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Agenda item 87

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

UNITED NATIONS
New York, 1968

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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CHAPTER I. INTRODUCTION

A. Adoption and organization of the report

1. Pursuant to General Assembly resolution 2327 (XXII) of 18 December 1967, 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 third session at United Nations Headquarters, New York, from 9 to 30 September 1968. At its ninety-sixth meeting, on 30 September 1968, the Special Committee adopted without objection the draft report presented by its Rapporteur, its completion and final editing being left to the Rapporteur.

2. The introduction to this report briefly recalls the background of the work of the Special Committee, and it then 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 1968 session and with the agenda adopted for that session (see paragraph 17 below). Chapter II, which is divided into two sections, deals with the consideration of the two principles of international law referred to in paragraph 4 of General Assembly resolution 2327 (XXII), with a view to completing their formulation. Each section of chapter II 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. Chapter III records the Special Committee's decision regarding the third principle referred to it by paragraph 5 of resolution 2327 (XXII).

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 and twenty-second 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 and 2327 (XXII) of 18 December 1967. 1/

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 1968 session, they are not set out in the body of the present report.

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. The same resolution also listed the following seven principles: 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.

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.

6. The Special Committee established under General Assembly resolution 1966 (XVIII), referred to hereafter in the present report as the "1964 Special

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2/ The principles are 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.

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 the 1964 Special Committee, in regard to the fourth principle referred to it (the principle of sovereign equality of States), 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 first principle, relating to 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/ On the second principle (relating to the peaceful settlement of international disputes) and the third principle (relating to non-intervention), the 1964 Special Committee was likewise unable to reach any consensus. 8/

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 that 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 studied 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 for inclusion in the agenda of the twentieth session, 11/ the item was included in the agenda as item 94.

3/ The 1964 Special Committee was composed of the following twenty-seven Member States: Afghanistan, Argentina, Australia, 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.

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.

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.

9. At its twentieth session the General Assembly adopted resolution 2103 (XX) by which it decided to reconstitute the 1964 Special Committee, which would be composed of members of that Committee 12/ and of four other Member States, 13/ 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.

10. The Special Committee, as reconstituted by General Assembly resolution 2103 (XX), 14/ held a session at United Nations Headquarters from 8 March to 25 April 1966, and adopted a report to the General Assembly. 15/ That report stated, in paragraph 272, that the Special Committee, in regard to the second principle referred to it (the principle relating to the peaceful settlement of international disputes), had unanimously adopted, on the recommendation of its Drafting Committee, a text setting out points of consensus and a list of proposals and amendments on which the Drafting Committee reached no consensus. 16/ The report also stated that the Special Committee had unanimously adopted another text on the fourth principle (the principle of sovereign equality of States), 17/ which made an addition to the text on that principle adopted by the 1964 Special Committee. In regard to the third principle (the principle relating to non-intervention), the 1966 report stated that the Special Committee had adopted a resolution, 18/ whereby it decided that "the Special Committee would 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 its 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)"; the Drafting Committee reported that no agreement was reached on any additional proposals. 19/ In regard to the remaining four principles, the Special Committee was likewise unable to reach any consensus. 20/

12/ See foot-note 3 above.

13/ Algeria, Chile, Kenya and Syria.

14/ The Special Committee then had the same composition as for the 1967 session, namely, the thirty-one Member States listed in paragraph 12 below.

15/ Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 87, document A/6230.

16/ Ibid., para. 248.

17/ Ibid., para. 403.

18/ Ibid., para. 341.

19/ Ibid., para. 353.

20/ Ibid., paras. 155, 454, 520 and 565.

11. The General Assembly, at its twenty-first session, considered the report of the Special Committee on its 1966 session, and adopted resolution 2181 (XXI). By that resolution, the Special Committee was requested to complete the formulations of the first, fifth, sixth and seventh principles referred to in paragraph 4 above (the prohibition of the threat or use of force, the duty of States to co-operate, the principle of equal rights and self-determination, and the principle of good faith). The Special Committee was further requested to consider proposals on the third principle (the principle relating to non-intervention) with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX). Having considered the above principles as a matter of priority, the Special Committee was also requested by the General Assembly to examine any additional proposals with a view to widening the areas of agreement expressed in the formulations of the 1966 Special Committee concerning the second and fourth principles (the principle relating to peaceful settlement of international disputes and the principle of sovereign equality of States). Finally, by resolution 2181 (XXI), the General Assembly requested the Special Committee to submit a comprehensive report to it at its twenty-second session and "a draft declaration on the seven principles set forth in Assembly resolution 1815 (XVII) which will constitute a landmark in the progressive development and codification of those principles".

12. The Special Committee held its 1967 session at the United Nations Office at Geneva from 17 July to 19 August 1967, and adopted a report to the General Assembly. 21/ In its report, the Special Committee recorded that its Drafting Committee had referred to working groups the fifth and seventh principles (the duty of States to co-operate and the principle of good faith). The Drafting Committee had accepted the texts set out in the reports of the working groups as expressing the consensus of the Drafting Committee on these principles. 22/ On the second and fourth principles (the principle relating to the peaceful settlement of international disputes and the principle of sovereign equality of States), the report of the Special Committee referred to the consensus texts arrived at during its 1966 session, and indicated that, in 1967, the Drafting Committee had referred both principles to a working group and had taken note of the latter's report and had transmitted it to the Special Committee for its information. As reported by the Drafting Committee, the working group had agreed, so far as the second principle was concerned, on the desirability of maintaining the areas of agreement already achieved in the formulation arrived at by the Special Committee in 1966, which were left unchanged. 23/ On the fourth principle also the working group agreed on the desirability of maintaining the consensus text arrived at by the Special Committee in 1966. 24/ On the first principle (the prohibition of the threat or use of force), the Drafting Committee transmitted to the Special Committee for consideration the report of a working group on the principle which stated some points on which agreement was reached and others on which no agreement was reached. 25/ So far as the sixth principle was concerned (the principle relating to equal rights and self-determination of peoples), the Drafting Committee concluded that the areas of

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

22/ Ibid., paras. 161 and 285.

23/ Ibid., para. 438.

24/ Ibid.

25/ Ibid., para. 107.

agreement recorded in the report of the working group to which the principle had been referred were hardly sufficient to justify transmitting it to the Special Committee for its information. 26/ On the third principle (that relating to non-intervention), the Drafting Committee took note that there was no report from the working group to which that principle had been referred and it reported this fact to the Special Committee. 27/

13. The General Assembly, at its twenty-second session, considered the report of the Special Committee on its 1967 session, and adopted resolution 2327 (XXII). 28/ The provisions of this resolution are set out below in section D of this chapter, on the subject of terms of reference.

C. Composition of the Special Committee

14. In accordance with General Assembly resolutions 1966 (XVIII), 2103 (XX) and 2327 (XXII), 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 1968 session is contained in the annex to the present report.

D. Terms of reference given to the Special Committee by General Assembly resolution 2327 (XXII)

15. By resolution 2327 (XXII), the General Assembly took note of the report of the Special Committee on its 1967 session, and decided to ask the Special Committee to meet in 1968 in order to continue its work. Also by resolution 2327 (XXII), the General Assembly:

"4. Requests the Special Committee, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth, twenty-first and twenty-second sessions of the General Assembly and in the 1964, 1966 and 1967 sessions of the Special Committee, to complete the formulation of:

"(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

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

"5. Requests the Special Committee to consider proposals compatible with General Assembly resolution 2131 (XX) of 21 December 1965 on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations, with the aim of widening the area of agreement already expressed in that resolution;

"6. 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;

"7. Requests the Special Committee to submit to the General Assembly at its twenty-third session a comprehensive report on the principles entrusted to it."

E. Organization of the 1968 session of the Special Committee

16. By operative paragraph 3 of its resolution 2327 (XXII), the General Assembly requested the Special Committee "to meet in 1968 in New York, Geneva or any other suitable place for which the Secretary-General receives an invitation". No such invitation having been received, the Special Committee met at United Nations Headquarters, New York, and held sixteen meetings in the course of a three-week session from 9 to 30 September 1968. At the second meeting of its session (82nd meeting), on 10 September 1968, the Special Committee elected the Chairman and at the third meeting (83rd meeting), on 11 September 1968, it elected the Vice-Chairmen and Rapporteur. The officers so elected were as follows:

Chairman:	Mr. Willem Riphagen (Netherlands)
Vice-Chairmen:	Mr. M. Kestler (Guatemala) Mr. W.B. Van Lare (Ghana)
Rapporteur:	Mr. D.A. Kamat (India)

The session was opened on behalf of the Secretary-General by Mr. Constantin A. Stavropoulos, the Legal Counsel. Mr. Nicholas Teslenko, Deputy-Director of the Codification Division of the Office of Legal Affairs, served as Secretary.

26/ Ibid., para. 231.

27/ Ibid., para. 365.

28/ The Sixth Committee, to which the General Assembly had referred the agenda item relating to the report of the 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, entitled "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.

17. At the second meeting of the session (82nd meeting), on 10 September 1968, the Special Committee adopted the following agenda (A/AC.125/9):

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 work.

6. Completion of the formulation, in the light of the debate which took place in the Sixth Committee during the seventeenth, eighteenth, twentieth, twenty-first and twenty-second sessions of the General Assembly and in the 1964, 1966 and 1967 sessions of the Special Committee, of:

   (a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

   (b) The principle of equal rights and self-determination of peoples (paragraph 4 of General Assembly resolution 2327 (XXII)).

7. Consideration of proposals compatible with General Assembly resolution 2131 (XX) on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any States, in accordance with the Charter of the United Nations, with the aim of widening the area of agreement already expressed in that resolution (paragraph 5 of General Assembly resolution 2327 (XXII)).

8. Submission to the General Assembly at its twenty-third session of a comprehensive report on the principles entrusted to the Special Committee (paragraph 7 of General Assembly resolution 2327 (XXII)).

18. At the third, fourth and tenth meetings of the session (83rd, 84th and 90th meetings), on 11, 12 and 17 September 1968, the Special Committee discussed the organization of its work. At the fourth meeting it took note of a tentative programme of work suggested by the Chairman (A/AC.125/L.62). This programme proposed that the principles before the Special Committee be discussed in the order set out in items 7 and 8 of the agenda (see paragraph 17 above). It also set out an allocation of meetings to each principle, intended to serve only as a guideline for the Special Committee and not as a rigid schedule. At the tenth meeting of the session, 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.

19. At the ninth meeting of the session (89th meeting), on 17 September 1968, the Special Committee agreed to the suggestion of its Chairman that the Drafting Committee for the 1968 session be constituted as follows: Argentina, Australia, Cameroon, Czechoslovakia, France, Italy and Sweden (a joint membership each of the two delegations taking part on certain principles), Japan, Kenya, Lebanon, Mexico, Nigeria, Syria, 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 may participate <u>ex officio</u> in the proceedings of the Drafting Committee. At the same meeting also, on the suggestion of the Chairman of the Special Committee, Mr. Milan Sahovic (Yugoslavia), was elected by the Special Committee as Chairman of the Drafting Committee. Subsequently, at the tenth meeting of the session (90th meeting), on 20 September 1968, the Special Committee, on the suggestion of its Chairman, agreed that Australia which, due to unforeseen difficulties, could not continue participation in the Drafting Committee, should be replaced by Canada.

20. As soon as the Special Committee completed the initial discussion of the principles set out on its agenda (see paragraph 17 above), it referred them to the Drafting Committee. Subsequently, it considered the reports of the Drafting Committee and took decisions thereon.

CHAPTER II. CONSIDERATION OF THE TWO PRINCIPLES MENTIONED IN OPERATIVE PARAGRAPH 4 OF GENERAL ASSEMBLY RESOLUTION 2327 (XXII), WITH A VIEW TO COMPLETING THEIR FORMULATION

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 29/

A. Texts before the Special Committee

1. Written proposals and amendments

21. In regard to the above principle, no new written proposal or amendment was submitted at the Special Committee's present session. The Special Committee had before it the five proposals and the amendment mentioned in paragraphs 21 to 27 of the report of the 1967 Special Committee, namely:

(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 joint 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 1961 (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 joint 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 joint 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;

(f) The joint proposal submitted in 1967 to the Special Committee by Argentina, Chile, Guatemala, Mexico and Venezuela (A/AC.125/L.49/Rev.1). The texts of the foregoing proposals 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/ An account of the consideration of this principle by the 1964 Special Committee appears in chapter III of its report (Official Records of the General Assembly, Twentieth Session, Annexes, agenda items 90 and 94, document A/5746); by the 1966 Special Committee in chapter II of its report (Ibid., Twenty-first Session Annexes, agenda item 87, document A/6230); and by the 1967 Special Committee in chapter II, section 1, of its report (Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799).

