



SUMMARY RECORD OF THE 32nd MEETING

Chairman: Mr. KOROMA (Sierra Leone)
later: Mr. KIRSCH (Canada)

CONTENTS

AGENDA ITEM 51: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES: REPORT OF THE SECRETARY-GENERAL

AGENDA ITEM 105: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

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

AGENDA ITEM 51: PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES: REPORT OF THE SECRETARY-GENERAL (A/35/391 and Add.1, A/35/225, A/35/278-S/13976, A/35/316-S/14045, A/C.6/35/L.5)

1. Mr. SUY (Under-Secretary-General, The Legal Counsel) introduced the report of the Secretary-General on the item (A/35/391 and Add.1), containing the comments transmitted by Member States in accordance with General Assembly resolution 34/102, paragraph 3. That resolution had resulted from an initiative by Romania, which in 1979 had requested the inclusion in the agenda of the General Assembly of an item on the settlement by peaceful means of disputes between States.

2. At the preceding session, the item had been allocated to the First Committee, which had considered it mainly from the political standpoint and had recommended to the General Assembly a draft resolution which, upon adoption by the Assembly, had become resolution 34/102. Under that resolution, Member States had been invited to transmit to the Secretary-General their opinions, suggestions and proposals regarding the elaboration of a declaration on the peaceful settlement of disputes between States. Most of the replies referred to that point and indicated certain elements that should be included in the declaration. Some replies also touched on the procedural aspects to which the General Assembly had drawn the attention of States in the sixth preambular paragraph of the resolution, which noted the consensus contained in the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization concerning the idea of preparing a declaration on peaceful settlement of disputes.

3. It was for that reason that the General Assembly had now allocated the item to the Sixth Committee, in order that the legal aspects of the proposed declaration might be considered. Both the Committee and the Working Group which it had decided to establish to deal with the item at the current session could benefit from the ideas put forward in the replies contained in the Secretary-General's report. Many of the replies recognized, as did the fifth preambular paragraph of resolution 34/102, the important role of the United Nations in promoting the peaceful settlement of international disputes.

4. It was not necessary to give a detailed account of the early attempts by the international community to promote the principle of peaceful settlement of international disputes, reflected mainly in the Hague Conventions of 1899 and 1907, the Covenant of the League of Nations and the Treaty of Paris, or to stress the progress made at the regional level, particularly the inter-American level, and within the framework of OAU and in Europe. It would suffice to recall some of the actions taken by the United Nations.

5. In 1975 the Secretariat, in accordance with General Assembly resolution 3283 (XXIX), had prepared a report in which reference was made to machinery established under the Charter pursuant to various General Assembly resolutions

(document A/10289). One of the latter, resolution 268 (III), in which the Assembly had approved the Revised General Act for the Pacific Settlement of International Disputes, was referred to in the reply from Sweden reproduced in document A/35/391, with the comment that the Revised General Act had been ratified by only a small number of States. The 1975 report also referred to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, which spelt out in terms that had been unanimously approved by the General Assembly the principle set forth in Article 2, paragraph 3, of the Charter. Lastly, the report referred to paragraph 6 of General Assembly resolution 2734 (XXV), concerning the Declaration on the Strengthening of International Security.

6. In one form or another, the question of the peaceful settlement of disputes had been one of the main concerns of the United Nations and, since the thirtieth session of the General Assembly, had been included in the terms of reference of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. It also formed part of the terms of reference of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, as a number of delegations had pointed out at the beginning of the current session.

7. It seemed to him that all those antecedents showed a legitimate interest on the part of the international community and that the consensus they reflected augured well for the success of the Committee's work on the subject.

AGENDA ITEM 105: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)
(A/35/41, A/35/330, A/35/110-S/13816, A/35/131-S/13838, A/35/201-S/13918, A/35/268, A/35/298-S/14008, A/35/305-S/14020, A/35/315-S/14040, A/35/316-S/14045, A/35/399-S/14111 and Corr.1, A/35/404-S/14117; A/C.6/35/L.6)

8. Mr. MEDAL (Nicaragua) said that his delegation was a sponsor of draft resolution A/C.6/35/L.6 and supported a continuation of the Special Committee's work with the goal of drafting a treaty on the non-use of force in international relations, in the belief that simultaneous efforts should be made to promote détente and harmonious relations among States.

9. The political situation had undeniable effects on the international legal structure, but the critical conditions now existing should not serve as a pretext to hamper the progress of the international legal order. What was needed was simultaneous and consistent efforts in the legal, political and economic fields to establish an atmosphere conducive to world peace. So long as imperialism insisted on rehashing the cold war, there could obviously be neither peace nor harmony in the world.

10. Nor should a pretext be made of the existence of peremptory norms, in the United Nations Charter and other instruments, prohibiting the use of force in international relations. There was no technical reason why the general norms of

(Mr. Medel, Nicaragua)

the Charter should not be codified and systematized; on the contrary, such activities represented progress and were conducive to the promotion of international peace.

11. As a non-aligned country, Nicaragua attached importance to the paper submitted at the last session of the Special Committee by a group of non-aligned countries. The principles set forth in that paper should be included in the future treaty. Particularly useful was the definition of force, which should not be restricted to armed force. For many small third world countries, the economic and political aggression of imperialism created a risk of serious internal upheavals.

