statement in principle, but had felt that it was inappropriate in the context.

125. The representative of Cameroon pointed out that the rejection of the United States proposal in the Drafting Committee had been due largely to poor timing. If it had been intended to serve as a basis of discussion, it should have been submitted earlier or after consultations. He hoped that the United States proposal would, nevertheless, provide useful material for further deliberations.

His delegation was heartened by the progress made towards the completion of the formulation of the principle of the non-use of force, but it regretted the lack of co-operation in reaching final agreement on the most controversial elements, namely, the instigation of civil strife and terrorist acts and the use of armed force or repressive measures against colonial peoples. As the USSR representative had stated, history showed that the liberation movements were an irresistible force.

126. The representative of Chile stated that points 5 and 6 of the principle prohibiting the threat or use of force should also be included in the formulation of the principle of non-intervention in the domestic affairs of States. It was regrettable that the Special Committee had been unable to define the word "force" and that there were no generally accepted norms covering the right of self-defence, which, in the view of his delegation, was governed exclusively by Article 51 of the Charter. His delegation had given its approval to the statement on point 12 because of the clarifications that had been given, but it wished to point out that the words "use of force" and "armed attacks" were in no way synonymous and that the latter expression, as used in the Charter, was much more restrictive. On the question whether the use of force by peoples of dependent Territories in self-defence against colonial domination in the exercise of their right of self-determination was a lawful use of force, his delegation felt that the States which opposed the view that it was lawful should themselves prepare a text in positive terms.

With regard to point 7 his delegation could not agree to the inclusion of the words "in contravention of the provisions of the Charter" in the third sentence of the statement. If those words were retained, that sentence would be in contradiction to the preceding one.

It was unfortunate that there had been opposition to the adoption of a text on the subject of economic, political and other forms of pressure exerted against the political independence or territorial integrity of a State. That principle was undoubtedly accepted in international law, and had been upheld in the inter-American system for many years.

127. The representative of Syria said that his delegation was unable to agree with the two sub-paragraphs on the subject of international lines of demarcation in point 3. His delegation could only subscribe to a formulation that was drafted in the clearest possible terms. International lines of demarcation could only exist as a result of binding international agreements, and no formulation could sanction de facto situations that had arisen as a result of aggressive action. Cease-fire lines ordered by the Security Council merely reflected military conquest, and, as the United Kingdom representative had said during the Security Council's debate on the Middle East conflict in June 1967, there was a difference between a cease-fire and a cease-fire line. He therefore hoped that the United States delegation would abandon its attempt to equate the two concepts. In that context the rights and claims of the parties concerned should be taken fully into account until a final solution could be found. There was little difference between the statements on points 5 and 6. In any event, neither of them was acceptable unless it covered the position of peoples under alien domination who were fighting for their freedom. The proposed sentence to supplement the agreed statement on point 5 was satisfactory, but the concept needed to be improved and widened. With regard to point 6, his delegation would have liked the proposed supplementary formula concerning peoples under colonial oppression to be coupled with a reference to peoples subject to foreign domination. The formulations for point 7 were constructive, but needed to be further improved. The failure to reach agreement on a statement for point 8 was extremely regrettable and constituted a severe set-back for the principle of equal rights. His delegation considered it the clear duty of all States to refrain from the use of force against peoples of dependent Territories. Indeed, there was a duty to support them in their struggle for independence.

128. The representative of Italy said that the statement on the use of force in territorial disputes would be viewed by his delegation in the light of the positions it expressed in the general debate on the principle. While noting the agreement reached in the Drafting Committee on the formulation of the first paragraph of the point, his delegation felt that once again the question of demarcation lines had raised difficult problems of drafting which might have been avoided on the basis of the proposals advanced by his delegation. Italy believed most strongly that the Declaration should in no way limit the scope of Article 2, paragraph 4, of the Charter but should aim at improving the clarity and the effectiveness of the law of the Charter. His delegation therefore continued to consider the agreement on the point in question as being subject to the final formulation of the principle as well as of all other provisionally agreed statements of the other principles, and in particular of the peaceful settlement of disputes. On the question of the organization of armed bands, his delegation also considered it important to note that the absence of a specific

provision stating that States had a duty to refrain from acquiescing in the activities described in said point was merely a reflection of the opinion that, in view of the nature of said activities, an attitude of acquiescence was not materially distinguishable from an attitude of encouragement. His delegation considered that the formulation discussed for possible inclusion in point 6 could not be construed as conferring legitimacy on attitudes of acquiescence towards non-organized activities of the kind referred to. With regard to point 8, his delegation had no comments on the merits at the present stage and merely wished to note that the Drafting Committee had understood that the use of the expression "a statement" in introductory sentences in its reports indicating a lack of consensus did not have a meaning and scope different from those of the expression "any statement". His delegation noted the lack of agreement on the inclusion of a statement on economic, political and other forms of pressure and wished to state that it could not accept the inclusion of a formulation on the subject in the declaration of principles in such a way as to affect in any form the meaning of the word "force" in Article 2, paragraph 4, of the Charter.

129. The representative of the United Arab Republic said that his delegation considered it essential to include a statement on the right of colonial peoples to receive support for their legitimate struggle against colonial oppression.

130. The representative of Romania observed that modest progress had been made in formulating the principle. His delegation attached particular importance to the statement condemning wars of aggression and propaganda for such wars (point 2), and interpreted the phrase "war(s) of aggression" as meaning all acts of aggression, in accordance with the provisions of the Charter. It was pleased that agreement had been reached on a statement concerning the prohibition of military occupation and the non-recognition of situations brought about by the threat or use of force, subject, however, to a further agreement on whether to include the words "in contravention of the provisions of the Charter". The only purpose of including that phrase would be to bring the wording into line with that of the other formulations, and there would be no grounds for interpreting it to mean that territorial acquisitions could be recognized as legal simply because they resulted from the use of force in conformity with the provisions of the Charter. It was unfortunate that no agreement had been reached on the inclusion of a statement prohibiting military, political, economic and other forms of coercion; he hoped that such a statement would be included in the final text of the declaration. It was also unfortunate that no agreement had been reached on a number of other elements, particularly the duty of States to refrain from the use of force against peoples of dependent Territories. The legitimacy of their armed struggle against colonial domination should be recognized in the principle.

131. The representative of the United Kingdom said that wider agreement had been reached on the principle of the non-use of force than was reflected in the report of the Drafting Committee. Although there were still some areas of disagreement, that document would prove a solid basis for the Drafting Committee's future work, provided that the areas of agreement already attained were borne in mind. The element in point 3 concerning lines of demarcation was valuable, and he regretted that agreement had not been reached on its exact formulation. With respect to point 6, it was unfortunate that a statement which had been acceptable to many delegations at earlier sessions of the Special Committee had not gained wider approval. While his delegation did not consider point 7 essential, it had been

willing to agree to its inclusion, and regretted that controversy over a single phrase had held up agreement on the point as a whole. His delegation did not consider appropriate the inclusion of any statement on the duty of States to refrain from the use of force against peoples of dependent Territories, and the introductory wording reflected this.

132. The representative of Japan regretted that the effort to achieve over-all agreement on a number of controversial points concerning the principle of the non-use of force had failed at the final stage of deliberations, particularly since agreement had seemed so near. The question of lines of territorial demarcation referred to in point 3 was increasing in importance, and it was unfortunate that no agreement had been reached on that delicate issue. Agreement on points 5 and 6, although imminent, had unfortunately not been reached. Some reservations had been well-founded, and he hoped that agreement would soon be reached on the final wording. Point 7 was one of the most controversial. He urged all delegations to re-examine the question in the interest of international peace and justice. No concrete agreement had yet emerged with respect to point 8, and it was to be hoped that it would be reached soon.