22. Proposal by Czechoslovakia (A/AC.125/L.16, part I):30/

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 armed 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 matter than 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 peoples against colonial domination in the exercise of the right of self-determination.

23. Joint proposal by Australia, Canada, the United Kingdom of Great Britain and Northern Ireland and the United States of America (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): 31/

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.

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

31/ 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.

24. Proposal by the United Kingdom of Great Britain and Northern Ireland (A/AC.125/L.44, part I): 32/

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.

(c) Every State has the duty to refrain from instigating, assisting or organizing civil strife or committing terrorist acts

32/ Ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799.

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.

25. Amendment by Italy and the Netherlands (A/AC.125/L.51) adding the following to the United Kingdom proposal (A/AC.125/L.44): 33/

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.

33/ Ibid., para. 25.

26. Joint proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (A/AC.125/L.48): 34/

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 or 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 peoples and territories under colonial rule as an integral part of a State.

27. Joint proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (A/AC.125/L.49/Rev.1): 35/

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.

34/ Ibid., para. 26.

35/ 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 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.

(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.

2. Report of the Working Group submitted by the Drafting Committee to the 1967 Special Committee

28. In 1967 the Drafting Committee, after considering this principle which had been referred to it by the Special Committee, decided in turn to refer the principle to a Working Group. The Working Group submitted a report (A/AC.125/DC.17) to the Drafting Committee. The Drafting Committee considered this report and decided to transmit it to the Special Committee for consideration. The Special Committee took note of the report of the Drafting Committee containing the report of the Working Group (see paragraphs 107 and 474 of the report of the 1967 Special Committee). 36/ The text of the report of the Working Group transmitted by the Drafting Committee to the Special Committee was as follows:

Report of the Working Group

The Working Group considered all proposals on the same basis. It took as the basis for its work a comparative table prepared by the Secretariat. 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:

"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."

It was also agreed that:

"Consequently, such a threat or use of force shall never be used as a means of settling international issues."

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

1. There was agreement in principle that a war of aggression constitutes a crime against the peace.

36/ Ibid., paras. 107 and 474.

2. There was also agreement in principle of the inclusion of the concept of responsibility for wars of aggression.

3. There was no agreement whether a statement on war propaganda should be included.

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 between States. There was no agreement whether there should be a reference to international lines of demarcation in this connexion.

4. Acts of reprisal

There was agreement that every State has the duty to refrain from acts of armed reprisal, but agreement was not reached on whether a statement to this effect should refer also to acts of this nature not involving the use of armed force.

5. Organization of armed bands

There was agreement in principle that every State has the duty to refrain from organizing or encouraging the organization of irregular or volunteer forces for incursion into the territory of another State.

No agreement was reached whether a statement to this effect should be included under the principle prohibiting the threat or use of force, or under the principle of non-intervention in matters within the domestic jurisdiction of any State.

Nor was agreement 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. However, agreement was not reached as to whether a statement to this effect should be included under the principle prohibiting the threat or use of force or under the principle of non-intervention in matters within the domestic jurisdiction of any State. Nor was agreement reached with regard to its application 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.

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. Nor was agreement 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 in principle on the desirability of making the United Nations security system more effective but no agreement was reached on whether a statement to this effect should be included in this context.

12. Legal uses of force

There was agreement on the need to include a list of specific exemptions under the relevant provisions of the Charter to the prohibition of the threat or use of force. There was no agreement on the concept of "self-defence of peoples against colonial domination in the exercise of the right of self-determination".

B. Debate

1. General comments

29. 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 84th to 89th meetings held on 12, 13, 16 and 17 September 1968. In the course of the discussion it was affirmed once again that this principle was the cornerstone of present-day international law and the structure of the international community and that it had been incorporated as such in Article 2, paragraph 4 of the United Nations Charter. The Special Committee's task, therefore, was to express the principle, which was of crucial importance for the maintenance of international peace and security, in a manner which would make it easier to observe and apply effectively in international life.

30. Several representatives said that the previous discussions in the Special Committee and the Sixth Committee of the General Assembly had shown how difficult it was to arrive at a satisfactory formulation of the principle, but had also given some idea of how agreement could be reached on a satisfactory formulation. At the present stage of its work, they had added, the Special Committee should concentrate its efforts on the formulation of this principle, to which priority had been given at previous sessions, taking the results already achieved as a starting point. The Special Committee already had a useful basis for its work in the report of the Working Group submitted by the Drafting Committee to the 1967 Special Committee, a report in which points of both agreement and disagreement were enumerated.

31. While recognizing the existing difficulties and the seriousness of certain points of disagreement, a number of representatives expressed the view that encouraging progress had been made and stated that they were anxious to participate in any effort to enlarge the areas of agreement, to find a better wording for existing points of agreement and to reduce the areas of disagreement. In this connexion, some representatives referred to the informal consultations which certain members of the Special Committee had held during the summer of 1968 with a view to exploring new possibilities of reaching agreement on the formulation of the principle. Some of these representatives thought that the most suitable place for discussing the results of these informal consultations would be the Drafting Committee, and that it was essential to avoid formal statements and fixed positions which would make it more difficult to reach agreement. It was also suggested that the most appropriate working procedure would be to intensify the work of the Drafting Committee or some other working group.

32. Certain representatives, stressing the need to preserve those points on which agreement had been reached at one of the earlier sessions, referred to document No. 1 of the Drafting Committee of the 1964 Special Committee. Some of them believed that efforts should be made to revive the points of agreement listed therein. In this connexion, one representative regretted that it had not been possible to use the compromise reached in that document as a basis for further progress, because one State member of the Special Committee had withdrawn its support from it. Another representative said that his delegation had given that text provisional approval, with the express reservation that he would consult his Government. The latter had been unable to accept it in the form in which it had been submitted because it had regarded as unfortunate the use of the term "violate" in the clause "Every State has the duty to refrain from the threat or use of force to violate the existing boundaries of another State." It was

therefore incorrect to say that his country had changed its position after agreeing to the text in question. Moreover, at the session of the General Assembly following the session of the 1964 Special Committee, his country's delegation, after considering the matter in greater detail, had concluded that it had taken too rigid a position and had stated that it was willing to agree to the text in question. By that time, some delegations which had originally been in favour of the text had ceased to adhere to the near-agreement which had been reached by the 1964 Special Committee, thus preventing complete agreement.

33. Most representatives taking part in the discussion confined themselves to discussing one or more of the problems which had given rise to difficulties at earlier sessions of the Special Committee, and indicating their preferences for one or another of the proposals submitted or solutions suggested as a working basis for enlarging existing areas of agreement. Some representatives, however, also made a number of observations on the principle in general and the most appropriate methods to be used in its codification and progressive development.

34. Some representatives stressed that a mere general statement of the principle would not be enough and that it should be given a specific content. Others, however, favoured a broad formulation of the principle. It was also stated that the undertaking by States to refrain from the threat or use of force should be made as nearly universal as possible, and that sound reasons and clear definitions should be given for any exceptions admitted. In one representative's view, the Special Committee should approach its task from the standpoint of a legislator; that is to say, while taking present-day realities as a starting point it should look beyond immediate political interests and consider the general interest; it should try to produce formulations which could be applied to the greatest possible number of future situations and serve the interests of all States for a long time to come.

35. Certain representatives insisted on the need to avoid equivocal wording which could weaken the principle and serve as a pretext for resorting to violence instead of promoting peace. It was stated, for instance, that the principle should not include any ideas which were not directly related to it or any compromise solutions which might by their vagueness weaken the normative content of the United Nations Charter. One representative said that his Government could consider the possibility of supporting a General Assembly declaration on principles of international law for peaceful coexistence only in so far as such a declaration would enhance the importance of international law and would improve international relations under a rule of law. Another representative criticized those who believed that certain portions of the formulation on which agreement had already been reached should be revised and that there were some points on which it would not be possible to reach a compromise solution.

36. Some representatives referred to the close interdependence between this principle and the other fundamental principles of the Charter entrusted to the Special Committee for study. One of these representatives considered that the formulation of the principle should contain an explicit and unambiguous reference to the interdependence between observance of this principle and observance of the other fundamental principles concerned.

37. A number of representatives stressed the importance of ensuring the rule of law over force in international relations. In their opinion, the United Nations

was in itself an expression of the desire of mankind to replace violence and arbitrary action by rules of conduct in the general interest. One of these representatives reaffirmed his country's position, which was to develop relations with all countries irrespective of their social system, on the basis of the principles of independence, the sovereignty and equality of States, non-interference in internal affairs, and mutual advantage, and said that only respect for those principles could ensure the rule of law and justice in international relations, bring peoples closer together, and strengthen peace.

38. Another representative said that his delegation fully intended to assist actively in the formulation of the principle in a spirit of peaceful coexistence among States, regardless of their political, social and economic systems, since such coexistence was the only possible basis for peace. This representative considered that account should be taken of developments since the adoption of the Charter, especially the collapse of the colonial system and the emergence of new States with aspirations of their own. The formulation of the principle should be based on progressive legal concepts and should take into account the contribution of the newly independent States. Another representative stressed the need to ensure and preserve the independence and integrity of the States of the Third World.

39. Some representatives stressed that the Special Committee's contribution to the codification and progressive development of international law would be largely useless unless in their mutual relations all members of the international community respected the fundamental principles of the Charter and the universally recognized rules of international law and fulfilled in good faith the obligations involved therein. Certain representatives considered that the present world situation caused them to be pessimistic about the prospects for this session of the Special Committee. Others were of the opinion that it was in moments of crisis, when international events cast doubt upon the validity and immutability of the fundamental principles of the Charter, that it was most important to reiterate and elaborate them. Not to do so, they said, would be to disregard the power of world public opinion in today's interrelated world.

40. One representative believed that it was the coercive machinery and not the merits of a particular formulation or definition which ultimately determined whether or not force was used in international relations. Considering that international organizations could be effective instruments for maintaining and strengthening the independence of small countries, he said that the road to peace should be sought in the strengthening of the procedures for the pacific settlement of international disputes, and that that was a field particularly appropriate for the action of small countries. When the veto or the equal weight of opposing forces prevented any possibility of action by the Security Council, the small countries that were Members of the United Nations, because of the large number of votes at their disposal, could act systematically and effectively and thus exert moral and political pressure in favour of peaceful and constructive solutions. In support of that process, the dispute should be maintained on the agenda of the most representative organ of the Organization, where the veto did not apply.

41. Another representative stated that under the United Nations Charter, the Security Council is the only body authorized to settle all questions relating to the use of force on behalf of the United Nations. The General Assembly has the right to discuss any questions relating to the maintenance of international

peace and security and, except as provided in Article 12 of the Charter, to make recommendations with regard to any such questions. In accordance with paragraph 2 of Article 11 of the Charter any such questions on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

42. Some representatives said that the work of the Special Committee would be greatly simplified if all States were prepared to abandon power politics and accept restrictions on their freedom of action in the matter. One representative observed that formulation of the principle of the prohibition of the threat or use of force was more important than ever now that certain States possessed the means to annihilate entire peoples. He said the use of force had always been the favourite instrument of imperialism, whether in the form of occupation of colonial territories or the repression of the movement for the liberation of colonial peoples. Obstacles to the use of force already existed: physical obstacles posed by peaceful forces, and political obstacles, such as agreements to limit the arms race, like the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water; the Treaty on the non-proliferation of nuclear weapons; and the Treaty on principles governing the activities of States in the exploration and peaceful uses of outer space, including the moon and other celestial bodies. However, legal obstacles should be added to those and called upon to play an increasing role; the Special Committee's work could make an important contribution to their establishment.

2. General statement of the prohibition of the threat or use of force

43. The five proposals submitted (see paragraphs 22-24 and 26-27 above) began with a general statement of the principle concerning the prohibition of the threat or use of force, extending the obligation laid down in Article 2, paragraph 4, of the Charter to all States and not only to Members of the United Nations. Three proposals - that of Czechoslovakia submitted in 1966 (see paragraph 22 above), that of Australia, Canada, the United Kingdom and the United States (see paragraph 23 above) and that of the United Kingdom (see paragraph 24 above) - limited the general statement of the principle to a transcription of the terms of Article 2, paragraph 4, of the Charter. The other two proposals, that of Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 above) and that of Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 above), after transcribing the terms 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". The points of agreement are set forth in paragraph 1 of the report of the Working Group submitted by the Drafting Committee to the 1967 Special Committee (see paragraph 28 above).