12. As the Nicaraguan people had achieved its liberation through armed struggle by the populace in response to institutionalized violence, his delegation could not but reiterate, in accordance with principle 5 in the paper submitted by the non-aligned countries, its moral support for national liberation movements struggling against racism, zionism and colonialism.

13. Mr. ANDERSON (United Kingdom) said that on 9 November 1979, the General Assembly had adopted resolution 34/13 on the principle of non-use of force, the preamble of which recorded the original sponsorship by the Soviet delegation. The United Kingdom delegation had voted against the resolution, because it was against the weakening of the Charter that would result from the drafting of a treaty. On 15 January 1980, the General Assembly had adopted another resolution (ES-6/2), in which it had, by an overwhelming majority, called for the immediate withdrawal of Soviet troops from Afghanistan.

14. In April 1980, the Special Committee had held another session pursuant to Assembly resolution 34/13. Despite its doubts about the item, the United Kingdom had participated in the deliberations at that session, where, as was only to be expected, the discrepancy between the words and actions of the aforementioned sponsor had not escaped attention. The Special Committee's report on the work of that session faithfully reflected those facts.

15. At the beginning of the current debate on the item in the Sixth Committee, the Soviet delegation had launched unfounded attacks on the members of NATO, thereby maintaining the atmosphere of confrontation with which the item had been associated from the outset. The United Kingdom delegation categorically rejected those attacks and considered that the implementation of resolution ES-6/2 would be a significant contribution to the enhancement of the effectiveness of the principle of non-use of force in international relations.

16. The United Kingdom supported the existing law as contained in the Charter and saw no need for a new world treaty separate from the Charter; that would inevitably weaken the Charter, which enjoyed the status of superior law by virtue of its Article 103, and represented, amongst other things, a treaty on the non-use of force. The Charter also reflected customary law binding on all States not members of the United Nations. The parties to a new treaty would inevitably be different from the membership of the United Nations. There was no parallel between the case of human rights and the principle of non-use of force, as the Soviet representative had tried

(Mr. Anderson, United Kingdom)

to argue. A basis had already existed in 1945 for the principles embodied in Articles 2 and 51 of the Charter. The rule in Article 2, paragraph 4, was a prohibition; prohibitions were not strengthened by embroidery. Indeed, embroidery might actually restrict the scope of the prohibitions by creating exceptions where none had existed before.

17. In the light of the terms of the draft Treaty submitted by the Soviet Union, the views on international law held by its sponsors and recent events, there arose the question whether the draft Treaty would not actually try to create exceptions contrary to the law of the Charter. The Charter did not recognize any doctrine of limited sovereignty and could not be replaced by any so-called higher type of law, whether described as "socialist" or given any other name reflecting a particular ideology. All Member States were bound by the Charter, and its Article 103 prevented the existence of any higher types of international law. For those reasons, his delegation remained opposed to the drafting of a new treaty. Instead, it considered that all Member States should fulfil their obligations under the Charter and strive to make the system created by it work more effectively.

18. His delegation was fully aware that there had been instances where force had been used and that many States, in particular, developing countries in Africa, Asia and Latin America, felt insecure. It had been said that that insecurity meant that any initiative to enhance the effectiveness of the law on the non-use of force could not be opposed. His delegation, however, opposed the initiative to draft a treaty precisely because it would tend to undermine the law of the Charter and weaken the protection which the current system, less than perfect as it might be, did offer.

19. His delegation considered that the Special Committee's mandate should not be renewed. The most recent session had cost \$440,000. The results did not represent value for money. The General Assembly had recently adopted resolution 35/5 on subsidiary organs, paragraph 3 of which called for the most efficient use of the limited resources available and for the reduction in the work of the subsidiary organs, taking into account the experience of past sessions. The experience of his delegation of the past sessions of the Special Committee had convinced it that substantial savings could be made in the area of that Committee's work. The Special Committee's mandate was fundamentally flawed. No positive results could be expected from such a mandate.

20. For those reasons, if draft resolution A/C.6/35/L.6 were to be put to the vote in its present form, his delegation would have no hesitation in voting against it.

21. Mr. KHERAD (Afghanistan) said it was clear that despite the negative attitude of certain imperialist and reactionary countries, the overwhelming majority of Member States favoured the drafting without delay of an international instrument to enhance the effectiveness of the principle of non-use of force in international relations. The Democratic Republic of Afghanistan, faithful to the policy of effective and positive non-alignment, was fully convinced that the drafting of a world treaty on the non-use of force would redound to the advantage of all countries and all peoples.

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(Mr. Kherad, Afghanistan)

22. The principle of non-use of force was not only enunciated in general terms in the Charter of the United Nations; it had also been embodied in recent years in several highly important agreements and documents adopted by the international community within and outside the framework of the United Nations. However, the principle of non-use of force, the provisions of the Charter and the content of other relevant declarations and resolutions had all been inadequate to halt the use or threat of force in international relations. That principle, which was vital to the international community and to the very structure of the United Nations, had repeatedly been violated by the colonialist, imperialist, racist, Zionist and hegemonistic oppressors, who, as part of their policy of aggression and hegemony, had resorted to force or threats of force to oppose the national liberation movements and prevent the social transformation and independence of States. Accordingly, the drafting of a world treaty would be very useful, if not indispensable, in giving concrete and precise form to the principle enunciated in Article 2, paragraph 4, of the Charter, with a view to making it an authentic principle of international life and a universal and peremptory norm of conduct for States.