133. The representative of Australia agreed that the session had made a positive advance, though in some places in the report this was concealed by rather than expressed in the forms of words in which the several formulae were introduced. He also agreed with the USSR representative that the greatest of the difficulties in the future work of the Committee lay in the question whether the proposed Declaration should accord juridical legitimacy to the right of dependent or colonial peoples to struggle in arms for independence. The solution offered by the representative of the USSR was not, he thought, the only possible solution. His own inclination, so far as concerned the principle of self-determination, was rather to explore the possibilities of the suggestions made by the representatives of Chile and of Kenya.

134. The representative of Ghana stated that it had unfortunately proved impossible to complete the formulation of the principle of the non-use of force, and for that failure the delegations which had not co-operated fully in the discussion of matters relating to colonial peoples were largely to blame. Again, however, several formulations had been produced and could be discussed at the next session. The reports did not give a true picture of the work done in informal consultations and in the Drafting Committee. Some points on which, according to the reports, there was no agreement, had in fact been supported by the overwhelming majority of those taking part in the discussions. One delegation had actually gone so far as to say that there could be no agreement on the duty of States to refrain from the threat or use of force against dependent peoples.

135. The representative of Argentina said that the statement by the representative of Chile (paragraph 126 above) reflected the views of his delegation and of the Mexican delegation, on whose behalf he was speaking.

3. Decision of the Special Committee

136. At its 109th meeting, on 19 September 1969, the Special Committee adopted the report of the Drafting Committee (see paragraph 117 above) on the principle that States shall refrain in their international relations from 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.

Section 2. The principle of equal rights and
self-determination of peoples 44/

A. Texts before the Special Committee

137. As was recalled in paragraph 17 of the introduction, the Special Committee, at its previous sessions, was unable to arrive at any agreed statement of the above principle. At the 1969 session of the Special Committee a new proposal was added to those submitted to the Special Committee at its 1966 and 1967 sessions. Consequently, the following proposals and amendments concerning the principle of equal rights and self-determination of peoples were before the Special Committee:

(a) The proposal contained in part VI of the draft declaration submitted to the Special Committee in 1966 by Czechoslovakia (A/AC.125/L.16);

(b) The proposal submitted in 1966 by Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic, and Yugoslavia (A/AC.125/L.31 and Add.1-3);

(c) The proposal submitted to the Special Committee in 1966 by the United States (A/AC.125/L.32);

(d) The amendment to the Special Committee in 1966 submitted by Lebanon (A/AC.125/L.34) to the foregoing United States proposal;

(e) The proposal contained in part VI of the draft declaration submitted at the Special Committee's 1967 session by the United Kingdom (A/AC.125/L.44);

(f) The proposal contained in the draft declaration submitted at the Special Committee's 1967 session by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (A/AC.125/L.48); and

(g) The amendment proposed in 1967 by Ghana (A/AC.125/L.50) to the foregoing ten-Power proposal;

(h) The proposal submitted in 1969 by Czechoslovakia, Poland, Romania and the Union of Soviet Socialist Republics (A/AC.125/L.74).

The texts of the foregoing proposals and amendments are given below in the order in which they were submitted to the Special Committee, the text of the amendment following the proposal it was intended to amend.

44/ An account of the consideration of this principle by the Special Committee at its 1966, 1967 and 1968 sessions appears respectively in Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 87, document A/6230, chapter VII, paragraphs 456-521; ibid., Twenty-second Session, annexes, agenda item 87, document A/6799, section 3, paras. 171-235; and ibid., Twenty-third Session, agenda item 87 document A/7326, chapter II, section 2, paras. 135-203.

138. Proposal submitted in 1966 by Czechoslovakia (A/AC.125/L.16, part VI): 45/

1. All peoples have the right to self-determination, namely the right to choose freely their political, economic and social systems, including the rights to establish an independent national State, to pursue their development and to dispose of their natural wealth and resources. All States are bound to respect fully the right of peoples to self-determination and to facilitate its attainment.

2. Colonialism and racial discrimination are contrary to the foundations of international law and to the Charter of the United Nations, and constitute impediments to the promotion of world peace and co-operation. Consequently, colonialism and racial discrimination in all their forms and manifestations shall be liquidated completely and without delay. Territories which, contrary to the Declaration on the Granting of Independence to Colonial Countries and Peoples, are still under colonial domination cannot be considered as integral parts of the territory of the colonial Power.

3. Peoples have an inalienable right to eliminate colonial domination and to carry on the struggle, by whatever means, for their liberation, independence and free development. Nothing in this Declaration shall be construed as affecting the exercise of that right.

4. States are prohibited from undertaking any armed action or repressive measures of any kind against peoples under colonial rule.

139. Proposal submitted in 1966 by Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (A/AC.125/L.31 and Add.1-3): 46/

1. All peoples have the inalienable right to self-determination and complete freedom, the exercise of their full sovereignty and the integrity of their national territory.

2. In accordance with the above principle:

(a) The subjection of peoples to alien subjugation, domination and exploitation as well as any other forms of colonialism, constitutes a violation of the principle of equal rights and self-determination of peoples in accordance with the Charter of the United Nations and, as such, is a violation of international law.

(b) Consequently peoples who are deprived of their legitimate right of self-determination and complete freedom are entitled to exercise their inherent right of self-defence, by virtue of which they may receive assistance from other States.

45/ Ibid., Twenty-first Session annexes, agenda item 87, document A/6230, para. 457.

46/ Ibid., para. 458

(c) Each State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of another country.

(d) All States shall render assistance to the United Nations in carrying out its responsibilities to bring about an immediate end to colonialism and to transfer all powers to the peoples of territories which have not yet achieved independence.

(e) Territories under colonial domination do not constitute parts of the territory of States exercising colonial rule.

140. Proposal submitted in 1966 by the United States of America (A/AC.125/L.32): 47/

1. Every State has the duty to respect the principle of equal rights and self-determination of peoples.

2. Applicability of the principle of equal rights and self-determination of peoples in particular cases, and fulfilment of its requirements, are to be determined in accordance with the following criteria:

A. (1) The principle is applicable in the case of:

(a) A colony or other Non-Self-Governing Territory; or

(b) A zone of occupation ensuing upon the termination of military hostilities; or

(c) A trust territory.

(2) The principle is prima facie applicable in the case of the exercise of sovereignty by a State over a territory geographically distinct and ethnically or culturally diverse from the remainder of that State's territory, even though not as a colony or other Non-Self-Governing Territory.

(3) In the foregoing cases where the principle is applicable:

(a) The power exercising authority, in order to comply with the principle, is to maintain a readiness to accord self-government, through their free choice, to the people concerned, make such good faith, efforts as may be required to bring about the rapid development of institutions of free self-government, and, in the case of Trust Territories, conform to the requirements of Chapter XII of the Charter of the United Nations;

(b) The principle is satisfied by the restoration of self-government, or, in the case of territories not having previously enjoyed self-government, by its achievement, through the free choice of the people concerned. The achievement of self-government may take the form of:

(1) Emergence as a sovereign and independent State;

(2) Free association with an independent State; or

(3) Integration with an independent State.

B. The existence of a sovereign and independent State possessing a representative Government, effectively functioning as such to all distinct peoples within its territory, is presumed to satisfy the principle of equal rights and self-determination as regards those peoples.

141. Amendment submitted in 1966 by Lebanon (A/AC.125/L.34) 48/ to the above proposal by the United States of America:

1. In the introductory phrase of paragraph 2 A (1), replace "The principle is applicable in the case of" by "The principle is applicable on".

2. At the beginning of sub-paragraph 2 A (1) (b), add the following: "the indigenous population of".

142. Proposal submitted in 1967 by the United Kingdom of Great Britain and Northern Ireland (A/AC.125/L.44, part VI): 49/

1. Every State has the duty to respect the principle of equal rights and self-determination of peoples and to implement it with regard to the peoples within its jurisdiction, inasmuch as the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation. The principle is applicable in the case of a colony or other Non-Self-Governing Territory, a zone of military occupation, or a Trust Territory, or, subject to paragraph 4 below, a territory which is geographically distinct and ethnically or culturally diverse from the remainder of the territory of the State administering it.