44. None of the representatives who participated in the discussion took issue with the points of agreement, as set forth in the report of the 1967 Working Group, on the general statement of the prohibition of the threat or use of force. Some representatives said that they were glad to note that agreement had been reached on an additional sentence to the effect that the threat or use of force should never be used as a means of settling international issues. Others expressed their satisfaction at the progress made and thought that the Special Committee

at its present session should settle the still unresolved question of the best place to insert the additional sentence.

45. One representative took the view that the Special Committee should specify that armed invasion constituted a violation of the principle, whether or not there was armed resistance. Another representative suggested that the general statement of the principle should be drafted on the following lines: "Subject to the provisions of the present article, the threat or use of force by one State against another as a means of settling any international dispute or in any manner inconsistent with the United Nations Charter should be prohibited". Finally, a third representative took the view that any departure from the language of the Charter, except the substitution of the word "States" for "Members", would lead to confusion.

3. Definition of the term "force"

(a) Armed force; regular forces; irregular or voluntary forces; armed bands; indirect aggression

46. The proposal of Czechoslovakia did not seek to define the various forms that armed force might take (see paragraph 22 above). Paragraph 2 (a) of the proposal of Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 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. Paragraphs 2 (b) and (c) of the proposal of Australia, Canada, the United Kingdom and the United States (see paragraph 23 above) and of the proposal of the United Kingdom (see paragraph 24 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. Lastly, according to paragraphs 2 (b) and (c) of the proposal of Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 above), States should refrain from all those acts as well as from intervening in a civil war of another State when such acts of intervention involve the use of force. Points of agreement and disagreement on the organization of armed bands and instigation of civil strife and terrorist acts are listed in paragraphs 5 and 6 respectively of the report of the 1967 Working Group (see paragraph 28 above).

47. Some representatives expressed their satisfaction at the fact that the report of the Working Group indicated that there was agreement that every State had the duty to refrain from encouraging the organization of irregular or volunteer forces for incursion into the territory of another State, and to refrain from involvement in civil strife and terrorist acts in another States. On the question of the best place for including provisions to this effect, some representatives suggested that these duties should be mentioned in a suitable form both under the principle prohibiting the threat or use of force and under the principle of non-intervention.

48. Some representatives stressed the need for and practical importance of strict compliance with these obligations. Examples of indirect aggression which were cited included the arming of rebel groups in another State, the refusal by

one State to forbid the training on its territory of rebels who fought against the legally recognized Government of another State and failure to restrain volunteers fighting in another State.

(b) Economic, political and other forms of pressure or coercion

49. Paragraph 5 of the proposal of Czechoslovakia (see paragraph 22 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 26 above) contained provisions to the effect that economic, political and other forms of pressure against the territorial integrity or political independence of any State were prohibited uses of force. Paragraph 9 of the report of the 1967 Working Group states that there was no agreement on this question (see paragraph 28 above).

50. A number of representatives expressed the view that the term "force" should not be restricted to armed force alone but should also include economic, political and other forms of pressure which had the effect of undermining the territorial integrity or political independence of a State. Some suggested that such pressure may be exercised on ideological and religious grounds and it should be included among the forms of pressure to be prohibited. All these representatives supported proposals for incorporating in the formulation of the principle a definition of the term "force" which would include not merely the direct or indirect use of armed force but also political and economic pressure, and suggested that the Special Committee should try to draft a definition of this kind. One representative proposed the following text: "For the purposes of the present article, the expression 'threat or use of force' should be deemed to include all forms of physical and other pressures exerted in the pursuit of any claim by one State against another, and generally the promotion of any activity subversive of the territorial integrity or political independence of another State". Finally, some representatives suggested that, if it were impossible to reach agreement on the inclusion of a definition of this kind in the formulation of the principle, the Special Committee might draft a statement on the subject by way of interpretation.

51. Other representatives stated that it was not possible for their respective delegations to accept proposals which would give a broad meaning to the term "force" within the context of Article 2, paragraph 4, of the Charter. As they understood it, the term "force" in that paragraph meant exclusively "armed force". In this connexion, they pointed to the use of the term "force" in the Charter as a whole, as well as in the drafting history, to support the view that the term "force" in Article 2, paragraph 4, was limited to armed force. Some of these representatives recognized the need to discourage undesirable and reprehensible forms of political or economic pressure, and expressed the hope that it would be possible to arrive at a reasonable solution to this question, combining prohibition of pressures of this kind with the relevant provisions of the Charter. In this connexion, a number of representatives believed that the difficulties might perhaps be overcome if the question were dealt with under the principle of non-intervention rather than under this principle. Some recalled that the General Assembly itself had taken that course in resolution 2131 (XX). One representative stated that the declaration to be adopted on the principles could contain a general provision as suggested in the text submitted by the United Kingdom at the Special Committee's last session, to the effect that the

seven principles were interrelated and each principle should be construed in the context of all the other principles. 37/ Another representative took the view that the Special Committee should make it clear that there need be no actual violence or hostilities for the principle to be breached. Finally, it was suggested by some representatives that the difficulties raised by this problem should not stand in the way of agreement on the statement of the principle, as a whole, provided that the other difficulties could be overcome.

52. Representatives favouring a broad interpretation of the term "force" contended in support of their view that Article 2, paragraph 4, should be interpreted in the light of the Preamble and Articles 41, 42, and 43 of the Charter, that that interpretation was supported by many writers, and that resolution 2160 (XXI), adopted by a large majority of the General Assembly, had recognized that the term "force" included not only armed attack but also other forms of coercion contrary to international law. It was also added that the broad interpretation had been stated at the Bandung, Belgrade and Cairo Conferences and recognized in recent international documents such as the Programme for Peace and International Co-operation adopted by the Second Conference of Heads of State or Government of Non-Aligned Countries held at Cairo in 1964. Some representatives considered that economic and political forms of pressure were sometimes even more dangerous than armed force, particularly for developing countries.

53. One representative considered that viewing the problem of the import of the term "force" in terms of permissible and non-permissible coercion was a helpful approach. The prominence gained by new sorts of coercion (ideological and political propaganda; psychological warfare; organization of subversive movements; economic strangulation; infiltration of a country by political agents, etc.) made for a broader category of non-permissible coercion, and that had been clearly recognized in General Assembly resolutions 2131 (XX) and 2160 (XXI).

54. Lastly, one representative raised the question of military pressures and thought that there was a need to include in the formulation of the principle a statement prohibiting such pressures having the effect of threatening the territorial integrity or political independence of a State. In certain circumstances, he added, military manoeuvres, naval demonstrations and the like were intended as threats, and as such, fell under Article 2, paragraph 4, of the Charter.

4. Wars of aggression

55. All the proposals submitted to the Special Committee contained references to wars of aggression: paragraph 2 of the proposal by Czechoslovakia (see paragraph 22 above); paragraph 2 (a) of the proposal by Australia, Canada, the United Kingdom and the United States (see paragraph 23 above); paragraph 2 (a) of the proposal by the United Kingdom (see paragraph 24 above); paragraph 3 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 above); and paragraph 2 (a) of the proposal of Argentina, Chile, Guatemala, Mexico Venezuela (see paragraph 27 above). A common feature of all these proposals was the statement that wars of aggression constitute international crimes against

37/ Ibid., para. 454.

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. Sub-paragraphs 1 and 2 of paragraph 2 of the report of the 1967 Working Group list the points on which agreement has been reached on this matter (see paragraph 28 above).

56. Some representatives, recapitulating the progress made on this question in 1967, thought that it should not be difficult to reach an agreement on a generally acceptable formulation which would state that wars of aggression constituted international crimes against peace and would mention responsibility for wars of aggression. One of the representatives opposed to formulating those concepts more precisely drew attention to the fact that the study being conducted by the Special Committee on the Question of Defining Aggression had not yet been completed. Other representatives considered that, in order to satisfy the demands of international legality, it should be made clear in the formulation to be adopted that the planning, preparation, initiation and waging of wars of aggression constituted international crimes against peace, which gave rise to the political and material responsibility of States and the penal liability of the individuals committing those crimes. One of those representatives stressed that so-called preventive wars should be treated on the same footing as wars of aggression, in order to prevent an aggressor from attempting to justify his aggression by calling it a "preventive war". Another representative said that the concept of war of aggression included indirect aggression.

57. Lastly, one representative said that, although he supported the general line in the statement that wars of aggression constituted international crimes against peace, he had some reservations regarding the use of the expression "war of aggression" which seemed to lend itself to various unfortunate interpretations. Considering that "war" between members of the international community was totally prohibited by the Charter, and the very concept of "war" was, at any rate from the legal standpoint, non-existent under the Charter, that representative preferred the use of another expression, such as "armed aggression".

5. War propaganda

58. Paragraph 2 of the proposal submitted by Czechoslovakia (see paragraph 22 above), paragraph 3 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 above) and paragraph 2 (a) of the proposal by Argentina, Chile, Guatemala, Mexico, and Venezuela (see paragraph 27 above) contained provisions concerning war propaganda. 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. Lastly, paragraph 4 (b) of the amendment to the United Kingdom proposal submitted by Italy and the Netherlands (see paragraph 25 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). 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 above).

59. Several representatives emphasized that the formulation of the principle should include a provision prohibiting war propaganda altogether, and considered that any reservations which might be made would considerably diminish the scope of the prohibition. One of these representatives urged that the prohibition should be accepted without reservations. He pointed out that war propaganda was prohibited by law in various countries, and that numerous treaties existed in which the parties pledged themselves not to spread propaganda hostile to each other or in which governmental responsibility for private propaganda activities was laid down. Moreover, the question of war propaganda had been on the agenda of the Conference on the Unification of Penal Codes as early as 1927. Another representative expressed the view that the prohibition should extend also to propaganda which advocated waging a preventive war or initiating the use of atomic weapons.

60. Another representative recalled that the General Assembly had condemned war propaganda as early as 1947 (resolution 110 (II), and had since reaffirmed that condemnation on various occasions. That seemed to show that there was a consensus on the subject in the international community and tended to establish the existence of a rule of customary international law. Furthermore, the General Assembly had also specifically prohibited subversive propaganda (resolution 2131 (XX)). In his opinion, the obligation to refrain from both kinds of propaganda must be subordinated to the dominant consideration of self-determination and did not exist in relation to certain régimes, with respect to which the principles of non-intervention and the prohibition of the use of force were suspended because the policies pursued there were hostile to self-determination. Once self-determination had been achieved, however, such propaganda could be considered illegal intervention or an illegal use of force.

61. Other representatives were of the opinion that the problem was not to decide whether war propaganda was harmful, but to find a golden mean between respect for individual freedom of expression and the social necessity for protection against dangerous incitement to violence. There would be no serious difficulty in asking Governments to refrain from all activities connected with war propaganda. The root of the problem, in fact, lay in the difficulty of defining those acts which Governments could forbid private persons to engage in on the grounds that they constituted an abuse of freedom of expression. It was impossible, without violating constitutional rights, to prohibit private persons or groups absolutely from engaging in anything which might be regarded by some as war propaganda, particularly when no precise definition had been established of what was meant by "war propaganda". Those representatives stated that they were willing to assist in working out a satisfactory formula, as long as it took sufficient account of the needs of the democratic societies in which the right of opposition to the established authorities was a basic and constitutionally guaranteed civil liberty.

62. With a view to resolving the conflict between the two necessities of prohibiting war propaganda and, at the same time, of preserving individual freedom of expression, certain representatives put forward in the course of the discussions one or other of the following solutions: (a) to leave the question aside and include "incitement" to wars of aggression among the crimes against peace; (b) to confine the provision to the prohibition of war propaganda by the States themselves, and to impose upon each State an obligation to discourage war propaganda on the part of its citizens; (c) to include in the prohibition an ad hoc reservation of freedom of expression, rather than a mere indirect reference, in order to define the limits within which States would be bound to take legal action against activities likely to endanger peace.

6. Acts of reprisal

63. Paragraph 5 of the proposal submitted by Czechoslovakia (see paragraph 22 above), paragraph 2 (b) of the proposal by Australia, Canada, the United Kingdom and the United States (see paragraph 23 above), paragraph 2 (b) of the proposal by the United Kingdom (see paragraph 24 above) and paragraph 2 (d) of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 above), contained provisions prohibiting acts of reprisal or acts of armed reprisal or attack. Paragraph 4 of the report of the 1967 Working Group noted the points of agreement and disagreement on this question (see paragraph 28 above).