23. His delegation failed to understand why some States were adopting a negative attitude, arguing that the proposed treaty would be superfluous, that, from the legal standpoint, its adoption would not impose on States different obligations from those already applicable under Article 2, paragraph 4, of the Charter, and that it would needlessly duplicate the corresponding principle of the Charter or even call in question the validity of that principle. Such arguments challenged the basis of all resolutions and declarations inspired by the Charter.

24. Furthermore, it should be remembered that Article 13 of the Charter itself provided for the progressive development of international law and its codification, and that many international agreements and instruments in various fields had been drafted and concluded under United Nations auspices in order to spell out the principles of the Charter. Experience showed that those instruments, which had played a very important legal, political and moral role, were not an unnecessary repetition of the Charter but, on the contrary, had spelt out and made specific the provisions of the Charter and had strengthened their effectiveness and the role of the Organization itself. The codification and progressive development of the norm prohibiting the use of force, in a widely accepted international instrument, would not only make that principle a law of international life but would also help to promote its more effective application, which in turn would ensure the observance of other principles governing international relations.

25. His delegation considered that the draft world treaty submitted by the Soviet Union and the working paper of the non-aligned countries, which had some features in common, fully met one of the most urgent needs of the present time, namely, the unconditional, general and permanent prohibition of the use or threat of force in relations between States, and provided an appropriate basis for the drafting of a text acceptable to all.

26. His delegation would like the Special Committee's mandate to be renewed, in the hope that the adoption of a world treaty on the subject could be achieved as soon as possible.

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27. Mr. BALANDA MIKUI (Zaire) said that the principle of non-use of force in international relations set forth in Article 2, paragraph 4, of the United Nations Charter was the corner-stone and the very foundation of the United Nations. It was therefore not surprising that more than 20 provisions of the Charter referred to the maintenance of international peace and security; however, international peace and security could not become a reality unless all countries, without exception, observed the prime principle of non-use of force.

28. Although there was unanimous agreement among States on the importance of the non-use of force for the maintenance of international peace and security, some States were undecided about or opposed to the reaffirmation of that principle in a specific legal instrument. Some of them feared that a treaty intended specifically to enhance the principle of non-use of force would undermine the provisions of the Charter on that subject. He considered that argument unsound, and he cited a number of cases in which development of provisions of the Charter had resulted in covenants - for instance, the Covenants on Human Rights - and conventions.

29. The States opposed to the elaboration of a treaty also argued that the Charter provisions were sufficient and that only the will of States to comply with them was lacking. Experience showed that that was not the case; for instance, one might ask whether the principle of peaceful settlement of disputes embodied in particular in Articles 1, 2 and 33 of the United Nations Charter, a principle which constituted another form of non-use of force, had been effective in preventing mass murder and massacres in Viet Nam. One might also ask whether the principle of non-intervention, a necessary corollary of respect for the sovereignty, equality, independence and integrity of States, had sufficed to prevent the invasion of Hungary and military intervention in Zaire, Kampuchea and Afghanistan. All those cases clearly showed the need to strengthen the relevant provisions of the Charter in the light of the evolution of international society.

30. The third argument which was invoked against the elaboration of a treaty on the non-use of force was that such a treaty might in fact constitute an amendment to the Charter. The States advancing that argument were forgetting the effects of the Acheson resolution, which had made it possible in 1950, and subsequently in 1960, to circumvent the veto of the permanent members of the Security Council in the debates on Korea and Zaire respectively, and which in fact had been a major amendment to the Charter. Now, however, on the assumption that a treaty on the non-use of force would amount to an amendment to the Charter, some of those same States were not prepared to support an amendment because the aim was to draft a treaty to enhance the effectiveness of the principle of non-use of force in international relations.

31. In the view of his delegation, it did not require a very detailed analysis to show that the arguments advanced in opposition to an instrument reaffirming the principle of non-use of force were unconvincing. Furthermore, long and consistent

(Mr. Balanda Mikuin, Zaire)

international practice was at variance with those arguments, which hardly concealed an outright refusal in the minds of their authors to co-operate in enhancing the cardinal principle of non-use of force. Thus, there was a conscious lack of goodwill on the part of those States. That was a fundamental point, and it would not be out of place to consider the deeper reasons for such an attitude.

32. Nor did it require a very extensive analysis to understand the motives underlying the refusal to contribute to the drafting of a new legal instrument for enhancing the effectiveness of the principle of non-use of force in international relations; casual observation of international events showed that both the main proponent of the future treaty on the non-use of force and the States opposing it did not themselves comply with that principle. That was an extremely serious matter, particularly since the States in question were permanent members of the Security Council.

33. At the present time, all States were justifiably concerned about the question of the maintenance of international peace and security. There was something paradoxical in the attitude of certain States which claimed to be concerned about that question but at the same time, for various reasons, opposed or at least displayed reluctance towards the efforts which the international community was making to enhance the principle of non-use of force in international relations, to draft a code of offences against the peace and security of mankind and to elaborate an international convention against the recruitment, use, financing and training of mercenaries. There was also something paradoxical in the attitude of those countries which made great efforts to submit to General Assembly topics for consideration, resolutions and declarations on world problems but whose actions in practice were diametrically opposed to the theoretical behaviour they recommended to other States. Experience showed that it was the countries on which the United Nations Charter conferred special responsibilities for the maintenance of international peace and security that violated the principle of non-use of force in international relations.