2. In accordance with the above principle:

(a) Every State shall promote, individually and together with other States, universal respect for an observance of human rights and freedoms.

(b) Every State shall accord to peoples within its jurisdiction, in the spirit of the Universal Declaration of Human Rights, a right freely to determine their political status and to pursue their social, economic and cultural development without discrimination as to race, creed or colour.

(c) Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State.

48/ Ibid., para. 460.

49/ Ibid., Twenty-second Session, annexes, agenda item 87, document A/6799, para. 176.

(d) Every State exercising authority over a colony or other Non-Self-Governing Territory, a zone of military occupation or a Trust Territory shall, in implementation of the principle, maintain a readiness to accord self-government through their free choice, to the peoples concerned, and to make in good faith such efforts as may be required to assist them in the progressive development of institutions of free self-government, according to the particular circumstances of each Territory and its peoples and their varying stages of advancement; and, in the case of Trust Territories, shall conform to the requirements of Chapter XII of the Charter of the United Nations.

3. States exercising authority over colonies or other Non-Self-Governing Territories, zones of military occupation or Trust Territories shall be deemed to have implemented this principle fully with regard to the peoples of those Territories upon the restoration of self-government or, in the case of Territories which have not previously enjoyed self-government, upon its achievement, through the free choice of the peoples concerned. The achievement of self-government may take the form of emergence as a sovereign and independent State; free association with an independent State; or integration with an independent State.

4. States enjoying full sovereignty and independence, and possessed of a representative government, effectively functioning as such to all distinct peoples within their territory, shall be considered to be conducting themselves in conformity with this principle as regards those peoples.

143. Proposal submitted in 1967 by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (A/AC.125/L.48): 50/

1. All peoples have the inalienable right to self-determination and complete freedom, the exercise of their full sovereignty and the integrity of their national territory.

2. In accordance with the above principle:

(a) The subjection of peoples to alien subjugation, domination and exploitation as well as any other forms of colonialism, constitutes a violation of the principle of equal rights and self-determination of peoples in accordance with the Charter of the United Nations and, as such, is a violation of international law.

(b) Consequently, peoples who are deprived of their legitimate right of self-determination and complete freedom are entitled to exercise their inherent right of self-defence, by virtue of which they may receive assistance from other States.

(c) Each State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of another country.

50/ Ibid., para. 177.

(d) All States shall render assistance to the United Nations in carrying out its responsibilities to bring about an immediate end to colonialism and to transfer all powers to the peoples of Territories which have not yet achieved independence.

(e) Territories under colonial domination do not constitute integral parts of the Territory of States exercising colonial rule over them.

144. Amendment submitted in 1967 by Ghana (A/AC.125/L.50) to the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (A/AC.125/L.48): 51/

After the second paragraph on this principle, add a new paragraph as follows:

3. No State or any organ shall exercise jurisdiction over any other State or peoples except with the free and express consent of the State or peoples concerned and only to the extent to which that consent is given.

145. Proposal submitted in 1969 by Czechoslovakia, Poland, Romania and the Union of Soviet Socialist Republics (A/AC.125/L.74):

1. All peoples, large and small, have equal rights, the inalienable right to self-determination and complete freedom, the exercise of their full sovereignty and the integrity of their national territory.

2. Consequently:

(a) Each people has the right to determine freely their political status, including the right to establish an independent national State, to pursue their economic, social and cultural development and to dispose of their natural wealth and resources.

The integrity of the national territory shall be respected.

(b) All States shall strictly respect the right of peoples to self-determination and contribute to the fulfilment of this right so as to ensure the development of friendly relations and co-operation among nations.

(c) The subjection of peoples to alien subjugation, including the practices of racial discrimination, domination and exploitation, as well as any other forms of colonialism, constitutes a violation of the principle of equal rights and self-determination of peoples.

Peoples who are under colonial domination have the right to carry on the struggle, by whatever means, including armed struggle, for their liberation from colonialism and may receive in their struggle assistance from other States.

51/ Ibid., para. 178.

(d) Territories which, contrary to the Declaration on the Granting of Independence to Colonial Countries and Peoples, are still under colonial domination, cannot be considered as integral parts of the territory of States exercising colonial rule over them. Administering Authorities are prohibited from undertaking any armed action or repressive measures against peoples under colonial rule and are bound to grant them independence without delay.

(e) All States shall co-operate with the United Nations to bring about an immediate end to colonialism and to transfer all powers to the peoples of Territories which have not yet achieved independence, without any conditions or reservations and any distinction as to race, creed or colour.

B. Debate

1. General comments

146. The principle of equal rights and self-determination of peoples was discussed by the Special Committee at its 104th, 105th, 106th and 107th meetings, on 2, 3 and 4 September 1969. The debate on the principle of equal rights and self-determination of peoples at the present session continued, as far as the substance of the principle is concerned, along the same lines as at the previous sessions of the Special Committee. A number of delegations pointed out, however, that they did not consider it appropriate to dwell at length on the different aspects of the principle since they had already explained their positions in detail during the preceding sessions of the Special Committee and especially at the 1968 session. Some delegations, referring to their statements made at previous sessions of the Special Committee, commented only on separate components of the principle, recalled the relevant parts of their statements made during the discussion of the other principles or stated their suggestions concerning the method and the order to be applied when transforming various elements into a precise formulation of the principle.

147. Several delegations explained the historical and political background of the principle as one closely bound up with the national history of most of the Member States and their struggle to attain or defend freedom and independence. It was pointed out that the principle had been accepted since the end of the nineteenth century as one of the fundamental elements of modern democracy. Most recently, the principle has been confirmed in numerous international instruments: for example, in the Charter of the United Nations (Article 1, (para. 2) and Articles 55, 73 and 76) and the International Covenants on Human Rights; and in various resolutions of the General Assembly: for example, in resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and in resolution 1702 (XVI), 1807 (XVII), 1810 (XVIII), 2105 (XX), 2131 (XX), 2160 (XXI), 2403 (XXIII), 2465 (XXIII). The confirmation of the principle can also be found in resolutions of the Security Council, such as resolution 246 (1968). In this connexion, the view was expressed that the Committee was justified in using the resolutions of the General Assembly as source material since the resolutions concerned had been supported by an overwhelming majority even if there was some difference of opinion as to whether those texts imposed obligations on Member States which had voted for their adoption. It was also pointed out that the Committee should in addition take account of the way in which relevant Articles of the Charter have been applied, both by the States and by the United Nations itself.

148. It was emphasized that the difficulty in formulating the principle sprang both from the form in which the principle was expressed in the Charter and from the essential character of the principle itself. In the Charter it was referred to only indirectly in Articles 1 and 55, whereas the majority of the other principles assigned to the Special Committee for formulation were stated by the Charter itself in terms of legal duties. There were differences of view in the Special Committee as to the method to be applied for drafting the formulation of the principle. It was suggested on the one hand that the drafting of the principle should follow the guidelines adopted for the formulation of the other principles: a general definition drawn up in accordance with the Charter should be followed by a statement of the rights and obligations of States deriving therefrom for all States, and in particular for those still exercising domination over other States and of the collective obligations devolving upon all States Members of the United Nations. On the other hand it was stated that in the first place the general content and the aim of the principle should be determined and then the specific rights and duties to which it gives rise should be considered, on the basis of the relevant provisions of the Charter. It was also suggested that the Special Committee should also make use of those General Assembly resolutions such as 1514 (XV), 2131 (XX) and 2160 (XXI), in which an attempt has been made to define the content of the principle. It was also pointed out that it was necessary to determine as accurately as possible what constituted a denial of the right of self-determination. Another representative suggested that first the principle should be set out in general abstract terms in as wide a context as possible, and then the special application of the principle and identification of the peoples referred to in the formulation should be indicated. Finally, the obligations of the administering Powers, the rights of the people and of the Organization should be defined in both their positive and their negative aspects. The view was expressed that the principle should be formulated in the most objective terms and that the formulation must correspond to contemporary realities. The contemporary world offered a number of instances of total disregard for the right of self-determination, and there was a pressing need to codify rules which, on the basis of the Charter, had developed as customary international law.