64. A number of representatives considered that it should be possible to settle the remaining differences of opinion with regard to the prohibition of acts of reprisal. Some pointed out that every State had the duty to refrain from acts of reprisal not only of a military nature but also of an economic or any other nature. Another representative expressed the view that the Special Committee should try to formulate the prohibition of acts of armed reprisal, which it had already agreed upon. He considered that a statement of the prohibition necessarily required recognition that every State should comply strictly with the duty not to use force in international relations, directly or indirectly, because otherwise it would be difficult to determine whether a particular act was one of reprisal or self-defence. Finally, a third representative expressed the opinion that the issue of reprisals should be given priority in the Committee's deliberations, because the Security Council had on more than one occasion condemned such acts as endangering international peace and security and violating the Charter. The Security Council's experience should be put to use in the formulation of the principle. In this connexion, another representative pointed out that the reprisals referred to by the Security Council were armed reprisals.

7. Use of force in territorial disputes and boundary claims

65. All the proposals submitted to the Special Committee contained provisions prohibiting the use of force in territorial disputes and boundary claims (see paragraphs 22-24 and 26-27 above). Paragraph 5 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 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 the inviolability of State territory and

the non-recognition of situations brought about by the use of force (see paragraphs 71-76 below). Paragraph 2 (d) of the proposal by Australia, Canada, the United Kingdom and the United States (see paragraph 23 above), paragraph 2 (d) of the proposal by the United Kingdom (see paragraph 24 above) and paragraph 2 (f) of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 above) referred expressly to "international lines of demarcation" in their formulation of this prohibition. Such a reference was also included in paragraph 2 (d) and (c) of the proposal by Australia, Canada, the United Kingdom, and the United States and in paragraph 2 (b) of the United Kingdom proposal. Paragraph 3 of the report of the 1967 Working Group indicated existing points of agreement and of disagreement (see paragraph 28 above).

66. With reference to the inclusion of a reference to "international lines of demarcation" in the formulation of the principle, some representatives said they would be opposed to any intent to assimilate those lines to boundaries and would reject any drafting which sought to place them on the same footing.

67. Other representatives felt that it would be unrealistic to ignore the importance and complexity assumed by "international lines of demarcation" since the end of the Second World War. In their view, the violation by force of those lines constituted as flagrant a breach of the principle enunciated in Article 2, paragraph 4, of the Charter as a violation of the present boundaries of a State. The very fact that "international lines of demarcation" did not have the same juridical status as "existing boundaries of a State" made it necessary to mention them, for the formulation of the principle would otherwise be incomplete.

68. According to some representatives, the expression "international lines of demarcation" signified lines resulting from armistice agreements or other agreements for the cessation of hostilities which carried no implication as to the status of the territories they divided but which would not be violated by force without infringing Article 2, paragraph 4, of the Charter.

69. Some representatives said that it should be possible to find a solution which would give satisfaction to those who feared that an express reference to "international lines of demarcation" might help to give them undesirable permanence, for the difference of views on the matter was more apparent than real. In this connexion, the following possibilities were suggested: (a) to refer to "international lines of demarcation" in a sentence or provision separate from that mentioning boundaries, in order to stress that they did not have the same status; (b) to add a reservation indicating that the prohibition of the threat or use of force in violation of "international lines of demarcation" was without prejudice to the legal status of the lines in question and to the position of the parties concerned with regard to such lines; (c) to make it clear in an interpretative statement that "international lines of demarcation" were covered by the term "boundaries" and that that was without prejudice to the claims of any party to an international dispute.

70. One representative was of the opinion that unless all the conceivable circumstances in which the threat or use of force might occur were to be listed in the formulation of the principle, it would be best to omit the mention of territorial controversies and boundary claims altogether. To refer to them specifically was unnecessary and misleading and could give rise to a distortion of the Charter. Article 2, paragraph 4, of the Charter and other relevant

provisions prohibited the threat or use of force in specific but broadly defined contexts. It did not appear to be only, or even mainly, in the settlement of territorial or boundary disputes or problems that force and the threat of force were prohibited. They were prohibited also outside the territory of any State, which could mean on the high seas, in outer space, or in a third State's territory. States were forbidden also, implicitly, to threaten or use force in their own territory, in action against another State. Furthermore, Article 2, paragraph 4, of the Charter did not mention "disputes or problems" in connexion with the use or threat of force. Also, the elimination of any specific reference to territorial and boundary questions would have the advantage of disposing of the questions arising in connexion with "international lines of demarcation".

8. Inviolability of State territory and non-recognition of situations brought about by the use of force

71. Paragraph 4 of the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 above) and paragraph 2 (e) of the proposal by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 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. Paragraph 7 of the report of the 1967 Working Group indicated that there was no agreement on the inclusion of a statement concerning these matters (see paragraph 28 above).

72. Some representatives stressed that the formulation of the principle should include a provision stipulating the inviolability of the territory of a State, which could not be the object of military occupation or other measures of force taken by another State on any grounds whatsoever. Some representatives were in favour of a formulation such as that contained in the proposals of the non-aligned countries or the Latin American countries, or inspired by them. Others wondered whether it was possible in the present circumstances to achieve a consensus on the matter despite its importance and the fact that it concerned a direct and immediate consequence of the principle of the prohibition of the threat or use of force.

73. With regard to the question of non-recognition, some representatives were in favour of including in the formulation of the principles a provision stipulating that no territorial acquisitions or special advantages obtained by force or by other illegal means of coercion should be recognized. According to some of those representatives, non-recognition of such acquisitions or advantages was a corollary of the principle of the prohibition of the threat or use of force. One of them said that the principle of non-recognition had been generally accepted since before the Second World War and had been stated explicitly in several instruments, such as the Bogotá Charter. Even the Draft Declaration on Rights and Duties of States prepared by the International Law Commission gave expression to this rule. Another representative suggested the following wording: "Any situation brought about by the illegal threat or use of force, or any

benefit, privilege or advantage obtained thereby, would not be recognized and would be absolutely of no effect in law. There should be a restitutio in integrum in such a case".

74. One representative also said it should be specifically affirmed that situations brought about by force in violation of the existing boundaries of a State should not be recognized. Another said it should be proclaimed that any territorial acquisitions or other advantages obtained by the threat or use of force could not be legalized and that any pretext aimed at perpetuating occupation of foreign lands as a means of exerting pressure or victims of aggression should be rejected. Finally, another representative maintained that any territorial aggrandizement through the threat or use of force was inadmissible under the Charter.

75. Other representatives shared the view that non-recognition of situations brought about by the illegal threat or use of force was morally desirable and that such actions were to be condemned. However, those representatives felt that it was difficult as a strictly legal proposition to deny the existence of specific situations resulting from the illegal use of force. Some of those representatives thought it was doubtful whether that idea could be transformed into a legal obligation at the present stage of the development of international institutions. If the idea was to be retained and a principle of law applicable in international relations was to be formulated, the question would have to be raised again in more realistic terms.

76. In this connexion, one representative said that if States were asked merely not to "recognize" or "consider" as legal that which was illegal, there would be no difficulty. The difficulties lay in the fact that the duty of non-recognition might be interpreted in some cases as constituting a bar against trade arrangements, normal communications, and practical contracts of any kind with the accused State. In the view of that representative, it was evident that under no interpretation of Article 2, paragraph 4, of the Charter could such conclusions be reached.

9. Disarmament

77. Provisions relating to disarmament were contained in paragraph 6 of the proposal submitted by Czechoslovakia (see paragraph 22 above), paragraph 2 (i) of the proposal submitted by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 above), and paragraph 5 of the amendment submitted by Italy and the Netherlands (see paragraph 25 above).

78. All the representatives who referred to this question supported the inclusion in the formulation of the principle of a provision concerning the obligation of States to continue negotiations for the conclusion of a treaty on general and complete disarmament under effective international control, for that would help to ensure the application of the principle. Some representatives considered such an obligation to be a legal one, while others referred to it as a moral imperative. Certain representatives said they were prepared to strengthen the

texts proposed with regard to the matter in 1967. Some of those representatives expressly condemned the arms race as a waste of resources and a source of tension and thought that the provision to be included in the formulation of the principle should be drafted in such a way as to make the conclusion of a treaty on general and complete disarmament an ultimate obligation for States.

79. One representative said that the Treaty on the Non-Proliferation of Nuclear Weapons was an initial, encouraging step and that it was essential to continue steadfastly along that road and prohibit the use of nuclear weapons, then go on to the cessation of testing and manufacture of those weapons and, finally, to the reduction and then the liquidation of stocks of weapons and missiles. Another representative stressed the importance of that Treaty and urged the nuclear Powers which had not yet done so to sign and ratify additional protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America, whose aim was to give full effect to the prohibition of the use of force in its most deadly form.

10. Compliance in good faith with obligations with respect to the maintenance of international peace and security and making the United Nations security system more effective

80. Paragraph 4 (c) of the amendment submitted by Italy and the Netherlands (see paragraph 25 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. Paragraph 11 of the report of the Working Group recorded the agreement reached on this question (see paragraph 28 above).

81. Some representatives thought that the formulation should include a reference to the need to strengthen the United Nations security system, for that would help to ensure the application of the principle, and, in consequence, to make it more effective. One representative expressed the view that to develop the merely normative rules of the Charter at the expense of institutional-organization rules would not be sufficient, and said that he would find it very difficult to accept a formulation of the principle which did not include adequate provisions relating to collective security. Another representative said that the experience of his country in United Nations peace-keeping operations had convinced it of the need for such a provision, even if expressed in merely hortatory terms.

11. Provisions relating to dependent territories

82. The paragraphs under this heading, particularly those relating to armed action or repressive measures against colonial peoples, should be read in conjunction with those on the use of force in self-defence against colonial domination (see paragraphs 102-110 below).

(a) Armed force or repressive measures against colonial peoples

83. Paragraph 3 of the proposal submitted by Czechoslovakia in 1966 (see paragraph 22 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 27 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. Paragraph 8 of the report of the 1967 Working Group stated that there was no agreement on the inclusion of a statement on this question (see paragraph 28 above).

84. Some representatives stressed that the formulation should include a provision prohibiting any armed action or repressive measures directed against peoples fighting against colonial domination. One representative reiterated the need to supplement the statement of that principle by mentioning the duty of colonial countries to allow peoples to realize their aspirations by peaceful means. Another representative considered it important to refer to the duty to refrain from the use of force against those dependent peoples to which General Assembly resolution 1514 (XV) was applicable.

85. Other representatives, after stating that they respected the position of those newly independent States which urged the completion of the process of decolonization, said that it was necessary to strike the proper balance between the rights and interests of the peoples of the remaining dependent territories and the responsibilities of the administering Powers to maintain law and order and to ensure that the development of those peoples would be achieved in a peaceful and orderly manner in accordance with the provisions of Chapters XI and XII of the Charter. Some of those representatives considered that provisions concerning relations between a Government and certain sections of the population under its authority should not be included in the formulation of the principle, particularly if the declaration to be adopted on all the principles contained a general provision to the effect that the principles were interrelated and should be interpreted in the light of one another.

(b) Status of territories under colonial rule

86. Paragraph 7 of the proposal submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 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. One representative specifically supported that proposal.

(c) Compliance with Charter obligations with respect to the political development of dependent territories

87. Paragraph 4 (a) of the amendment submitted by Italy and the Netherlands (see paragraph 25 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.

88. One of the sponsors of the amendment said that it was designed to reconcile the need to complete the process of decolonization as soon as possible and the need to ensure that the process took place peacefully. The peaceful acceleration of the decolonization process was the only legal course and the one which would best promote the welfare of the peoples concerned and their advancement towards representative government and independence. Another representative expressed agreement with the amendment, because he believed that it would help to ensure the implementation of the principle.

12. Lawful uses of force

89. All the proposals submitted contained provisions on the lawful uses of force. Paragraph 12 of the report of the 1967 Working Group stated that there was agreement on the need to include a list of specific exceptions under the relevant provisions of the Charter to the prohibition of the threat or use of force (see paragraph 28 above).

90. During the discussion some representatives emphasized the need to include a clear and unequivocal reference to the circumstances under which the use of force was lawful. In the opinion of certain representatives, the only exceptions at present authorized by international law were those expressly provided for in the United Nations Charter and no effort should be made to extend them. Otherwise, the right of States to territorial integrity and political independence would be jeopardized and the role of the United Nations would be undermined.