34. In the circumstances, there were some countries, including the Republic of Zaire, which doubted the sincerity of any proposal relating to the maintenance of international peace and security that might emanate from those States; even when the idea was sound, they would not venture to support it because of the opinion they held of the sponsor of the proposal.

35. Many States were continuing, through intermediaries, to threaten the peace and security of other States, if not of mankind as a whole; however, the main theatre of operations was not in the northern hemisphere but in the southern. Some States, including the largest and most advanced, still refused to acknowledge the responsibility of States in those cases and were opposed, as had been shown, to the drafting and adoption of a code of offences against the peace and security of mankind that might make clear their active or passive responsibility. There again, they were raising doubts about the need to draft an international instrument which would enhance the effectiveness of the principle of non-use of force. Those same States wanted to convince the world of their goodwill when it came to disarmament, to their desire to respect the provisions of the Charter

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(Mr. Balanda Mikuin, Zaire)

concerning non-intervention and non-interference in the internal affairs of other States, and to respect for human rights in order to create a world of justice, peace and harmony.

36. In the Special Committee, some delegations had suggested that a study should be made of the causes of the use of force in international relations; however, those causes were related to ideological factors and to the vital interests of States, which were subjective and unilateral elements difficult to discuss in a body dealing essentially with legal questions. A discussion of the causes of the use of force would not produce any positive result. The use of force was due to hegemonism, to a desire to act as protector and judge of the actions and interests of others, particularly the weak.

37. The history of international relations showed that the conduct of one powerful State determined the reactions of the others. If the powerful States did not behave in a manner truly in conformity with their obligations under the Charter, they would cause the weak States to form a coalition, a hostile bloc, which would, however, have the legitimate purpose of bringing about the necessary changes. Such a situation would endanger international peace and security.

38. His delegation believed in the need for an international legal instrument to develop the principle of non-use of force and bring it up to date. The treaty should be binding and should have the machinery needed to prevent and punish violations of the principle of non-use of force, regardless of who committed them. Accordingly, it would be necessary to re-examine and strengthen the collective security system. Thirdly, as indicated in the working paper submitted by the non-aligned countries, such a treaty must not impede the exercise of the right of peoples to self-determination and liberation from foreign domination. The treaty must embody the right of individual and collective self-defence recognized in Article 51 of the Charter. It must also provide for a specific disarmament programme. Lastly, following the example set by the provisions of Chapter VII of the Charter, the treaty should have an effect erga omnes, and could thus be invoked even against those States which refused to ratify it, in view of the fact that the principle of non-use of force in international relations was a norm of jus cogens.

39. If the Special Committee would be obliged to spend time the following year discussing the scope of its mandate and exchanging views without succeeding in taking an approach that took into account the opinion of the majority, his delegation thought that it would be preferable for the Sixth Committee to discuss agenda item 105 directly.

40. Mr. JASUDASEN (Singapore) said that, since 1976, his delegation had consistently supported the work of the Special Committee because of its deep-rooted commitment to the principle of non-use of force in international relations. The prohibition of the use of force was a key principle of contemporary international relations and was embodied in the Charter, in legal and political documents of the United Nations and in other international, regional and bilateral instruments.

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(Mr. Jasudasen, Singapore)

41. However, after three years of effort the Special Committee had still not been able to agree on a draft treaty; it was embroiled in procedural squabbles and one of its members had even stopped participating as a sign of protest. One group of countries questioned the usefulness of concluding a treaty that repeated the principle of non-use of force already contained in the Charter and argued that, if the proposed treaty provided for rights and duties that were different from those contained in the Charter, it might weaken the obligations already set forth therein. On the other hand, the proponents of a world treaty saw no contradiction between the proposed treaty and the Charter of the United Nations, particularly Article 2, paragraph 4; they argued that the world treaty was in full conformity with the principle of the codification and progressive development of law and that it expanded and clarified the language of the Charter.

42. In his delegation's opinion, there was no dearth of international instruments prohibiting the use of force in international relations; as an example, there was the Charter of the United Nations, the principles proclaimed at Bandung, and the Charter of the Organization of American States and of the Organization of African Unity. However, despite their prohibition in international law, instances of the use of force continued, and the most vigorous proponent of that principle, namely the Soviet Union, had also been its most blatant violator in the recent past. The Soviet Union had used massive military force against the legally constituted Government of Afghanistan in order to install a puppet Government. Moreover, an ally of the Soviet Union, Viet Nam, had launched an invasion of Democratic Kampuchea in order to install its puppet régime there.

43. The current approach adopted by the Special Committee was thus not the appropriate course for finding a solution. However, the working paper submitted by the 10 non-aligned countries was cause for hope, since its greatest merit was that it moved the Special Committee away from the idea of a somewhat sterile treaty and focused attention on the question of defining the use of force. An expanded definition of Article 2, paragraph 4, of the Charter was both appropriate and necessary. Almost all the principles contained in the proposals of the non-aligned countries were part of contemporary international law and many represented norms of jus cogens. The objective of the non-aligned countries was to bring up to date a set of principles relating to the principle of non-use of force, on the basis of documents agreed upon by the General Assembly.