2. The nature of the rights involved in the concept of self-determination

149. Provisions of the proposals before the Special Committee relating to the nature of the rights involved in the concept of self-determination were contained in paragraph 1 of the proposal contained in part VI of the draft declaration submitted by Czechoslovakia (see paragraph 138 above); paragraph 1 of the joint proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 139 above); paragraph 1 of the proposal submitted by the United States (see paragraph 149 above); paragraph 1 of the proposal contained in part VI of the draft declaration submitted by the United Kingdom (see paragraph 142 above); paragraph 1 of the proposal contained in the draft declaration submitted in 1967 jointly by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 143 above); and paragraph 1 of the proposal of Czechoslovakia, Poland, Romania and the Union of Soviet Socialist Republics (see paragraph 145 above).

150. The proposals before the Special Committee differed in the manner in which they gave expression to the concept of self-determination. The proposals submitted by Czechoslovakia, by the non-aligned countries and by the four socialist countries stated the concept as including equal rights of all peoples, the right of all peoples to self-determination and complete freedom, the exercise of their full sovereignty and the integrity of their national territory. The proposals submitted by the United Kingdom and by the United States provided that every State had the duty to respect the principle of equal rights and self-determination of peoples. The United Kingdom proposal also contained the provision that every State had the duty to implement the principle in regard to the peoples within its jurisdiction, inasmuch as the subjection of peoples to alien subjugation, domination and exploitation constituted a denial of fundamental human rights, was contrary to the Charter and was an impediment to the promotion of world peace and co-operation, and the duty to accord to those peoples the right freely to determine their political status and to pursue their social, economic and cultural development without discrimination as to race, creed or colour.

151. Several representatives recalled that the principle of equal rights and self-determination of peoples was a key element of the Charter. It was regarded as the basis on which friendly relations among nations are to be developed. The link between friendly relations and international co-operation, on the one hand, and the respect for the principle, on the other, was established by the provisions of Article 1, paragraph 2, and Article 55 of the Charter. It was also stated that the principle constituted the basis of the other principles that the Committee had the task of defining, namely the principle of sovereign equality of States, the principle of non-intervention and, to some extent, the principle of the non-use of force. It was also pointed out that Article 55 of the Charter placed the principle in the human rights setting. Several representatives expressed the view that the principle of equal rights and self-determination of peoples is so closely linked with that of the prohibition of the threat or use of force that it was not possible to define either principle until certain issues which had a bearing on both principles were resolved.

152. Most of the representatives speaking on the subject considered the self-determination of peoples a legal right the existence of which was generally recognized. The nature of the principle as a legal right was attested to in various international instruments including the Charter of the United Nations and many resolutions of the General Assembly. Other representatives preferred, in this connexion, the term "principle" used in the Charter because there were some doubts regarding the way in which the term "right" was to be understood in relation to the concept of self-determination.

153. Many representatives speaking on the nature of the principle stated that the principle was universal in nature and therefore applicable to all peoples. Consequently, there was no reason to restrict its application only to peoples under colonial domination. Some representatives, on the other hand, stated that the principle in question was concerned primarily with the situation of peoples which were still under foreign domination or trusteeship or who are the victims of military occupation. The view was expressed that it was unrealistic to consider on the same basis the peoples of dependent Territories and those of other countries whose dependence had been achieved. It was also recalled that the right to self-determination could not be interpreted in such a way that it meant that the right could be exercised only once and solely with a view to independence.

154. Several representatives pointed out that the principle under consideration comprised two concepts: first, equal rights, and secondly, self-determination. The two concepts were complementary and inseparable. Equal rights meant that all peoples had equal and inalienable rights to complete freedom, the exercise of full sovereignty, the integrity of their national territory, peace and security, civilization and progress. Similarly, every people was entitled to determine its own political status and to strive for economic, social and cultural development. The general statement of the principle should give expression to both of these concepts. With regard to the first concept, in the opinion of some representatives, it was not enough to affirm the equal rights of peoples and to say that all peoples had the same rights in the same degree and could exercise them freely but also that each State had the duty to respect the rights of other States. On the other hand, the view was expressed that the first part of the principle related to equal rights of peoples had not yet been discussed in depth and the meaning of that expression was not clear. In accordance with this view, it would make little sense to interpret the expression in such a way that the dependent people under the administration of a State could make no claim under the principle simply because they had already been granted rights equal to or greater than those conferred upon the dependent peoples under the administration of another State, regardless of the level or contents of those rights.

3. The scope of the principle

155. Provisions of the proposals before the Special Committee relating to the scope of the principle of equal rights and self-determination were contained in paragraph 1 of the proposal contained in part VI of the draft declaration submitted by Czechoslovakia (see paragraph 138 above); paragraph 1 of the joint proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 139 above); paragraph 2 of the proposal submitted by the United States (see paragraph 140 above); the amendment submitted by Lebanon (see paragraph 141 above) to the United States proposal; paragraph 1 of the proposal contained in part VI of the draft declaration submitted by the United Kingdom (see paragraph 142 above); in paragraph 1 of the proposal submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 143 above); and in paragraph 1 of the proposal submitted by Czechoslovakia, Poland, Romania and the Union of Soviet Socialist Republics (see paragraph 145 above).

(a) The beneficiaries of the principle, and the meaning of the term "peoples"

156. Several delegates stressed that the word "peoples" should be taken in its broadest sense. The principle should be formulated in such a way as to take into account all peoples, large and small, and whether living in colonial territories or not. One delegate stated that the principle was applicable to the peoples in Non-Self-Governing Territories and to those living in a zone of military occupation. Other cases were federal unions whose constitutional law explicitly referred to the right of self-determination and territories which had freely associated with the former administering Power. He also referred to the exceptional possibility that other peoples, e.g., those living in an area which was geographically distinct and ethnically or culturally different from the remainder of the State, should, with adequate safeguards, be able to exercise the right to self-determination.

157. On the other hand, some representatives stated that such a view of the meaning of the word "peoples" would be an interference in the internal affairs of States and an invitation to secession. To enunciate the principle that each tribal, racial, ethnic and religious group was entitled to self-determination would be carrying the principle to an absurd extreme.

158. Another view, supported by reference to Chapters XI, XII and XIII of the Charter and to the practice of the United Nations, was that the word "peoples" referred to peoples not having equal rights with the people of the administrative Power - peoples who had been unable to exercise their right of self-determination.

(b) Recognition of the principle in its widest sense

159. Several representatives stated that the right of self-determination consisted of two fundamental and interrelated rights, the right of all peoples freely to choose their international status, and their right to choose their political, economic and social systems. This latter aspect included the right to develop and dispose of their natural resources. One representative referred in this respect to General Assembly resolution 1314 (XIII) in which permanent sovereignty over natural resources was described as a "basic constituent of the right to self-determination". Other representatives referred to the duty of all States to enable peoples under their administration freely to determine their constitutional, political and economic status.

4. Implementation of the principle

(a) With respect to peoples under colonialism

(i) Colonialism as a violation of the principle

160. Provisions in the proposals before the Special Committee relating to colonialism as a violation of the principle of equal rights and self-determination were contained in paragraph 1 of the proposal contained in part VI of the draft declaration submitted by Czechoslovakia (see paragraph 138 above); paragraph 2 (a) of the 1966 proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 139 above); paragraph 2 (a) of the proposal contained in the draft declaration submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 143 above); and paragraph 2 (b) of the proposal submitted by Czechoslovakia, Poland, Romania and the Union of Soviet Socialist Republics (see paragraph 145 above).

161. The view was expressed that it was generally accepted in international law that the subjection of peoples to alien subjugation, including racial discrimination and any form of colonialism or neo-colonialism is a violation of the principle; the practice of colonialism was a negation of equal rights and self-determination. Any statement of the principle should condemn all forms of domination and oppression, including neo-colonialist activities of an economic character.