91. With reference to the agreement mentioned in the report of the 1967 Working Group, some representatives considered that, in view of the difficulty of reaching agreement on the precise wording of a detailed list of exceptions, they would be prepared to replace that list by a general exception along the lines agreed to at the Mexico City session in 1964. One representative thought that a list of specific exceptions to the principle was essential to an effective declaration and that, if it proved impossible to obtain agreement on that point, it could only be concluded that there were States unwilling to forego the option of using force in a very wide variety of situations, which they would like to define themselves. Lastly, it was also said that the question whether exceptions to the principle should be stated in particular terms or in general terms should be considered further in the Drafting Committee.

92. One representative pointed out that, as the conditions stipulated in the Charter for lawful uses of force were both imperative and limitative, the Special Committee should reproduce the exact wording used in the Charter or refer explicitly to the relevant Articles or Chapters thereof, since in that field it was not a question of developing international law but of trying to ensure its observance.

(a) Use of force on the decision of a competent organ of the United Nations

93. Paragraph 7 of the proposal submitted by Czechoslovakia (see paragraph 22 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 23 aobve), paragraph 3 of the United Kingdom proposal (see paragraph 24 above), paragraph 6 of the proposal submitted by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see paragraph 26 above), and paragraph 3 of the proposal submitted by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 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 26 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.

94. The representatives who referred to this matter during the discussion agreed that the use of force was lawful on the decision of a competent organ of the United Nations acting in conformity with the Charter. One representative said that this lawful use of force should result from a decision of the Security Council taken in accordance with the Charter. Another representative thought that such a use of force was lawful (a) where, in accordance with the provisions of Articles 42 and 53 of the Charter, the Security Council had ordered the use or threat of force in a preventive or enforcement action against a recalcitrant State and (b) where, in accordance with the provisions of Articles 10 and 11 of the Charter, the General Assembly had made a recommendation in respect of the maintenance of international peace and security. Other representatives used the expression "competent organ of the United Nations acting in conformity with the Charter or under its authority".

(b) Use of force on the decision of a regional agency

95. The proposals submitted by Australia, Canada, the United Kingdom and the United States (see paragraph 23 above), by the United Kingdom (see paragraph 24 above) and by Argentina, Chile, Guatemala, Mexico and Venezuela (see paragraph 27 above) referred in their respective paragraph 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 27 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".

96. Some representatives agreed that the use of force by regional agencies was lawful, provided that the requirements laid down in this connexion by the Charter were respected. One representative mentioned the need for the express authorization of the Security Council and said that it would be very serious if the formulation of the principle did not reflect the Charter's severe restrictions on the right of regional agencies to use force. It was also said that the Charter principles, particularly the one prohibiting the threat or use of force, applied fully as between all States, whether or not they were members of regional agencies.

(c) Use of force in exercise of the right of individual or collective self-defence

97. All the proposals submitted to the Special Committee referred expressly to the lawful use of force in exercise of the right of individual or collective self-defence. In paragraph 7 of the proposal submitted by Czechoslovakia (see paragraph 22 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 26 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 27 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 23 above) and by the United Kingdom (see paragraph 24 above).

98. Some representatives opposed any broad interpretation of Article 51 of the Charter and said that according to the provisions of that Article the right of individual or collective self-defence existed only when a State was the object of "an armed attack".

99. One representative considered that the formulation should retain the language of Article 51, namely, "the inherent right of individual or collective self-defence if an armed attack occurs", "until the Security Council has taken measures necessary to maintain international peace and security". The system affirmed in Article 51, he added, was the same as the collective self-defence system of alliances, which only came into play when an armed attack occurred.

100. Another representative said that the Special Committee should seek a definition that would repudiate once and for all the interpretations which weakened the provisions of Article 51 of the Charter. In view of the dangers involved for all States, particularly medium-sized and small States, he rejected such interpretations as: (a) that based on the concept of "imminent danger"; (b) that which maintained that the prohibition of the use or threat of force was relative, since, if Article 2, paragraph 4, and Article 51 were interpreted strictly, a State would be practically defenceless against another State which violated its rights but took the precaution of not committing an armed attack; (c) that which contended that when a State violated a treaty obligation not to resort to force the victim had the right to use nuclear or thermonuclear weapons, by way of reprisal, even when the attack had been committed with conventional weapons.

101. Lastly, one representative considered that, although the traditional concept of self-defence was based on immediate response to a prior armed attack, Article 51 of the Charter had often been interpreted more broadly than its provisions seemed to indicate and that despite those provisions, a limited right of anticipatory self-defence in cases of imminent danger apparently continued to exist. In his view, the application of the rule of proportionality, another element of the concept of self-defence, had the merit of keeping retaliatory actions at a definite level and making it possible to limit them to non-military means in cases of non-armed aggression, such as economic aggression, which were now recognized by international law.

(d) Use of force in self-defence against colonial domination

102. 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 22, 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 26 above). Paragraph 12 of the 1967 Drafting Committee report indicates 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". Furthermore, paragraphs 5 and 6 of that report state that no agreement was reached on the application of the rule relating to the organization of armed bands and the instigation of civil strife and terrorist acts to situations where force was used to deprive peoples of dependent territories of the right to self-determination (see paragraph 28 above).

103. Some representatives considered that the formulation of the principle should proclaim the right of peoples under colonial domination to fight for their liberation by all possible means, including armed force, if the colonial Power refused to recognize their right to self-determination or continued to repress their natural desire for independence. One representative considered that the struggle of peoples under colonial domination was a sacred right and was of direct concern to international bodies. Some representatives recalled that the right of peoples to fight against colonial domination had been recognized by the General Assembly in the Declaration on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV)).

104. Some representatives recognized that the Declaration contained in General Assembly resolution 1514 (XV) contained some elements of customary international law, but considered that that did not justify the inclusion of those elements in the formulation of the principle of the prohibition of the threat or use of force, particularly when some countries were anxious to have the application of armed force sanctioned in order to strengthen the cause of ideological wars and so-called national liberation movements.

105. One representative said that the problem of the legalization of the use of force by national liberation movements had arisen partly because some countries had displayed a deplorable tendency whenever civil strife of any magnitude had occurred in a State whose Government they disliked, to describe that Government's opponents as a "national liberation movement" and to label the Government itself as "neo-colonialist". The rights of peoples of Non-Self-Governing and Trust Territories to independence or self-government were clearly defined in the United Nations Charter, and it was reprehensible that efforts should be made to link the natural and desirable aspirations of individual peoples with a more general effort by certain countries to impose their own partisan political philosophies in large areas of the world. Another representative considered that it would be wrong for the General Assembly to legalize in advance revolution and acts of violence against any Government anywhere, particularly since a general sanction of that kind would legalize revolution against régimes which were truly democratic.

106. Another representative, on the other hand, considered it unthinkable that the use of force in the sacred struggle against colonialism should be described as illegal. Sometimes colonialism could only be defeated by force. In several resolutions, the General Assembly had appealed to States to offer all possible moral and material assistance to peoples fighting for their freedom and independence.

Recalling the historical importance of national liberation movements and revolutionary struggles, he added that the views of those who denied the legality of such movements and struggles were reminiscent of the mentality of the colonialists, who held that force could be used only by the colonizers themselves. If the former colonial peoples had accepted that view they would still be living in bondage and slavery, and colonialism would still be triumphant everywhere.

107. Other representatives said that certain actions, which in other circumstances could be considered illegal interventions in the internal affairs of another State, became legal when they were undertaken in support of the struggle of colonial peoples against colonial domination. When a people was oppressed, a new legitimacy replaced that of the constituted Government, and the international community bore the responsibility of ensuring the survival and emancipation of such peoples.

108. Other representatives considered that the Special Committee should guard against granting, by way of an exception to the principle, the right to use force to promote riot, subversion, civil strife, terrorism and other forms of violence which, when organized or assisted from outside the territory in question, might well cause far greater threats to international peace and security. In their view the prohibition of the threat or use of force was not connected in any way with questions relating to colonial domination or the so-called right of self-defence against it; the right of rebellion had no place in Article 51 of the Charter. These representatives considered that recognition of a so-called right of self-defence against colonial domination would impede administering Powers in the discharge of their obligations under Chapters XI and XII of the Charter, as it would permit or encourage terrorism, riots and other acts in breach of the public peace. They therefore denied the existence of such a right and opposed any reference to it in the formulation of the principle.

109. Other representatives recalled that Article 2, paragraph 4, of the Charter prohibited the use of force in "international relations" only. One representative considered that that approach, which would exclude the question of the "right of internal rebellion" from the scope of application of the principle, could perhaps go some way towards solving the problem raised by the struggle of peoples for their emancipation and independence.

110. Lastly, some representatives said that the prohibition of the use of force established in the principle was also inapplicable to the peoples of territories occupied as a result of a war of aggression, who had the right to struggle against the occupier.

C. Consideration of the report of the Drafting Committee

1. Report of the Drafting Committee

111. The following report (A/AC.125/L.65) 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 and 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 the same basis. It took as the basis for its work the report adopted by the Drafting Committee at the 1967 session /see paragraph 28 above/. 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. Nor was agreement 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 /shall7 /should7 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. Statement by the Chairman of the Drafting Committee

112. The above report was introduced by the Chairman of the Drafting Committee at the 96th meeting of the Special Committee, on 30 September 1968. He said that it was clear from the report that some real progress had been made in the formulation of the prohibition of the threat or use of force during the 1968 session. In the first place, while the 1967 report had emanated from an unofficial working group, the report now before the Special Committee represented the considered views of the Drafting Committee, which was an official subsidiary

body of the Special Committee; and it did not merely list the points of agreement and disagreement but also mentioned a number of proposals which had been submitted as a basis for further negotiations and might indeed pave the way for a final formulation of the principle. Even on points on which no agreement had yet been reached, the report contained an account of the negotiations in the Drafting Committee and indicated areas of possible agreement in the future.

3. Comments by members of the Special Committee

113. The report of the Drafting Committee was discussed at the 96th meeting of the Special Committee after the report had been introduced by the Chairman of the Drafting Committee. Statements were made by the representatives of the United States, Cameroon, Mexico, India, the United Kingdom, France, the USSR, the United Arab Republic, Syria, Japan, Italy, Romania, Chile, Kenya, Lebanon, Argentina, Australia, Poland and the Netherlands. 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.

114. The representative of the United States said that, first, he was glad to note that the term "international issues" had been retained in the statement of the general prohibition of force in the report of the Drafting Committee. The Drafting Committee in 1967 had consciously chosen "issues" as the most suitable generic term, which mad it clear that that prohibition applied regardless of whether or not a "dispute", in the technical sense of the term, existed. Secondly, he noted with satisfaction that the Drafting Committee had agreed on a correct and non-partisan statement that "a war of aggression constitutes a crime against the peace, for which there is responsibility under international law". He understood that the term "war of aggression" in that statement was used in a generic sense and that was not confined to a case of hostilities involving a formal declaration of war. Thirdly, the statement that "in accordance with the Purposes and Principles of the United Nations, States have a duty to refrain from propaganda for wars of aggression" was, in his view, based upon the primary responsibility of the United Nations for the maintenance of international peace and security (Article 1, paragraph 1, of the Charter), on the obligation of States to refrain from the use of force (Article 2, paragraph 4) and on the security system described in the Charter under which the Security Council had primary responsibility for the maintenance of peace (Article 24) and was entrusted with specific powers with respect to threats to the peace, breaches of the peace and acts of aggression (Articles 39-51). Furthermore, his delegation understood the statement as relating to the conduct, activities and statements of Governments and not of individuals or persons acting together in non-governmental groups or organizations. It had been explicitly stated that the proposal on which the Drafting Committee had agreed was based on the understanding that the statement did not refer to non-governmental activities; and no delegation had contested that view. Once again, it should be noted that the term "wars of aggression" was used in the same generic sense to which he had just alluded. He said that, fourthly, the Drafting Committee had taken a valuable step forward in agreeing that "States have a duty to refrain from acts of reprisal involving the use of force". He wished, however, to stress that the term "force" in Article 2, paragraph 4, of the Charter related exclusively to armed or military force and did not cover non-military acts, even of a coercive character. Fifthly, he was particularly glad that a statement on the organization of armed bands had been accepted by all

members of the Drafting Committee, including four permanent members of the Security Council. Sixthly, his delegation had consistently argued that the formulation of the principle should include positive injunctions as well as negative restrictions, and had therefore supported proposals for including a statement calling upon States to seek agreed and mutually beneficial arms control and disarmament measures. He hoped that agreement would be reached on a precise formulation of a statement to that effect next session. The statement recorded in paragraph 11 of the Drafting Committee's report (on "Making the United Nations security system more effective") contained a particularly important positive injunction. The only way of discouraging the unilateral use of armed force was to ensure that the United Nations was politically ready and technically equipped to maintain peace. Finally, he thought that the Special Committee should agree on a provision stating that nothing in the formulation of the principle was intended to affect the provisions of the Charter concerning the lawful use of force. A general formulation of that kind was likely to be more acceptable than a text which attempted to list in detail all the exceptions justified under the Charter.