44. His delegation favoured the proposal that the use of force or threat of force should not be defined exclusively in military terms. The definition of the use of force should clearly and specifically include and prohibit other forms of coercion or hostile propaganda, as well as activities such as subversion, pressure, intimidation, support of terrorism, and covert and overt attempts to destabilize Governments. It was true that that might lead to a dangerous expansion of the concept of self-defence, in which case it would be incumbent on the Special Committee to define that concept more precisely. The Special Committee should also reconsider the language of principle 6, which was too restrictive and which should include overt attempts to destabilize Governments. Recently, in considering the credentials of Democratic Kampuchea, the General Assembly had

(Mr. Jasudasen, Singapore)

reaffirmed its support for principle 7, namely that the fruits of the use of force should not be recognized.

45. Draft resolution A/C.6/35/L.6 was inadequate, because it narrowed the work of the Special Committee to only one proposal; his delegation preferred that the Special Committee should be instructed to use the proposal of the 10 non-aligned countries as a starting-point, or that it should at least give that proposal equal status with the two other proposals submitted.

46. Mr. EL FARAJ (Jordan) said his delegation had followed with great interest the introduction of the report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations and the relevant discussion in the Sixth Committee.

47. His delegation supported the renewal of the Special Committee's mandate so that it could prepare a treaty to enhance the principle of non-use of force. The contemporary world required that that principle should be strengthened, because some countries violated it, refused to respect the commitments assumed under the Charter, reduced the effectiveness of the Charter through their activities and even ignored Security Council resolutions. Such countries had recourse to the use of force in order to occupy the territories of other States, to deprive their peoples of the right to self-determination and to take over their national resources, all through acts of intervention, subversion, economic pressure and blackmail. Although the United Nations constituted a platform for strengthening the principle of non-use of force, tension and war persisted throughout the world.

48. The Movement of Non-Aligned Countries had been formed at a time when the cold war, the arms race and military pacts had been at their peak, because there had been a group of countries firmly dedicated to peace. The developing countries had considered their security to be in danger. Jordan was a member of the Movement of Non-Aligned Countries and believed that its principles helped to further peace and security and were based on the ideas of sovereignty and self-defence. The working paper submitted by 10 non-aligned countries represented a constructive step that should help the Committee in its work. To strengthen peace and security, arms must be limited and no one must try to impose hegemony.

49. People must learn to practice tolerance and peaceful co-existence and they must not resort to arms or to the threat or use of force. The two World Wars should serve as a lesson, and the memory of them should act as a stimulus to encourage the peaceful settlement of disputes and respect for the principle of non-use of force in international relations, which were prerequisites for peace and for the social and economic development of peoples.

50. The international community should intensify its efforts to ensure universal implementation of, and respect for, the principle of non-use of force, by incorporating that principle in a treaty based on the provisions of the Charter and

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(Mr. El Faraj, Jordan)

on other relevant United Nations rules. Such an instrument should contain a specific definition of those acts that should be considered as illegal and should describe and condemn the various ways in which force could be used, for example, intervention in internal affairs, policies of expansion and hegemony and all other acts of aggression that either directly or indirectly threatened the peace and security of peoples and were a constant source of international tension and conflict. It was also important to describe the obligations of States in respect of that principle, to explain the basic principles for the peaceful settlement of disputes and to emphasize the role played by the General Assembly and the Security Council, in particular the functions the latter must assume by virtue of its responsibilities under the Charter in the case of violations that threatened world peace. It was also important to reaffirm the sovereignty of peoples and their right to engage in self-defence to oppose the occupation of their territory by force, as well as the obligation incumbent on all States to seek to settle their disputes by peaceful means.

51. His delegation was in favour of renewing the mandate of the Special Committee.

52. Mr. HERNDL (Austria) said that all States seemed to be agreed that the use of force was illegal, not only as a consequence of the explicit provisions of the Charter of the United Nations but also as a result of the development of international law. Although the principle was universally recognized, however, it was far from being universally respected and observed and currently there was even an increase in the tendency to apply force in inter-State relations.

53. The report of the Special Committee reflected a confused situation which had prevailed since the inception of its work. There was complete lack of agreement as to the importance which should be attached to the various aspects of the question and as to what form the eventual results of the Special Committee's work should take if consensus could be reached. It might therefore be advisable to give the Special Committee's members more time for reflection and for the preparation of viable alternatives. Consequently, the Special Committee should report back to the General Assembly at its thirty-seventh session rather than at the next session. It was important to modify the mandate of the Special Committee so as not to prejudge the outcome of its work. In that respect, the proposal made by the Mexican delegation, as well as many other proposals on the subject, warranted careful consideration by members of the Sixth Committee. The Sixth Committee should not just repeat the previous year's resolution, which had been worded in such a way that the Special Committee's activities had been hampered rather than facilitated and one permanent member of the Security Council had even refrained from participating in the work of the Special Committee. It was evident that progress in that domain could only be made on the basis of consensus.

54. With regard to draft resolution A/C.6/35/L.6 and the request contained therein that the Special Committee should be provided with summary records, it should be noted that a few days before the Fifth Committee had already decided that summary records should be provided for a few subsidiary organs of the General Assembly and that the Special Committee on Enhancing the Effectiveness of the

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(Mr. Herndl, Austria)

Principle of Non-Use of Force in International Relations was not among them. Furthermore, the report of the Special Committee was clear and complete enough and showed that summary records were not required, at least at the current stage.