162. On the other hand, it was stated that Chapters XI, XII and XIII of the Charter recognized the legitimacy of colonial rule, regulated it and provided for its orderly termination. According to another view, these responsibilities were, however, conferred with the purpose of furthering international peace and security; but the perpetuation of the colonial system was, on the contrary, one of the most serious threats to world peace and security.

(ii) Prohibition of armed action or repressive measures
against colonial peoples

163. Provisions relating to the prohibition of armed action or repressive measures against colonial peoples were contained in paragraph 4 of the proposal contained in part VI of the draft declaration submitted by Czechoslovakia (see paragraph 138 above); and paragraph 2 (d) of the proposal submitted by Czechoslovakia, Poland, Romania and the USSR (see paragraph 145 above).

164. Several representatives expressed the view that administering Powers should be prohibited from taking any armed action or applying repressive measures of any kind against peoples under colonial rule. The use of force against oppressed peoples who were fighting for their independence constituted a crime against peace and violated the Charter. They denied that force could be used to maintain law and order: this would mean that force could be used to perpetuate colonialism.

165. On the other hand it was stated that every State was obliged under general international law to extend adequate protection to the interests of other States and to aliens within its jurisdiction; consequently, every State had the duty to use force in order to prevent disturbances from damaging the interests of aliens or foreign States, whether in the metropolitan area or in the dependent territories. The aim was therefore to distinguish between such legal uses of force and uses which would deprive dependent peoples of their right to seek self-determination. Dependent peoples according to this view were not entitled under the Charter to resort to the use of force on their own initiative against the administering Power which did not use force to deprive them of their right to seek self-determination. Further, it was said that the Charter did not, apart from extreme situations falling, for instance, within Chapter VII of the Charter, regulate the use of force in colonial situations since the relations between a metropolitan State and its dependent territories were not among the "international relations" to which alone Article 2, paragraph 4, applied.

(iii) Right of armed struggle against colonial domination

166. Provisions in the proposals before the Special Committee relating to a right of armed struggle against colonial domination were contained in paragraph 3 of the proposal contained in part VI of the draft declaration submitted by Czechoslovakia (see paragraph 138 above); paragraph 2 (b) of the 1966 proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 139 above); in paragraph 2 (b) of the proposal contained in the draft declaration submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 143 above); and paragraph 2 (c) of the proposal submitted by Czechoslovakia, Poland, Romania and the USSR (see paragraph 145 above).

167. Several representatives affirmed that peoples subjected to colonial rule and, as such, unable to exercise the rights flowing from the principle of self-determination, had the right to throw off colonialism by any means whatever, including the use of force. The legitimacy of this struggle had been recognized by resolutions of the General Assembly and of the Security Council, and also followed from the principle that where there is a right there is a remedy. Moreover, in accordance with the Charter and relevant General Assembly resolutions, such peoples were entitled to seek and receive all support from other States in their struggle: such States had a right or even a duty to provide support. The view was also expressed that the right of a dependent people to exercise its inherent right of self-defence, once all other remedies had been exhausted, should be included in the formulation. Reference was also made to the views expressed on this issue in the discussion of the principle of the prohibition of the threat or use of force.

168. On the other hand it was stated that there was no foundation in the Charter for the view that dependent peoples had an inherent right to use force and to be assisted by the forces of foreign States: "peoples" could not, under the Charter or general international law, be identified with "States" and did not have the same rights; the right of self-defence could not be used to attain the liquidation of colonialism, or any similar political objective; the legitimacy of colonial rule was recognized by the Charter; and Article 2, paragraph 4, was inapplicable to colonial situations since it was limited to "international relations". Moreover several representatives said that no system of law could establish a legal right of revolution. Finally, it was pointed out that the compelling reasons for the prohibition of armed force in international relations also applied to disputes concerning the right to self-determination: such disputes might very well lead to a threat to world peace.

(iv) Assistance to the United Nations

169. Provisions in the proposals before the Special Committee relating to assistance to the United Nations were contained in paragraph 2 (d) of the joint proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 139 above); paragraph 2 (d) of the proposal submitted jointly by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 143 above); and paragraph 2 (e) of the proposal submitted by Czechoslovakia, Poland, Romania and the Union of Soviet Socialist Republics (see paragraph 145 above).

170. Several representatives were of the opinion that the statement of the principle should include the obligation of all States to co-operate with, and render assistance to, the United Nations in the carrying out of its responsibilities to bring an end to colonialism.

(v) What constitutes full implementation of the principle

171. Provisions in the proposals before the Special Committee on what constitutes full implementation of the principle of equal rights and self-determination were contained in paragraph 2 A (3) of the proposal submitted by the United States (see paragraph 140 above); and in paragraphs 2 (d) and 3 of the proposal contained in part VI of the draft declaration submitted by the United Kingdom (see paragraph 142 above).

172. Several delegates observed that the statement on the principle should define the obligations of the administering Powers and especially the obligation to grant independence without delay. Others pointed to the need to give special attention to the obligations deriving from the Charter, and in particular to the duty to maintain a readiness to accord self-government, through their free choice, to the peoples concerned.

(vi) Status of dependent Territories

173. Provisions in the proposals before the Special Committee relating to the status of dependent Territories were contained in paragraph 2 of the proposal contained in part VI of the draft declaration submitted by Czechoslovakia (see paragraph 138 above); paragraph 2 (e) of the joint proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 139 above); paragraph 2 (e) of the proposal contained in the draft declaration submitted jointly by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 143 above); and paragraph 2 (d) of the proposal submitted by Czechoslovakia, Poland, Romania, and the Union of Soviet Socialist Republics (see paragraph 145 above).

174. Some delegates expressed the view that under international law a colonial Territory could not be regarded as an integral part of the Territory of the administering Power. One pointed out that the relations between the administering Power and the Territories were international relations derived primarily from the Charter and not from national constitutions. Another referred to the fact that the principle was primarily concerned with peoples who were under foreign domination or trusteeship or were victims of military occupation; accordingly any idea of their integration or assimilation into the people of the metropolitan country was remote. On the other hand, the opinion was expressed that the idea that colonial Territories were not an integral part of the administering State was so vague and imprecise that it was open to many interpretations.

(b) Questions concerning the implementation of the principle by a State with respect to peoples within its jurisdiction

175. The relevant provisions in the proposals before the Special Committee relating to questions concerning the implementation of the principle of equal rights and self-determination by a State with respect to peoples within its jurisdiction were contained in paragraph 2 B of the proposal submitted by the United States (see paragraph 140 above); and paragraph 2 (a) and (b) and paragraph 4 of the proposal contained in part VI of the draft declaration submitted by the United Kingdom (see paragraph 142 above).

176. Some representatives stressed the close link between the principle of equal rights and self-determination, on the one hand, and human rights, on the other. One noted that the idea of self-determination was older than the Charter and extended far beyond colonial questions: when the last colony had become an independent State there would still be "peoples" conscious of religious, ethnic, cultural or linguistic differences. The aspirations of such dissatisfied groups would combine to create serious problems for the development of friendly relations. Other representatives suggested that provisions should be made for democratic institutions or processes whereby a people forming a distinct entity within a State

could make known its wishes regarding its national future; specifically, several representatives considered the principle could be applied to multinational States or to peoples who were geographically distinct and ethnically or culturally diverse from the remainder of the State. Some thought that it would be necessary to safeguard against the possibility of the abuse of such an application of the principle by secessionist movements, whereas another representative stated that the right of a people to secede from a multinational State would, far from weakening the State, tend to cement its unity: the right was the very foundation of a voluntary association among the peoples.

177. On the other hand, some representatives expressed the view that it would be an interference in a State's domestic affairs if the Committee were to draw up rules for the secession of peoples within a State. It was not for the Committee to pass judgement on whether Governments of sovereign States governed well or badly. Finally, if there were genuine discrimination against any ethnic group in an independent State that group would have the right to rebel, but that would be a domestic matter.