115. The representative of Cameroon said that the report of the Drafting Committee on the prohibition of the threat or use of force reflected the significant progress which had been made at the present session and indicated ways of achieving agreement on a final formulation of the principle in the future. He hoped that the General Assembly would authorize the Special Committee to continue its work. He regretted that no agreement had been reached on the principle that dependent peoples could resist violations of their lawful right to equality and self-determination, though he was glad that those rights were in themselves no longer the subject of serious controversy. He also regretted that the Drafting Committee had not been able to reach agreement on a definition of the term "force", or on the final formulation of a provision relating to the legal uses of force. However, he favoured the adoption of the Drafting Committee's report on the understanding that agreement on one particular point would not prejudice the position of members with regard to other points or with regard to the statement of the principle as a whole.

116. The representative of Mexico, speaking on behalf of the delegations of Guatemala, Argentina, Chile, Venezuela as well as his own, said that although agreement had not yet been reached on a formulation regarding the inviolability of the territory of a State and the non-recognition of territorial changes resulting from an illegal use of force, the delegations which he represented wished to restate their view that a final formulation of the principle of the prohibition of the threat or the use of force should be accompanied by a corollary stating that, as the territory of a State was inviolable, it could not be the object, even temporarily, of military occupation or of other measures of force on any grounds whatsoever and that territorial acquisitions or advantages obtained by the use of force or other forms of coercion should not be recognized either de jure or de facto. Such an addition would maintain the universal validity of this principle as a general principle of law within the meaning of Article 38 of the Statute of the International Court of Justice. Furthermore, the delegations which he represented could not subscribe to a formulation of the principle which did not include a statement to the effect that the organization of armed bands and the instigation of civil strife and terrorist acts were basically acts of

intervention although in certain circumstances they may also violate the non-use of force principle. Such an interpretation should not affect the scope of Article 51 of the Charter which referred exclusively to "armed attack".

117. The representative of Canada said that the Drafting Committee had made considerable progress in expressing concepts in agreed language. His delegation was particularly glad to note that there was now agreement on a statement of the general prohibition of force, which stressed, inter alia, that the use of force should never be employed as a means of settling international issues. He noted with satisfaction, too, that an agreed wording had been found for the principle that a war of aggression - a term which his delegation understood to mean "aggressive hostilities" and not merely "declared wars of aggression" - constituted a crime against the peace for which there was responsibility under international law, and that that principle had been supplemented by a sensible provision regarding the duty of States to refrain from propaganda for wars of aggression. Similarly, he welcomed the agreement on statements relating to the duty of States to refrain from acts of reprisal involving the use of force (a term which his delegation interpreted as meaning exclusively "armed force"), to refrain from organizing or encouraging the organization of irregular or volunteer forces or armed bands, to comply with international law with respect to the maintenance of international peace and security and to endeavour to make the United Nations security system based upon the Charter more effective. On other matters, such as military occupation and non-recognition of situations brought about by the illegal threat or use of force, the report contained some interesting formulations which could be used as a basis for further work. On other points where there was still disagreement such as the definition of the term "force" to include economic, political and other forms of pressure, the use of force by dependent peoples and the whole concept of the legal use of force, the Special Committee should make renewed efforts at a subsequent session.

118. The representative of India said that his delegation had already expressed its views on individual points raised in the Drafting Committee's report on the prohibition of the threat or use of force, and would not repeat them at the present stage. He noted with satisfaction that the Drafting Committee had retained many of the points on which agreement had been reached at the 1967 session, and had itself been able to reach agreement in some new areas. He expressed his delegation's concern that there were still some areas of disagreement but hoped that, by continued co-operation between delegations it would eventually be possible to close the gap between divergent opinions.

119. The representative of the United Kingdom said that while the current session of the Special Committee had not been particularly fruitful, his delegation welcomed the report of the Drafting Committee on the principle of the non-use of force. It had proved possible to preserve the areas of agreement set forth in the report of the 1967 Drafting Committee and even to expand them. His delegation understood the term "war" in the context of the agreed statement on wars of aggression as relating not simply to declared wars but also to aggressive armed hostilities generally. With regard to the agreed statement on propaganda for wars of aggression, he recalled that his delegation had always been reluctant to accept proposals for a blanket prohibition, applicable to State organs or private individuals alike, of war propaganda, because of the impossibility of reconciling such a prohibition with fundamental human rights such as the right to freedom of speech and of expression. Nevertheless, his delegation accepted that,

since the principal purpose of the United Nations as reflected in Article 1 of the Charter was the maintenance of international peace and security, States themselves had a duty to refrain from propaganda for wars of aggression. The agreed statement on propaganda was consistent with that point of view. He noted with satisfaction that in the Drafting Committee and in the course of informal consultations serious efforts had been made to find a solution to the problem of international lines of demarcation. His delegation continued to believe that the statement on the principle of the non-use of force would be defective if it did not contain some reference to the duty of States not to violate international lines of demarcation. However, there were serious difficulties of definition involved, and his delegation respected the views of those delegations who believed that a solution of that problem was linked with a solution of the problems arising in connexion with paragraph 7 of the report. His delegation understood the term "force" in the agreed statement on acts of reprisal in paragraph 4 as denoting physical or armed force, in accordance with its consistent interpretation of the term "force" as it appeared in Article 2, paragraph 4, of the Charter and in the Committee's formulation of that Charter principle. With regard to paragraphs 5 and 6, his delegation welcomed the agreement now reached that statements on the organization of armed bands and on the instigation of civil strife and terrorist acts might be included under the principle of the non-use of force and the principle of non-intervention. His delegation believed that it depended entirely on circumstances whether acts of that kind should be categorized as acts involving the prohibited use of force or as acts of intervention. He regretted that it had not been possible to achieve any advance on the positions recorded in the report of the 1967 Drafting Committee with respect to the points dealt with in paragraphs 8, 9 and 10 of the present report. It was extremely difficult to formulate the specific exceptions to the prohibition of the threat or use of force under the relevant provisions of the Charter, in view of the differences which existed as to the precise scope of the inherent right of individual or collective self-defence recognized in Article 51 of the Charter, the distribution of competences between the Security Council and the General Assembly with respect to the authorization of the use of force by the United Nations, and the right of regional agencies acting in accordance with the Charter to use force. His delegation therefore welcomed in principle the conclusion recorded in the first two parts of paragraph 12 of the report. However, his delegation was not among the "several delegations" referred to in the final sentence in paragraph 12. His delegation did not believe that the Charter as such authorized the use of force by the peoples of Non-Self-Governing Territories against administering Powers. His delegation did not consider that the use of force in exercise of a so-called right of self-defence against colonial domination constituted a use of force by States in their international relations.

120. The representative of France said that the results of the work of the 1968 Drafting Committee had been modest. She welcomed the formulation of agreed statements on the general prohibition of force and on war propaganda. Some progress had also been made on the point relating to territorial disputes and boundary problems, since no delegation had rejected outright the idea of including in the formula a reference to international lines of demarcation. Her delegation's acceptance of the agreed statement on acts of reprisal must be subject to a generally accepted definition of the term "force". She noted with satisfaction that some progress had been made towards reconciling opposing views on the points dealt with in paragraphs 5 and 6 of the report of the Drafting Committee. Although no agreement had been reached on the question of the use of force against colonial

peoples, positions might perhaps be less incompatible than they seemed. She hoped that agreement would eventually be reached on the question of economic, political and other forms of pressure; such agreement would, however, depend on a final definition of "non-intervention". She welcomed the agreed statements contained in paragraphs 10 and 11 and expressed the hope that the difficulties involved in formulating an agreed statement on the legal use of force and on the organization of armed bands and the instigation of civil strife and terrorist acts would be resolved when the principle of self-determination was studied as a whole.

121. The representative of the USSR said that the reports of the Drafting Committee reflected the work of the Special Committee's current session as a whole. He agreed with previous speakers that, as a result of persistent collective efforts, certain advances had been made in achieving formulations which were agreed upon by a large number of delegations. Paragraph 1 of the report of the Drafting Committee showed that a considerable advance had been made towards formulating a general prohibition of force. He welcomed in particular the inclusion of a reference to responsibility under international law in connexion with wars of aggression and the statement that States had the duty to refrain from propaganda for wars of aggression. The agreed statement concerning the duty of States to refrain from acts of reprisal marked a substantial advance in the Committee's work. The agreed statement on the United Nations security system was also of great importance. The report on the non-use of force reflected the dynamic evolution of inter-State relations. For example, it was clear that there was broad support for the idea that the process of decolonization should be completed. The major cause of disagreement on the formulation of the principle of the non-use of force and of the principle of equal rights and self-determination of peoples was the reluctance of certain Governments to recognize the necessity of completing decolonization as soon as possible. Some Governments refused to recognize the rights of colonial peoples to use force and arms if necessary in their struggle for independence in exercise of their right of self-determination and refused to recognize the right of the international community to prohibit the use of force against peoples struggling for independence. The failure to reach agreement on the formulation of all the principles still outstanding was due to that one root cause. Those States which were impeding the process of decolonization did not want their formulations of the principles to contribute in any way towards the elimination of colonial slavery. Their position was based on the strategic, political and economic interests of certain classes, and it would be impossible for the Committee to complete its task until that deep disagreement in principle was resolved. Nevertheless, his delegation looked forward to the continuation of the Committee's work with cautious optimism. A large majority of delegations in the Committee and an even larger majority in the General Assembly were in favour of including anti-colonial provisions in the formulation of the principles. His delegation believed that by concentrated and sustained effort it would be possible to force political concessions from the supporters of colonialism and he hoped that progress would be made at the Committee's next session.

122. The representative of the United Arab Republic said that his delegation wished to reserve its position concerning certain points in the reports of the Drafting Committee, since it would have ample time to set forth its views in the Sixth Committee of the General Assembly.

123. The representative of Syria said that his delegation found the formulae contained in paragraph 3 of the report of the Drafting Committee unacceptable as a basis for discussion, because both were ambiguous concerning international lines of demarcation. It has been made quite clear in the Drafting Committee that the formulae contained in paragraphs 5 and 6 should in no way be interpreted as affecting the right of the peoples of territories which had been occupied in a war of aggression to resist foreign occupation by every means at their command. His delegation deeply regretted that there had been no agreement to include in the statement of the principle of the non-use of force a statement to the effect that the territory of a State might never be the object of military occupation or other measures of force or to include a statement requiring that situations brought about by an illegal threat or use of force would not be recognized. To omit those statements would be contrary to the purposes of the Charter and to the aspirations of the developing peoples. The words "as legal" in the last of the three formulae in paragraph 7 were unacceptable to his delegation, which was deeply concerned at attempts to interpret the statement as excluding de facto situations created by the illicit use of force. He deeply regretted that there had been 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 or on the right of dependent territories to use force in self-defence against colonial domination. He stressed that none of the agreed statements in the report on non-use of force affected the right of peoples of occupied territories to employ against the aggressor any form of self-defence they saw fit.

124. The representative of Japan observed that as shown in the report of the Drafting Committee, modest progress had been made on several points. It was the understanding of his delegation that the agreements in the Drafting Committee's report were not tantamount to final agreements without room for modification. Paragraph 4 was acceptable provisionally, but he hoped that the Committee would be able to give attention to devising a final formulation of it later. With regard to paragraph 2, his delegation had already stated its opinion about the term "war of aggression". Each point of the principle was related to others, and the principles were themselves interrelated. It might be necessary later to re-examine various points in their proper context and perspective.

125. The representative of Italy said that the report of the Drafting Committee showed some progress in the formulation of the principle of the non-use of force. He wished to uphold certain suggestions which had been previously advanced with regard to disarmament measures, the strengthening of the United Nations security system and the use of force in territorial disputes and problems. He doubted whether paragraph 11 of the Drafting Committee's report, on the United Nations security system, constituted any real improvement over the text proposed by Italy and the Netherlands in 1967 (A/AC.125/L.51, paragraph 4 (c)) (see para. 25 above). Moreover, the ideas concerning the use of force in territorial disputes which his delegation had put forward during the present session might provide a basis for a more accurate formulation of that principle, and they could help to settle the differences of opinion that had prevented agreement in previous sessions.