55. His delegation had noted with interest the working paper submitted by 10 non-aligned countries on the definition of the use of force or threat of force (A/AC.193/WG/R.2), which set out 17 principles, most of which could be subscribed to without hesitation, although naturally they all needed to be studied further with a view to bringing them into line with the current state of international law. However, since it was a first draft, its sponsors were probably convinced of the need to redraft it in more precise and careful language. For example, no specific references had been given for principle 6. That principle would require a prior and clear-cut definition of the notions of "covert attempt" and "destabilization". Principle 8, on the question of responsibility, needed a good deal of clarification. First, it could only refer to the unlawful use of force; second, it contained much too sweeping and broad a statement; and third, its further elaboration must take into account all aspects of the work of the International Law Commission on the topic of State responsibility. With regard to principle 10, the Austrian Government had given ample proof of its willingness and readiness to assist the United Nations in discharging its responsibility for the maintenance of international peace and security. Austria had contributed considerable financial resources and manpower to United Nations peace-keeping operations and as a member of the Security Council in 1973 and 1974 had participated actively in each and every peace-making effort of the Council. It was, however, obvious that Austria's status as a permanently neutral State had to be taken into account in cases where Chapter VII of the Charter was applied. With regard to principle 11, his delegation felt that it went beyond existing international law. That principle could be regarded as conflicting with the obligations under the Hague Conventions, to which express reference was made in connexion with principle 7. His delegation would assume that the obligations resulting for States from the Hague Conventions could not be prejudiced by the idea underlying principle 11, worthy as it was. Also, it would seem imperative to get an agreed definition of the notion of "victim" and also of the cases to which the principle would be applicable.

56. Mr. Kirsch (Canada) took the Chair.

57. Mr. SAIGNAVONGS (Lao People's Democratic Republic) said that the work of the Special Committee had been hindered by the negative attitude of a small number of delegations that had tried to divert it from its main task. Under General Assembly resolution 34/13, the main purpose of the Special Committee was to draft, at the earliest possible date, a world treaty on the non-use of force in international relations. However, that group of delegations felt it was necessary first to analyse the reasons why that principle was not respected; such an exercise would only involve the Special Committee in sterile discussions that would further delay its work. The reasons why the principle of non-use of force was not respected were well known; they included colonialist, racist and imperialist oppression and other forms of foreign domination, expansionist and hegemonistic policies and the attempt

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

to eliminate the national liberation movements in order to prevent them from exercising their right to self-determination.

58. The non-use of force in international relations was universally recognized as a fundamental principle of the Charter and the keystone of the contemporary international legal system. The current international situation made it more urgent than even to enhance the effectiveness of the principle of non-use of force.

59. The Lao People's Democratic Republic, which had always practised an independent foreign policy of peace, friendship and non-alignment, a policy of peaceful co-existence and co-operation with neighbouring States based on mutual respect for independence, sovereignty and territorial integrity, non-intervention in internal affairs, mutual benefits and the peaceful settlement of disputes, scrupulously respected the principle of non-use of force. Realizing the understanding and respect for the legitimate interests of all the States of South-East Asia was a very important factor for the maintenance of the peace and stability of the region. His country, with the agreement of the People's Republic of Kampuchea and the Socialist Republic of Viet Nam, had proposed at the Conference of Ministers for Foreign Affairs of those three States, on 18 July 1980, the signing with Thailand of bilateral or multilateral treaties of non-aggression and non-interference in internal affairs, as well as the signing of bilateral treaties of non-aggression and peaceful co-existence with the other countries of South-East Asia, and discussion of the possibility of creating, together with the other countries of the region, a zone of peace, stability and co-operation in South-East Asia.

60. His delegation believed that the conclusion of a world treaty on the non-use of force was timely and suitable, as it would guarantee the inherent right of individuals and of nations to live in peace. Furthermore, it would respond to the wishes expressed by the overwhelming majority of States, including all the non-aligned countries. As a sponsor of draft resolution A/C.6/35/L.6/Rev.1, his delegation was in favour of extending the mandate of the Special Committee and hoped that the Sixth Committee would once again adopt the draft by a large majority.

61. Mr. KRISHNAMURTY (India) said that, from the dawn of independence, India had strictly observed the principle of non-use of force in international relations. It was a cardinal principle of the foreign policy of his Government and was rooted in the doctrine of non-violence as expounded by Mahatma Gandhi during his struggle against apartheid and colonial rule. That was why India, since its admission as a Member of the United Nations, had always participated in the initiatives aimed at strengthening and enhancing the effectiveness of the principle.

62. As a founder of the non-aligned movement, India had been instrumental in promoting the cause of peace. However, despite the efforts of the non-aligned countries, the arms race, particularly the nuclear arms race, continued at an ever-increasing rate. It was for that reason that the problem of the use of force had to be tackled from each and every angle. It was imperative that the nations of the world should put their heads together to find effective means of banning the use of force.

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(Mr. Krishnamurty, India)

63. In that regard, his delegation, together with some 35 other delegations, had in 1978 favoured the adoption of General Assembly resolution 33/71 B, which declared that the use of nuclear weapons would be a violation of the Charter of the United Nations and a crime against humanity, and that the use of nuclear weapons should therefore be prohibited, pending nuclear disarmament. The Minister for Foreign Affairs of India had made some important observations concerning that question in his statement in the General Assembly on 3 October 1980.

64. His delegation felt that the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations had made significant progress at its third session. The working paper submitted by 10 non-aligned countries, including India, contained a series of 17 principles relevant to the question and had received widespread support. That working paper could form a good basis for the future work of the Special Committee.