(c) Questions concerning the implementation of the principle in relations between States

Non-violation of national unity and territorial integrity

178. Provisions in the proposals before the Special Committee relating to the non-violation of national unity and territorial integrity were contained in paragraph 2 (c) of the proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 139 above); paragraph 2 (c) of the proposal contained in part VI of the draft declaration submitted by the United Kingdom (see paragraph 142 above); paragraph 2 (c) of the proposal contained in the draft declaration submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 143 above); and paragraph 2 of the proposal submitted by Czechoslovakia, Poland, Romania and the Union of Soviet Socialist Republics (see paragraph 145 above).

179. Several delegates, in speaking of the application of the principle in relations between States, stressed that the definition of the principle should clearly state that each State had the duty to refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State. In this context also, it was pointed out that the principle should not be considered a licence for dangerous secessionist movements.

C. Consideration of the report of the Drafting Committee

1. Report of the Drafting Committee

180. The following report ^{52/} was submitted to the Special Committee by the Drafting Committee on the principle of equal rights and self-determination of peoples:

The Drafting Committee considered all proposals on the same basis. In view of the close interrelationship between the various components of the

^{52/} Previously issued under the symbol A/AC.125/L.76.

principle, it was understood that agreement on one particular point would not prejudice the position of members with regard to other points or to the statement of the principle as a whole. It was also understood that questions of drafting were of great importance.

I. It was agreed that the first paragraph of the declaration of the principle of equal rights and self-determination of peoples should contain a general statement of the principle, stressing its universality, and that it should be followed by a second paragraph spelling out in several sub-paragraphs the legal consequences deriving from it. There was no agreement as to whether rights or duties should appear first in this formulation. Nevertheless, the following two formulae were advanced to provide a basis for discussion; the wording itself was not subject to disagreement except as indicated by square brackets.

"All peoples have equal rights and the inalienable right to self-determination by virtue of which they [have complete freedom to] [freely] determine, without external interference, their political status and [freely] [to] pursue their economic, social and cultural development. Every State has the duty to respect these rights and to promote their realization in accordance with the provisions of the Charter."

"Every State has the duty, in accordance with the provisions of the Charter, to respect and to promote the realization of the equal rights and the inalienable right to self-determination of all peoples, by virtue of which all peoples [have complete freedom to] [freely] determine, without external interference, their political status and [freely] [to] pursue their economic, social and cultural development."

A third formula was advanced but not examined in detail:

"The principle enshrined in the Charter of equal rights and of self-determination of all peoples, by virtue of which they [have complete freedom to] [freely] determine, without external interference, their political status and [freely] [to] pursue their economic, social and cultural development, shall be respected and its realization shall be promoted by every State in accordance with the provisions of the Charter.

II. There was agreement on the following statements for inclusion among the sub-paragraphs of a second paragraph:

"Every State has the duty to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle of equal rights and self-determination of peoples, and to contribute to the fulfilment of this principle in order to promote friendly relations and co-operation among States."

"Every State has the duty to promote through joint and separate action the universal respect for and observance of human rights and fundamental freedoms."

"Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country."

III. It was agreed that the following element should be incorporated in the statement of this principle, but there was no agreement as to its placing, that is, whether or not it would constitute a separate sub-paragraph. The following formulae were advanced with a view to providing a basis for discussion:

"The subjection of peoples to the alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation."

"The subjection of peoples to alien subjugation, domination and exploitation as well as any other forms of colonialism, constitutes a violation of the principle of equal rights and self-determination of peoples in accordance with the Charter of the United Nations and, as such, is a violation of international law."

IV. Mode of implementation of self-determination

The possibility was discussed of including a sub-paragraph on the following lines:

"In exercising their right of self-determination a people may decide upon/ The exercise by a people of their right of self-determination may take the form of/ the establishment of a sovereign and independent State, their free association or integration with an independent State or any other political status freely determined/."

V. The prohibition of armed action or repressive measures against colonial peoples

The possibility was discussed of including a sub-paragraph on the following lines:

"Every State The administering authority/ has the duty to refrain from the threat or use of force/ any forcible action/ which deprives dependent peoples/ peoples under foreign domination/ peoples under foreign domination including colonial peoples/ peoples under foreign domination as well as under any other form of colonialism/ peoples under foreign domination or colonial peoples/ of their right to self-determination and freedom and independence."

VI. Right of self-defence against colonial domination including the question of rights of peoples to request and to receive assistance in their struggle

There was no agreement on the inclusion of a statement under this heading. Nevertheless, the following formula was advanced as a basis for discussion:

"Peoples subjected to colonial oppression are entitled in their legitimate struggle to seek and to receive all support in accordance with the purposes and principles of the Charter and with the provisions of resolution 1514 (XV)."

VII. Status of dependent territories

The possibility was discussed of including a sub-paragraph on the following lines:

"The territory of a colony or other non-self-governing territory has under the Charter a status separate and distinct from the Territory of the State exercising colonial rule over it [administering it], and its separate and distinct status as well as the responsibilities of the administering State concerned relating thereto shall continue so long as the colony or the non-self-governing territory has not exercised its right of self-determination [in the manner set out in resolution 1541 (XV)] [in accordance with the provisions of resolution 1514 (XV)]."

VIII. The mode of implementation of the principle

There was no agreement on a statement under this heading. The following proposals were advanced for discussion:

"Every State exercising authority over a colony or other Non-Self-Governing Territory, a zone of military occupation or a Trust Territory shall, in implementation of the principle, maintain a readiness to accord self-government through their free choice, to the peoples concerned, and to make in good faith such efforts as may be required to assist them in the progressive development of institutions of free self-government, according to the particular circumstances of each Territory and its peoples and their varying stages of advancement: and, in the case of Trust Territories, shall conform to the requirements of Chapter XII of the Charter of the United Nations."

"All colonial powers, administering colonies or other non-self-governing territories or a Trust Territory, shall without delay transfer all powers to the peoples of those territories without any conditions or reservations in accordance with their freely expressed will and desire without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom."

IX. Implementation of the principle by a State with respect to peoples within its jurisdiction

There was no agreement on the inclusion of any statement under this heading. The following proposals were advanced for discussion:

"States enjoying full sovereignty and independence, and possessed of a representative government, effectively functioning as such to all distinct peoples within their territory, shall be considered to be conducting themselves in conformity with this principle as regards those peoples."

"Democratic States enjoying full sovereignty and independence and possessed of a representative government shall be considered to be conducting themselves in conformity with this principle. Accordingly nothing in the foregoing paragraphs shall be construed as giving legitimacy to any action aimed at the total or partial disruption of, or against the security of, such States."

X. The criteria for applicability of the principle

There was no agreement on the inclusion of any statement under this heading. The following proposal was advanced for discussion:

"The principle is applicable in the case of a colony or other non-self-governing territory, a zone of military occupation, or a Trust Territory, or, subject to paragraph 4 below, 53/ a territory which is geographically distinct separate and ethnically or culturally diverse from the remainder of the territory of the State administering it."

2. Comments by members of the Special Committee

181. The above report of the Drafting Committee was discussed at the 109th meeting of the Special Committee after the report was introduced, in the absence of the Chairman of the Drafting Committee, by the representative of Mexico. In their statements, the representatives of the following States made comments on the report of the Drafting Committee concerning the principle of equal rights and self-determination of peoples: Kenya, France, Nigeria, Cameroon, Yugoslavia, Italy, the United Arab Republic, Romania, United Kingdom and Japan. A summary of those comments, as they related to the substance of the report of the Drafting Committee and the results achieved, is given below in the order in which they were made. Attention is drawn to the close interrelation between the comments made with regard to some of the elements of the statement of the principle of equal rights and self-determination of peoples and that of non-use of force (see paragraphs 119-135 above).

182. The representative of Kenya stated that a great deal of progress had been made during the current session on the principle. His delegation had often maintained that the right of self-determination had existed before it was recognized by the Charter; the duty of States to respect that right naturally followed from it, and it was therefore impossible to argue that the duties of States should take precedence over the rights of peoples.