126. The representative of Romania observed that the results of the Committee's work at the present session had been rather modest. However, the points of agreement noted in the report of the Drafting Committee and the constructive ideas put forward at the present session provided a sound basis for future progress in the codification of the principle of the non-use of force. His Government,

which put into practice in its relations with other States the principles of respect for sovereignty and independence, non-intervention in the affairs of other States and equal rights and mutual advantage, attached great importance to and would always fully support the work of the United Nations in codifying and developing such principles.

127. The representative of Chile considered that the Committee had made modest progress only on the principle of the threat or use of force. Agreement had been reached on the need to improve the United Nations security system, and on general disarmament, war propaganda, wars of aggression and the responsibilities they all involved. The Drafting Committee, in paragraph 1 of its report, had quoted Article 2, paragraph 4 of the Charter and had then added what amounted to a general prohibition of the use of force anywhere under any circumstances except in cases covered expressly by the United Nations Charter. His delegation endorsed the statement made earlier by Mexico regretting that there had been no agreement on the inviolability of the territory of a State and the non-validity of territorial acquisitions. That was a corollary which had been very well formulated in proposals put forward by the non-aligned countries and others. His delegation would have welcomed agreement on a broad interpretation of the term "force" including economic or political pressure, although it maintained that Article 51 of the Charter referred solely to armed force. It regretted that there had been no agreement regarding the use of force against peoples of dependent territories. In the final formulation of the principle all essential components must be considered. Several of them were interconnected, as were all the principles entrusted to the Committee. The Committee must continue its work with urgency and complete the formulation of those principles.

128. The representative of Kenya said that, in the view of his delegation, it was important that agreement had been reached on the principle of non-use of force. He expressed his delegation's appreciation of the Drafting Committee's report.

129. The representative of Lebanon said that in the course of its deliberations, the Committee had discovered that its mandate had limitations. In particular, the full title of the Committee included the words "in accordance with the Charter of the United Nations"; consequently, it must never be possible to interpret anything in the Committee's formulation of the principles as prejudicial to or an infringement of the Charter provisions. The work done so far was not perfect. The report of the Drafting Committee was no more than a progress report reflecting areas of agreement which had emerged from the discussions in the plenary meetings. His delegation attached importance to the fact that the report could not be interpreted as questioning the right of peoples of occupied territories to free themselves by force. All the norms of international relations and standards of international conduct accorded them that right. That fact should be borne in mind in the discussions, referred to in paragraph 3, on the inclusion of a reference to international lines of demarcation; in addition, however, a clear-cut definition of the term "lines of demarcation" would be needed. His delegation regretted that no specific agreement had been reached on a text to the effect that the territory of a State might not be the object of acquisition by another State, following the use of armed force. Since the Committee was working within the provisions of the Charter, it surely ought to be possible to draft some suitable formula for every one of the principles. It was regrettable also that there had been no agreement on the inclusion of a statement to the effect that the territory of a State might never be the object of military occupation or other

measures of force, and that there had been differences of opinion on the doctrine of non-recognition of situations brought about by an illegal threat or use of force.

130. The representative of Argentina observed that the formula advanced in paragraph 7 of the Drafting Committee's report seemed to provide some basis for discussion. It contained elements of formulations which had been proposed earlier. His delegation considered that the idea expressed in the third sentence of the formula had been better worded in those earlier proposals, which were still valid, where it was said that there should be no recognition of "special advantages obtained by force or by other means of coercion".

131. The representative of Australia restated his delegation's position regarding the interpretation of the word "force" as used in paragraph 1 of the report of the Drafting Committee, namely that Article 2, paragraph 4 of the United Nations Charter was clearly intended to refer only to the use of armed force. This comment applied also to paragraph 4 concerning acts of reprisal. With reference to paragraph 9 of the Drafting Committee's report, it therefore followed that his delegation's position was that an elaboration of the word "force" in Article 2, paragraph 4, of the Charter should not encompass references to economic, political and other forms of pressure, which should be otherwise dealt with in the appropriate principle on the Special Committee's agenda. Paragraph 3 contained references to international lines of demarcation. His delegation had always believed that the elaboration of the principle should include a reference to international lines of demarcation. The basic purpose of the United Nations was the maintenance of international peace and security, and it surely could not be seriously suggested that an armed violation of an international line of demarcation was not a breach of international peace. A formulation on the legal use of force such as was quoted in paragraph 12 could, in the view of the delegation of Australia, mean everything to everyone. The Charter made lawful the use of force in three general circumstances: first, in accordance with the decision of or under the authority of a competent organ of the United Nations; secondly, by a regional agency acting in accordance with Chapter VIII of the Charter; and thirdly, in the exercise of the inherent right of individual or collective self-defence. With reference to the last point, his delegation did not regard as realistic the literal view put forward by some delegations that the Charter preserved only in part the inherent right of self-defence under the general or customary law of nations and that it abrogated everything that it did not expressly preserve. It was an over-simplification to say that in no case might a victim act in its own defence until a threatened armed attack occurred. The use of force in the exercise of the right to self-determination, mentioned in paragraph 12, was not, in his delegation's view, a legitimate exception to the prohibition of the use of force as properly interpreted under the United Nations Charter. The Charter clearly imposed duties upon administering Powers to fulfil obligations in respect of the Territories under their supervision. His Government for its part had always endeavoured to honour those obligations.

132. The representative of Poland said that his delegation had been glad to note that the overwhelming majority of the representatives in the Committee had not spared the most strenuous efforts to accomplish its tasks. The Committee had made some progress, despite the limited time available, and it was gratifying that agreement had been reached among others on the inclusion in the formulation of the principle of non-use of force of the statement that States had the duty to refrain from propaganda for wars of aggression.

133. The representative of the Netherlands said that it was evident from the Drafting Committee's report that worth-while progress had been made at the present session on the principle of the non-use of force. In the future the interrelation between this principle and others, particularly the principle of non-intervention, would have to be carefully studied, and that study could have decisive impact on the wording of the principle of non-use of force; his delegation therefore did not wish its comments to be taken as signifying definite and final agreement with the points set out in the Drafting Committee's report. On the question of war propaganda, the Italian delegation and his own had at an early stage proposed a compromise formulation (A/AC.125/L.51, para. 4 (b) (see paragraph 25 above)). That had been a positive contribution, evidently acceptable to all, as could be seen from paragraph 2 of the Drafting Committee's report. He regretted, however, that the first part of its joint proposal aimed at contributing in a positive way to international understanding and peace, had not received sufficient attention. The Netherlands delegation could not fully agree to the statement in paragraph 4 of the report without knowing whether the formulation would include a definition of force, and if so, in what terms. That was a matter of concern to his delegation. With regard to disarmament, the text proposed by Italy and the Netherlands implied a concept of disarmament that was broader than a mere corollary to the principle of non-use of force (A/AC.125/L.51, para. 5) (see paragraph 25 above). Disarmament should be undertaken in order to promote the development of the rule of law in the international community. The Committee could perhaps consider that broader concept at its next session. With regard to the formulation of making the United Nations security system more effective, the statement quoted in paragraph 11 of the Drafting Committee's report did not seem to present any improvement on the text in A/AC.125/L.51, para. 4 (c) (see paragraph 25 above).

4. Decision of the Special Committee

134. At its 96th meeting, on 30 September 1968, the Special Committee adopted the report of the Drafting Committee (see para. 111 above) on the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and 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 38/

A. Texts before the Special Committee

135. It will be recalled that, at previous sessions of the Special Committee, it had not proved possible to arrive at any consensus formulation on the above principle. Since no new texts were tabled during the 1968 session, the Special Committee had before it seven written proposals and amendments concerning the principle of equal rights and self-determination of peoples, submitted to the Special Committee at its 1966 and 1967 sessions, namely:

(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 joint 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 joint proposal.

The texts of the above-mentioned proposals and amendments are set out below in the order of their submission to the Special Committee.

Proposal by Czechoslovakia (A/AC.125/L.16, part VI): 39/

1. All peoples have the right to self-determination, namely the right to choose freely their political, economic and social systems, including the

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

39/ *Ibid.*, *Twenty-first Session, Annexes*, agenda item 87, document A/6230, para. 457.

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.

136. Joint proposal 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): 40/

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.

(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.

40/ *Ibid.*, para. 458.

137. Proposal by the United States of America (A/AC.125/L.32); 41/

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.

41/ *Ibid.*, para. 459.

138. Amendment submitted by Lebanon (A/AC.125/L.34) in 1966 to the above proposal by the United States of America (A/AC.125/L.32): 42/

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".

139. Proposal by the United Kingdom of Great Britain and Northern Ireland (A/AC.125/L.44, part VI): 43/

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 para. 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 and 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.

(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.

42/ *Ibid.*, para. 460.

43/ *Ibid., Twenty-second Session, Annexes*, agenda item 87, document A/6799, para. 176.

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."

140. Joint proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslvaia (A/AC.125/L.48): 44/

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.

(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.

44/ Ibid., para. 177.

141. Amendment submitted by Ghana (A/AC.125/L.50) to the proposal by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, United Arab Republic and Yugoslavia (A/AC.125/L.48): 45/

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.

B. Debate

1. General comments

142. The principle of equal rights and self-determination of peoples was discussed by the Special Committee at its 91st, 92nd and 93rd meetings, on 23, 24 and 25 September 1968.

143. Several representatives referred to the historical background of the principle and touched upon its philosophical and political origins. The French Revolution in 1789 and the October Revolution in the USSR in 1917 were recalled as salient events connected with the development of the principle. The theory of self-determination was said to have its roots in the nineteenth and early twentieth centuries. The Montevideo Convention of 1933 and the Atlantic Charter of 1941 were cited as international instruments incorporating the principle before conclusion of the Charter.

144. Some representatives referred to the significant contribution and efforts of Woodrow Wilson in promoting this principle. Some stressed the outstanding contribution made by the founder of the first socialist State in the world, V.I. Lenin, to the development and implementation of the concept of equal rights and self-determination. Other representatives noted the important contributions towards establishing the principle of self-determination made by Bolivar, San Martin, Miranda, O'Higgins and many others.

145. It was pointed out that the principle was set forth explicitly in Article 1, paragraph 2, and Article 55, and implicitly in Chapters XI, XII and XIII of the Charter. Article 1, paragraph 2, of the Charter, enunciated the principle of equal rights and self-determination of peoples as one of the corner-stones of the United Nations and explicitly related the development of friendly relations to that principle. The principle was reaffirmed by numerous resolutions of the General Assembly, including resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples. It was said that, second only in importance to the Declaration was resolution 2160 (XXI), on the strict observance of the prohibition of the threat or use of force, and of the right of peoples to self-determination. One representative stated that the concepts contained in this latter resolution and approved by an overwhelming majority of the General Assembly provided some of the basic elements for a meaningful formulation of the principle.

146. It was further said that the principle had also been incorporated in various international instruments, such as the Charter of the Organization of American States of 1948, the Charter of the Organization of African Unity of 1963 and the

45/ Ibid., para. 178.

International Covenants on Human Rights, adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966. The reaffirmation of the principle was to be found also in declarations adopted at international conferences of States such as the Bandung (1955), Belgrade (1961) and Cairo (1964) Conferences of non-aligned States.

147. Several representatives drew attention to the legal force of United Nations resolutions in which the principle was incorporated. One representative stressed that resolution 1514 (XV) represented a juridico-political enunciation of the principle by the international community. Such an enunciation, that representative stated, established a norm of international law. Another representative based the force of General Assembly resolution 1514 (XV) on the unanimity of the international community by which it was adopted. One representative noted that the doubts about the legal nature of the resolution might be dispelled by the fact that the principle was also embodied in the International Covenants on Human Rights which were signed by a great number of States. On the other hand, another representative observed that the Declaration contained in resolution 1514 (XV) was a politically motivated expression of the General Assembly which had only persuasive force in the consideration of the legal elements of the principle. The resolution recognized the right of all peoples to determine and to pursue freely their economic, social and cultural development on one hand and declared attempts aimed at the partial or total disruption of the national unity and territorial integrity of the country incompatible with the Charter on the other hand. It was necessary, in the view of this representative, that the same balance be maintained in any formulation established by the Special Committee.

148. Some representatives pledged the allegiance of their respective Governments to the principle, referring to the application of the principle by their Governments as reflected in accession to independence by countries formerly under their administration, or in treaties with neighbouring States, or official declarations of policy.