65. His delegation supported the renewal of the mandate of the Special Committee, so that its useful work could be successfully concluded. The Sixth Conference of Heads of State or Government of Non-Aligned Countries, held in Havana, had reached the same conclusion and had urged States to refrain from the use of force and expressed the hope that the Special Committee would successfully complete the drafting of a treaty on that subject as soon as possible.

66. With respect to the draft treaty submitted by the Soviet Union, his delegation reiterated its view that the concept of force should not be limited to military force, but should include all types of force, coercion and pressure of a political or economic nature. The treaty should expressly establish the illegality of the acquisition of territory by the use or threat of force. Furthermore, the treaty should recognize as lawful the use of force by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and apartheid. The proposal of the five Powers should be referred to the Charter Committee in view of the nature of the question involved. Lastly, he reiterated his delegation's support for the renewal of the mandate of the Special Committee.

67. Mr. MAURA (Indonesia) said that, in view of the current international situation, his delegation attached particular importance to the principle of the non-use of force, which was essential to international relations.

68. The Final Act of the Afro-Asian Conference held in Bandung, Indonesia, 25 years earlier listed 10 basic principles of international relations, including the principle of the non-use of force and the peaceful settlement of disputes. As a positive norm of international law, the prohibition of the use of force had been clearly expressed in Article 2, paragraph 4, of the Charter and had been reflected in almost all subsequent legal and political treaties and conventions worthy of unanimous accession by States.

69. It was deplorable to observe the frequent violations of that principle by certain States which did not hesitate to use force against the territorial integrity or political or economic independence of other States. Experience showed that the policy of force, for whatever reasons, only served to worsen the situation and jeopardize international peace and security.

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(Mr. Maura, Indonesia)

70. His delegation felt that the establishment of a new international order in the economic and social spheres was a priority of the times, and that its realization depended on the prevention of the use of force and the strengthening of the observance of the provisions of the Charter and other relevant legal instruments.

71. With respect to the draft world treaty on the non-use of force, his delegation considered that in drafting a new international legal instrument thought must be given to all possible guarantees for the strict observance of all of its provisions, as well as the provisions of the Charter, especially Article 2, paragraph 4. The draft contained useful elements for enhancing the effectiveness of the principle of the non-use of force in international relations and deserved special attention.

72. His delegation felt that the approach proposed in the working paper submitted by the five Western countries would be satisfactory were it not for the danger that the basic issue of strengthening the principle of the non-use of force might be lost sight of because of procedural considerations.

73. The Special Committee should study further the proposal of the non-aligned countries, which was a step in the right direction and could contribute to the strengthening of the principle under consideration. The working paper could serve as a basis for discussion leading to the drafting of a text worthy of general acceptance. Nevertheless, since the question of the non-use of force was closely linked to the question of the peaceful settlement of disputes, the draft should include more precise provisions concerning the principle of the peaceful settlement of disputes as contemplated in the other two working papers. In that way, the text would be more balanced and would provide the members of the Special Committee with common ground for reaching a consensus on a generally acceptable text. Although there were still many obstacles to be dealt with, the Sixth Committee already had a solid basis for discussion. For that reason, his delegation was not opposed to the proposal to renew the mandate of the Special Committee.

74. Mr. RIERA (Panama) said that the report of the Special Committee showed that there were complex difficulties which would have to be overcome in order to bring about the full implementation of the principle of non-use of force in international relations. Panama, both as a member of the Special Committee and long before the establishment of that Committee, had shown great interest in making that principle effective. It should be recognized that a lack of political will had prevented existing legal instruments from being as effective as they should be. The current world scene, with its frequent and tragic upheavals, attested to the urgent need to adopt an international instrument on the non-use of force, but any instrument or treaty in that field must have the widespread support of all political camps and geographic regions in order to ensure the implementation of resolutions of the Security Council and other bodies of the United Nations.

(Mr. Riera, Panama)

75. It would be naive to think that any international instrument of that nature could be achieved without the genuine co-operation of the great Powers of both east and west and the non-aligned countries, which constituted three quarters of mankind. The Special Committee in its search for a viable and sensible solution should not reject any idea or positive initiative from any source and should not limit itself to any one draft or particular form. As his delegation had stated in the Special Committee, to ensure success that Committee should exhaust all possibilities in the search for negotiated solutions recognizing the primacy of the Charter of the United Nations and leading, if not to unanimous approval, at least to a consensus based on the essential principles of human solidarity and friendly relations and co-operation between States.

76. It was the duty of all States to endeavour to consolidate international détente. Accordingly, it was essential to promote general and complete disarmament, which, in the view of his Government, was the foundation on which a new world order governed by the principles of peace and justice embodied in the Charter of the United Nations could be built. The spiralling arms race was a constant invitation to the use and threat of force. The strongest and most heavily armed States believed that they were entitled to use their might to force the weak into submitting to their caprices. The elimination of the use or threat of force would become more feasible as progress was made towards general and complete disarmament.

77. His delegation considered that if the Committee was to be able to achieve a sensible and acceptable degree of unity on the issue, it must bear in mind the principles which a group of non-aligned countries had submitted to the Special Committee. The various resolutions adopted by the United Nations and, in particular, the resolution on the Definition of Aggression and the Declaration on the Strengthening of International Security, would also have to be taken into account.