183. The representative of France said that the principle of self-determination of peoples had a central place in the whole system of the Charter, even though it was not clearly defined as the other principles were. Like the other principles, it must be regarded as binding on all States in their relations with all peoples. At the same time, it must be recognized and reaffirmed as a right of dependent peoples which commanded respect particularly from the colonial Powers. The formulation produced by the Special Committee should make it possible for the principle to be applied in a peaceful and orderly manner; only when all peaceful means of achieving self-determination had failed should other measures be adopted. That point should be clearly stated in the formulation of the principle, but in such a way that it could not serve as a pretext for interference in the affairs of other States.

53/ See the first proposal under point IX above.

184. The representative of Nigeria noted with satisfaction that a sound basis had been laid for the formulation of the principle. Although agreement had not yet been reached on some fundamental issues, he believed that the divergent positions adopted would prove to be less incompatible than they appeared. He hoped that, where it was not possible to achieve unqualified agreement, a spirit of compromise would prevail.

185. The representative of Cameroon stated that his delegation had been disappointed to observe that a few delegations still maintained the view that a people under colonial and other forms of oppression might not lawfully employ force in self-defence against their oppressors. It was inconsistent to accord the right of self-determination while refusing the means of exercising that right. That attitude had blocked progress in the formulation of the principle.

186. The representative of Yugoslavia said he was pleased that the area of agreement on the principle of equal rights and self-determination of peoples had grown wider. However, no agreement had been reached on the inclusion of a provision applying the principle to peoples under colonial domination. His delegation considered such a provision essential.

187. The representative of Italy pointed out that his delegation had expressed certain reservations as to the statement in the report concerning the universality of the principle. From a legal point of view it was difficult to accept an a priori qualification of the character of a principle of international law before any real agreement had been reached on the contents, the scope and the beneficiaries of the principle itself. Furthermore his delegation felt that the vagueness of the expression "all peoples" as used in the formulae under point I of the report, was inappropriate in a declaration intended to assist the development of international law and to preserve the certainty of the law. His delegation's position was also related to the fact that the principle has been invoked and has found recognition in the United Nations practice in connexion with the process of decolonization. It had been generally agreed in the Drafting Committee that the principle, being intended to promote friendly relations among States, could not be invoked in connexion with situations traditionally falling within the domestic jurisdiction of an independent State. In the light of the foregoing positions, his delegation refrained and would refrain from expressing its opinion on the acceptability of the various formulae that had been submitted until the contents of the principle had been fully defined. In order to avoid erroneous interpretations of the statement of the principle, his delegation considered it essential that the declaration should indicate the situations in which the principle was not applicable and cases in which it might be applied. The Committee should therefore concentrate at its next session on examining the proposals set out under points IX and X of the report. The inclusion in the formulation of a provision on the lines of the second proposal under point IX would also ensure that the principle would not be interpreted in such a way as to undermine the territorial integrity of independent States, which was safeguarded as fundamental by the Charter.

188. The representative of the United Arab Republic welcomed the progress achieved on the principle of equal rights and self-determination of peoples.

189. The representative of Romania pointed out that it was encouraging to note the considerable progress which had been made with respect to the principle.

190. The representative of the United Kingdom stated that while agreement had not been reached on all aspects of the principle, the progress which had been made would provide a valuable basis for future work. The elements in points VIII, IX and X had not been discussed in sufficient detail, owing to lack of time. Nevertheless, some delegations had indicated that there was a possibility of compromise on the proposals submitted under points IX and X.

191. The representative of Japan observed that the progress achieved with respect to the principle was gratifying and constituted a constructive basis for future work on the principle.

3. Decision of the Special Committee

192. At its 109th meeting, on 19 September 1969, the Special Committee adopted the report of the Drafting Committee (see paragraph 160 above) on the principle of equal rights and self-determination of peoples.

Section 3: Concluding stage of the Special Committee's session

A. General comments on the work of the Special Committee and the reports of the Drafting Committee

193. The concluding stage of the Special Committee's session offered to many representatives an opportunity to make some remarks of a general nature on the outcome of the work of the 1969 Special Committee and its Drafting Committee. The statements to that effect were made by the representatives of Czechoslovakia, Kenya, France, the USSR, Nigeria, Cameroon, Chile, India, Madagascar and Ghana. The Chairman of the Special Committee also touched upon that subject. The statements are summarized below in the order in which they were pronounced.

194. The representative of Czechoslovakia observed that the Special Committee had added new agreed paragraphs to the formulation of the prohibition of the threat or use of force and had laid a solid foundation for the future formulation of the principle of equal rights and self-determination of peoples, but in so doing it had not entirely fulfilled its expectations.

195. The representative of Kenya expressed his delegation's satisfaction at the results achieved by the Special Committee. While it wished that a consensus could have been reached on a greater number of points, it knew that the Committee had not been prevented from arriving at an agreed text on either of the principles currently under consideration by any lack of goodwill, hard work or spirit of compromise. There were some genuine problems and fears which had so far prevented the Special Committee from reaching a consensus.

His delegation endorsed the statement, in the first paragraph of each report, that agreement on one particular point would not prejudice the position of members with regard to other points. That proviso was most important.

196. The representative of France said that the reactions of members to the results of the session varied between satisfaction and regret. His delegation, too, had mixed feelings; it had shared the hope that complete agreement might be reached on the principle of the non-use of force, but felt that the partial agreement which had been achieved marked a considerable step forward. The amicable atmosphere which had prevailed in both the main Committee and the Drafting Committee had been a decisive factor in achieving as much progress as seemed possible in view of the current world situation. A basis had been established on which the Special Committee could continue its work.

197. The representative of the Union of Soviet Socialist Republics said that the results of the current session were positive. It had been possible to reach agreement on a number of elements of the principle of the non-use of force on which there had previously been no consensus. A framework had been created to serve as a basis for future discussions of the principle of equal rights and self-determination of peoples and agreement had been reached on a number of the elements contained in that principle. The atmosphere of intellectual responsibility that had prevailed throughout the session in the plenary meetings, in the Drafting Committee and in the informal consultations must be maintained if positive conclusions were to be reached.

198. The representative of Nigeria said that the Drafting Committee had made considerable progress both in the formulation of legal concepts and in the resolution of outstanding issues. The prevailing atmosphere gave rise to optimism regarding the early completion of the Special Committee's task.

199. The representative of Cameroon said that he could not fully endorse the remarks regarding the "positive" nature of the results of the Special Committee's current session. Compared with what might have been achieved, those results were disappointing. The main reason for the comparative failure was, as the United States representative had said, a lack of political will. Another reason for the partial failure of the session was the fact that on several occasions, after agreement in principle had been reached during informal consultations, opinions had been changed and different positions adopted in public meetings.

200. The representative of Chile, whose view was shared by the representatives of Argentina and Mexico, said his delegation regretted that so little progress had been made in formulating the principle prohibiting the threat or use of force and the principle of equal rights and self-determination of peoples. If the formulations were to be completed before the twenty-fifth session of the General Assembly, a greater spirit of compromise would have to be forthcoming. He wished to make it clear that the adoption of the Committee's report would not prejudice his delegation's position with regard to the formulation of the principles as a whole.

201. The representative of India said that the Special Committee should not underrate the progress which had been achieved thus far. Substantial agreement had been reached on a number of elements of the principles under consideration and could serve as a basis for further work.

202. The representative of Madagascar said that the results achieved by the Drafting Committee were, unfortunately, not commensurate with the efforts expended. He hoped that the progress attained would be used as a basis for further discussion.

203. The representative of Ghana said that some progress had been made, especially in regard to the principle of self-determination, on which various formulations had been put forward as a basis for future work. The reports did not give a true picture of the work done in informal consultations and in the Drafting Committee. Some points on which, according to the reports, there was no agreement, had in fact been supported by the overwhelming majority of those taking part in the discussions.

204. The Chairman said that he felt the Special Committee could be satisfied with its work, because it had obviously built a solid foundation for the final formulation of the two principles.