78. It should be remembered that the General Assembly, deeply concerned at the growing threat to peace, had declared in its resolution 2131 (XX), of 21 December 1965, that the use of force to deprive peoples of their national identity was inadmissible in that it constituted a violation of their inalienable rights. That declaration of 15 years ago certainly deserved to be made current. More recently the General Assembly, in its resolution 32/153 of 19 December 1977, had urged all States to abide by paragraphs 3 and 4 of General Assembly resolution 31/91, which denounced any form of interference in the internal or external affairs of other States and condemned all forms and techniques of coercion, subversion and defamation aimed at disrupting the political, social or economic order of other States.

79. His delegation considered that, if the Special Committee was to be able to give serious consideration to the Soviet draft or to any other draft or proposal which Member States might wish to submit, it would require a broader mandate in order that its work might reflect reality. In conclusion, he supported those non-aligned delegations which had asked that the concept of economic oppression

(Mr. Riera, Panama)

should be clearly reflected in any international instrument on the non-use of force in international relations which the Special Committee might draw up.

80. Mr. Koroma resumed the Chair.

81. Mr. DIOP (Senegal) said that no peace-loving country could refuse to participate in the effort to enhance the effectiveness of the principle of the non-use of force in international relations. Recent events closely connected with the item before the Committee augured ill for the discussion, but those very events were an invitation to members of the Committee to weigh the danger which threatened the world and to try to exorcise it.

82. Since Senegal, like the majority of African countries was conscious of belonging to a martyred continent, it was deeply concerned by violations of the principle of non-use of force in international relations. Having invested all its resources in its economic and social development, Senegal welcomed the initiative of the Committee in declaring once again that the principle of the non-use of force was the indispensable prior condition for the establishment of friendly relations and co-operation between States. Those efforts must continue. The African continent had suffered from the evils of slavery, colonialism and intervention and currently saw itself an area of confrontation between hegemonic rivalries. Consequently, it was probably more vehement than any other continent in its opposition to the use of force in international relations. Africa's attachment to the principle of the non-use of force was unswerving, and one of the ways in which it had been manifested was by faith in dialogue as a means for the peaceful settlements of disputes; such was also the thrust of Article 2, paragraph 3, of the Charter; it was better to conduct a dialogue in the African style rather than resort to the use of force.

83. The dissention which was paralysing the work of the Special Committee could be dissipated if the three essential elements of its mandate were given parallel treatment. His delegation accordingly reaffirmed its belief in respect for the provisions of Article 2, paragraph 4, of the Charter, when viewed in their global context, which included the peaceful settlement of disputes (Article 2, paragraph 3) the right of individual or collective self-defence (Article 51), the principle of non-intervention, the right of peoples to self-determination and human rights.

84. While his delegation wished the mandate of the Special Committee to be renewed, it hoped that that Committee would be guided by the existing international instruments on the subject and, in particular, by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV)), the Declaration on the Strengthening of International Security (resolution 2734 (XXV)), the Definition of Aggression (resolution 3314 (XXIX)) and resolution 2936 (XXVII) on non-use of force in international relations and permanent prohibition of the use of nuclear weapons.

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(Mr. Diop, Senegal)

85. The Special Committee should also find inspiration in the working paper which had been submitted by five States (A/AC.193/WG/R.1) and in the joint proposal of Egypt and Mexico. The work which had already been accomplished in the field of human rights could serve as an example. Above and beyond the legal aspects of the question, only the political will of States would make it possible for the Special Committee to overcome its current difficulties.

86. Mr. AL-QAYSI (Iraq) said that, in order to assist the work of the Special Committee by outlining a constructive approach which would avoid useless polemics and facilitate progress, his delegation had entered into consultations with the Group of Arab States and with the non-aligned countries which had submitted document A/AC.193/WG/R.2. Its intention in so doing was to dispel the dissension engendered by the draft resolution in document A/C.6/35/L.6. Following extensive consultations with the sponsors of that draft resolution, an agreement had been reached to revise the draft in a manner which would not tamper with the existing mandate of the Special Committee, as set forth by the General Assembly in its resolution 34/13, but nevertheless would give its provisions a more neutral character, thereby attracting additional sponsors, and would encourage broader participation in the proceedings.

87. On the question as to how the Special Committee should approach its work at the next session, his delegation had informally distributed to a number of delegations the following five-point proposal. (1) There should be no general debate, since all delegations would have expounded their views at length both in the Special Committee and the General Assembly; (2) A single working group of the whole should be established so that the work would not be fragmented; (3) The working group should analyse the substance of the elements contained in the draft of the Soviet Union, the proposal of the five Western Powers, the proposal of Mexico and Argentina and the proposal of the ten non-aligned countries, without giving priority to any one proposal over the others. The purpose would be to draft texts on enhancing the effectiveness of the non-use of force in international relations in such a way that the texts would not take the form of articles but would simply be numbered consecutively as points; (4) In the final stages of the work, a decision would be taken as to the nature of the document in which the texts envisaged in the preceding point would be contained; (5) The above exercise should be without prejudice to the positions already adopted by the various members of the Special Committee as to the format of the international instrument on enhancing the effectiveness of the non-use of force.

88. His proposal had been made in an effort to initiate a meaningful negotiating process in the Special Committee. With goodwill and perseverance on the part of all delegations, it would not be difficult to reach results acceptable to all. He therefore appealed to all delegations to show the flexibility needed for a constructive approach to international relations to emerge.

The meeting rose at 6.10 p.m.