B. Comments concerning organization and methods of work of the next session of the Special Committee

205. The following representatives, making use of the final stage of the Special Committee's session, offered their comments and suggestions concerning the organization, the methods of work and the time schedule of the next session of the Special Committee: the representatives of Czechoslovakia, Kenya, France, the USSR,

Cameroon, Chile, the United Arab Republic, Romania, Japan and Argentina. The Chairman of the Special Committee also referred to that subject. The views expressed are summarized below.

206. The representative of Czechoslovakia said that the timing of the final session of the Special Committee was a matter of some importance. The work of codification should be continued, through informal consultations as well as through formal meetings of the Special Committee, early in 1970, so that the text of the whole declaration on the seven principles could be carefully studied by Governments before the opening of the twenty-fifth session of the General Assembly. There was a real possibility of adopting the declaration of the seven principles on the occasion of the twenty-fifth anniversary of the United Nations if members maintained their spirit of co-operation, increased their mutual understanding and devised even more effective methods of work.

207. The representative of Kenya questioned whether the consensus rule, which gave every member the power of veto, should be applied at future sessions. His delegation had been perturbed to see hard-won agreements overthrown at the last moment by a single delegation. It was desirable that the final text of the principles should have the support of all members, but if that was unattainable the Special Committee should not refuse to consider the next best alternative. He hoped that the Committee would be able to submit an agreed text to the General Assembly at its twenty-fifth session.

208. The representative of France observed that there were still formidable difficulties to be overcome, and large concessions would have to be made on all sides, but if the Special Committee was given time to explore all possible areas of agreement thoroughly it was possible that the twenty-fifth anniversary of the United Nations could yet be marked by the adoption of a solemn declaration of the seven principles. It was important to avoid reaching agreements so late that they could not be fully confirmed before the session closed, and the next session would therefore require careful preparation. He agreed with the representative of Czechoslovakia that it should take place early in 1970 and be preceded by informal consultations.

209. The representative of the USSR stated that his delegation was sympathetic to the suggestion that the members of the Committee should hold informal consultations before the next session. He agreed with the representative of Czechoslovakia that the Committee's next session should not be held immediately before that of the General Assembly and that it should be conducted on an informal basis. The Committee should conclude its task in time for the twenty-fifth session of the General Assembly. At the 1756th meeting of the General Assembly, the Minister for Foreign Affairs of the USSR had stressed that the Committee's work was particularly closely related to the problem of strengthening international security and that it should be completed as soon as possible. A statement to that effect was included in the draft Appeal of the General Assembly of the United Nations to all States of the world on strengthening international security submitted to the General Assembly by the USSR delegation (A/7654).

210. The representative of Cameroon said that the rule of consensus had been adopted by the Committee for its own convenience, and was not laid down in its terms of reference. Where there was majority agreement on a point, the principle of consensus should not be exploited for reprehensible ends. A positive approach was required, and it should not be assumed that the rejection of a proposal amounted

to an insult or to an expression of antagonism or that it demonstrated a lack of political will or genuine co-operation. He supported the proposal that the Committee's next session should be held earlier in the year, and he suggested that a venue away from Headquarters might prove more suitable.

211. The representative of Chile expressed the view that the other principles still before the Special Committee, that of equal rights and self-determination of peoples, would need serious study by all Governments, and he hoped that the General Assembly would decide to convene the next session of the Committee early in the year to enable it to complete its work.

212. The representative of the United Arab Republic hoped that a declaration on the principles of international law concerning friendly relations and co-operation among States would be completed in 1970 and that the consensus method would prove more successful in the future.

213. The representative of Romania hoped that the Special Committee would be able to iron out the remaining difficulties concerning both principles and to commemorate the twenty-fifth anniversary of the United Nations by adopting a declaration on principles of international law concerning friendly relations and co-operation among States.

214. The representative of Japan, expressed the opinion that an effort should be made in the future to ensure that delegations had sufficient time to consult their Governments.

215. The representative of India observed that the Special Committee should endeavour to seek a consensus on controversial issues by emphasizing common areas of agreement.

216. The representative of Argentina stated that Argentina and Mexico shared the hope that at the next session a favourable atmosphere would again prevail and that the Special Committee would be able to complete its work on the basis of the progress made at the current session.

217. The Chairman of the Special Committee believed that it should be possible to formulate the declaration in time for its adoption at the twenty-fifth session of the General Assembly.

ANNEX

Membership of the Special Committee

<u>Country</u>	<u>Representative</u>	<u>Alternates</u>	<u>Advisers</u>
Algeria	M. Amar Dahmouche	M. Mohamed Berrezoug	
Argentina	H.E. Dr. José María Ruda	Dr. Enrique Candiotti	
Australia	Sir Kenneth Bailey Mr. David Evans		
Burma	U Soe Tin U Aung Myat Kyaw		U Ba Yin
Cameroon	Mr. Paul Bamela Engo	Mr. Guy Lucien Sao	
Canada	Mr. J.A. Beesley	Mr. A.W. Robertson	
Chile	S.E. Sr. José Piñera Sr. Mario Valenzuela		
Czechoslovakia	Dr. Miloš Kocman Dr. Miroslav Potočný		
Dahomey	M. Joseph Hounton		
France	M. Michel Virally M. Claude Chayet Mlle Sylvie Alvarez		
Ghana	Mr. E. Sam	Mr. Michael Namon	
Guatemala	S.E. Sr. Maximiliano Kestler	S.E. Sr. William César Méndez-Montenegro	
India	H.E. Mr. Samar Sen Mr. A.S. Gonsalves Dr. S.P. Jagota	Mr. J.S. Teja	
Italy	Prof. Paolo Mengozzi Mr. Joseph Nitti		
Japan	Mr. Hisashi Owada	Mr. Yasutomo Mitsui	Mr. Ribot Hatano Mr. Hiromu Nitta
Kenya	Mr. Frank X. Njenga Mr. R.J. Ombere		

<u>Country</u>	<u>Representative</u>	<u>Alternates</u>	<u>Advisers</u>
Lebanon	H.E. Mr. Edouard Ghorra	Mr. Yahya Mahmassani	Mr. Chawki N. Choueiri
Madagascar	M. Blaise Rabetafika	M. Roger Andriamiseza	
Mexico	Sr. Sergio González- Gálvez	Sr. José Luis Vallarta	Sr. Ricardo Valero
Netherlands	Dr. P.H.J.M. Houben		
Nigeria	Mr. B.A. Shitta-Bey Mr. O. Adegbite O. Oshodi		
Poland	H.E. Mr. Eugeniusz Kulaga	Dr. Leszek Kasprzyk Dr. Tadeusz Kozluk Mr. Wladyslaw Neneman Mr. Andrzej Olszowka	
Romania	M. Gheorghe Secarin	M. Tudor Mircea M. Vergiliu Ionescu	
Sweden	Dr. Hans Blix		Mr. Björn Skala
Syria	H.E. Dr. George J. Tomeh Dr. Rafic Jouejati Mr. Dia-Allah El-Fattal		
Union of Soviet Socialist Republics	H.E. Mr. Lev I. Mendelevich	Mr. Dmitri N. Kolesnik Mr. Evheny N. Nasinovsky	Mr. Valeri I. Kuznetsov Mr. Vladimir N. Federov
United Arab Republic	H.E. Dr. Abdullah El-Erian Mr. Nabil Elaraby		
United Kingdom of Great Britain and Northern Ireland	Mr. Henry G. Darwin	Mr. Peter C. Petrie Miss Sheila Harden	
United States of America	Mr. Herbert K. Reis	Mr. Robert B. Rosenstock	Mr. Richard G. Brown Mr. Allan McClain
Venezuela	S.E. Dr. Andrés Aguilar M.	S.E. Dr. Germán Nava Carrillo	Dr. Pedro Emilio Coll
Yugoslavia	Dr. Milan Šahovic	Mr. Zivojin Jazic	Mrs. Gordana Diklic Trajkovic

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