149. Several representatives stated that the rapid growth of the United Nations membership over the last few years had demonstrated beyond doubt that a consistent adherence to the principle was basic to the fulfilment of the purposes of the United Nations. For those people who had not yet attained full self-government, the principle constituted the legal basis for their ultimate attainment of sovereign equality and political self-determination.

150. Other representatives stated that nearly a quarter of a century after the Charter had proclaimed the principle, the process of emancipation of peoples still remained unfinished. Thanks to the activities of the United Nations and progressive nations many new countries had emerged into independence in Africa and Asia. This was the result of the application of the principle. Those representatives stressed, however, that there were situations in some parts of the world where colonialism still survived.

151. One representative pointed out that, despite the strong movement of peoples towards emancipation which reached its climax after the Second World War, colonialism had not been entirely liquidated and still kept under its domination more than 30 million people. In the view of this representative, colonialism could be terminated if those States which still practised it were not supported

by certain other Powers. No assistance should be given to the States which continued to commit acts which the General Assembly considered as crimes against humanity. Some representatives drew attention to the continuation of colonial domination in certain parts of the world.

152. Some representatives were of the opinion that the principle was difficult to define and formulate, although its existence was not contested. It was pointed out that there was a large measure of agreement even with regard to its components; it was, however, necessary to strike a proper balance between its separate elements. Member States were eager to expedite the elaboration of the formulation as witnessed by many proposals submitted to that end. Certain representatives also pointed out that more time should be devoted to the efforts to find a generally acceptable formulation of the principle.

153. The formulation of the principle, in the view of several representatives, had to be as precise as possible and had to give answers to all basic problems involved. Otherwise there would be some danger that people might be misled. One representative was of the opinion that the formulation of the principle should take into account all the new methods now being used to subject people to foreign domination.

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

154. 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 para. 135 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 para. 136 above); paragraph 1 of the proposal submitted by the United States (see para. 137 above); paragraph 1 of the proposal contained in part VI of the draft declaration submitted by the United Kingdom (see para. 139 above) and 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 para. 140 above).

155. 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 and by the non-aligned countries stated the concept as including the right of all peoples to self-determination. 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.

156. Some representatives, speaking of the nature of the rights involved in the principle, stated that it was no longer to be considered a mere moral or political postulate, it was rather a settled principle of modern international law. It was

one of the fundamental principles enshrined in the Charter and was one of the basic principles of contemporary international law. The principle formed the essential basis on which friendly relations among States could be established. The Charter itself mentioned in Article 1, paragraph 2, the development of friendly relations among nations based on the respect for the principle of equal rights and self-determination of peoples as the second purpose of the United Nations - second only to the purpose of the maintenance of international peace and security. These representatives also stressed that full recognition of the principle is a prerequisite for the fulfilment of the purposes of the United Nations, namely for the maintenance of international peace and security and the promotion of economic, social and cultural progress throughout the world.

157. On the other hand, one representative expressed the view that in so far as self-determination was a legal concept, it should properly be expressed as a principle and not as a right. That was primarily because of the difficulty of determining in which category of persons such a right inhered.

158. Certain representatives drew attention to the close relationship between the principle under discussion and other principles before the Special Committee, particularly the principles of sovereign equality of States, of non-intervention and of prohibition of the threat or use of force.

159. Certain delegations emphasized the world-wide or universal nature of the principle, which was acknowledged by the Charter as a right of all peoples whether or not they had achieved independence and statehood. The world-wide or universal character of the principle emerged from the wording of the Charter itself.

160. One representative drew attention to the difference of the two basic concepts which he considered to be encompassed by the principle. The first, to which his country adhered, gave expression to the principle as including the right of all peoples to self-determination and made of self-determination a legal obligation entailing rights and duties binding upon all States. The second concept was somewhat narrower, since it was primarily based on the concept of human rights which contributed only one aspect to the principle. Self-determination was closely linked to the concept of integrity of the national territory and applied primarily to colonial situations.

3. The scope of the principle

161. 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 para. 135 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 para. 136 above); paragraph 2 of the proposal submitted by the United States (see para. 137 above); the amendment submitted by Lebanon (see para. 138 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 para. 139 above); and in paragraph 1 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 para. 140 above).

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

162. Several representatives stressed that difficulties arose in arriving at a precise definition of "peoples". The identification of a unique "people" to whom the principle applied, could present extremely complex problems. The difficulty, one representative said, was easier to settle in a colonial context, where there had never been any difficulty in determining whether a given territory's population could, or could not, be regarded as having sufficient identity to claim the right of self-determination.

163. Some representatives considered that the right of self-determination was reserved to all peoples, since the Charter used the term a number of times, particularly in the preamble, as a synonym for nations or States. Other representatives attached certain qualifications to be fulfilled if an ethnic entity was to be recognized to have an inherent right to exercise equal rights and self-determination. One representative considered a formulation based on the term "organized people". Another representative was of the opinion that a rule should be adopted in accordance with which the principle would be presumed to be satisfied by the existence of a sovereign and independent State possessing representative Government, effectively functioning as such to all distinct peoples within its territory. According to another representative, the principle of self-determination should be limited to political units already defined as countries or colonies. In practice, self-determination should not go to the extent of creating an entity without political or economic viability and should not deprive a State of its economic base.

164. Some representatives stated that the principle should serve rather to unite peoples on a voluntary and democratic basis than to dismember existing national entities. Any formulation of the principle should be avoided which might be interpreted as widening the scope of the principle and making it applicable to peoples already forming part of an independent sovereign State. To do otherwise would only encourage secessionist movements in sovereign States and could be used as a pretext to subvert the established national unity and territorial integrity of sovereign States. One representative stated that the principle of self-determination was not to be abused to reopen the question of borders drawn between independent States. It was also stated by another representative that the principle of self-determination of peoples should not be juxtaposed to the principle of sovereign independence in such a way as to cause the disruption of national unity and territorial integrity. Every State was under a duty to refrain from any action which might have such a consequence.

(b) The applicability of the principle to colonial and other peoples

165. Some representatives expressed the view that, in the light of the elaboration of the principle of self-determination in resolutions of the General Assembly and in the practice of States, the principle applied only to the peoples under alien domination or colonial rule. Some representatives stressed that the principle also applies to peoples of territories under alien subjugation and also to peoples under military occupation. Some other representatives, while recognizing universal validity of the principle, also stated that the most frequent and urgent need was to apply the principle to peoples under colonial domination. One representative observed that any formulation based on the condition that rights should be accorded

only to peoples who reached a sufficient degree of advancement, was contrary to the interest of colonial peoples. Another representative concluded that, on the one hand, peoples within a colonial framework had the right to subdivide into smaller States if they so desired. On the other hand, the international community, having guaranteed the right to self-determination, was responsible for helping the new States to survive. He further stated that it followed from operative paragraph 6 of the Declaration on the Granting of Independence to Colonial Countries and Peoples and from a study of the United Nations operations in the Congo that, within given geographical limits, the right to self-determination could be exercised only once.

(c) Recognition of the principle in its widest sense

166. Some representatives considered that the principle should be understood and formulated in its widest sense. The inalienable right of all peoples to choose their own political, economic and social systems and their international status should be reaffirmed. In this connexion, the opinion was expressed that the concept of the principle, contained in the Charter, was very broad since it was composed of two equally important and closely interconnected elements - equal rights and self-determination. Both these elements were inseparably linked. The right of peoples to self-determination resulted from the principle of equal rights and the meaning and the scope of the former should be interpreted in the light of the latter. Accordingly, the right of peoples to self-determination should not be limited in any way which would encroach on the equality of rights of nations.

167. It was observed that the principle contained two basic rights of States, the right to self-government and internal sovereignty and the right to independence and external sovereignty. The latter right, although limited by the concept of interdependence, excluded any subordination of one State by another.

168. The opinion was voiced that the principle should also include the economic aspect of self-determination. It should enable the peoples to recover full sovereignty over their natural resources. Such an approach would be in complete accord with General Assembly resolution 2158 (XXI) on permanent sovereignty over natural resources and with the provisions of the International Covenants on Human Rights.

4. Implementation of the principle

(a) Questions discussed concerning the implementation of the principle with respect to peoples under colonialism

(i) Colonialism as a violation of the principle

169. 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 para. 135 above); paragraph 2 (a) of the 1966 joint proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see para. 136 above); and paragraph 2 (a) 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 para. 140 above).

170. Several representatives stated that the illegality of colonialism had become a generally accepted rule of contemporary international law derived from the Charter. Subjection of peoples to alien domination or other forms of colonialism, including the practice of racial discrimination, constituted clear violations of the principle. It was suggested that the formulation should include a statement that colonialism, in all its forms and manifestations, was contrary to international law, and that it should be liquidated completely and without delay.

171. On the other hand, it was said that colonialism and racial discrimination should not be over-accented in the framework of a principle of a world-wide character. The fact also had to be borne in mind that Non-Self-Governing Territories were being administered in accordance with the Charter. It was pointed out that nothing in the Charter outlawed colonialism or made it illegal. The status of administering authorities was recognized under the Charter and the discharge of their responsibilities could not be regarded as a violation of the principle.

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

172. 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 para. 135 above).

173. The view was expressed that all armed actions or repressive measures directed against peoples demanding the recognition of their right to self-determination should be prohibited. It was stressed that the prohibition required all States to abstain from giving any assistance to States oppressing colonial peoples. On the other hand, it was pointed out by several representatives that the Governments charged with responsibility for Non-Self-Governing Territories were obliged *inter alia* by Chapters XI and XII of the Charter to preserve law and order.

(iii) Right of self-defence against colonial domination

174. Provisions in the proposals before the Special Committee relating to a right of self-defence against colonial domination were contained in paragraph 3 of the proposal contained in part VI of the draft declaration submitted by Czechoslovakia (see para. 135 above); paragraph 2 (b) of the 1966 joint proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see para. 136 above); and in paragraph 2 (b) 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 para. 140 above).

175. A number of representatives considered that peoples had an inalienable right to struggle, by whatever means they chose, for their liberation from colonial domination. Such a struggle was to be considered as self-defence against colonial oppression and consequently it could not be held to violate the Charter. Care should be taken to ensure that no provision in the declaration that was to be adopted could be interpreted so as to restrict the exercise of that right. States were obliged to render to peoples struggling for their independence any assistance they might need to attain freedom. A number of representatives said that a people deprived of self-determination and freedom had a right of self-defence whether through armed force or organized resistance. They also had a right to receive assistance.

176. The opinion was also expressed that peoples asserting their rights against colonial domination could resort to armed struggle only when all peaceful means were exhausted.

177. On the other hand, several representatives opposed the existence of a so-called right of self-defence against Powers administering Non-Self-Governing Territories. Such a concept of self-defence was, in their view, contrary to the important principles of the prohibition of the threat or use of force, non-intervention and peaceful settlement of disputes. They further asserted that such a concept was inimical to the scheme set forth in Chapters XI and XII of the Charter.

(iv) Assistance to the United Nations

178. 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 para. 136 above) and paragraph 2 (d) of the proposal submitted jointly by Algeria, Cameroon, Ghana, India, Kenya, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see para. 140 above).

179. The opinion was voiced that the Special Committee should incorporate in the formulation of the principle the duty of all States to assist the United Nations in carrying out its responsibilities for speedy liquidation of the institutions of colonialism and neo-colonialism. It was pointed out that efforts had to be made so that peoples of Non-Self-Governing Territories could achieve independence under United Nations auspices and in co-operation with administering Powers.

(v) What constitutes full implementation of the principle

180. 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 para. 137 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 para. 139 above).

181. Some representatives were of the opinion that the principle could be regarded as fully implemented when the people concerned had attained the status of a sovereign and independent State possessing representative government. Some other representatives, however, believed that the achievement of the status of a fully independent State was not always a reliable criterion and emphasized instead that the principle required that peoples be given truly free choice as to their future political status. They should have the freedom to choose their own future secure from any external pressure and without having to lend allegiance to other Powers. Hence, the choice of peoples to decide on their own political, economic and social system as well as their international status, was an essential prerequisite to the attainment of self-determination. In this connexion, reference was made by some representatives to General Assembly resolution 1541 (XV) and the annex thereto which obviously contemplated other solutions to the question of self-determination apart from that of a separate sovereign State.

182. In this context some representatives emphasized the obligation of all States administering Non-Self-Governing Territories to take practical steps to ensure the direct participation of the indigenous population in the legislative and executive

organs of those territories and to prepare them for independence. It was with that basic point in mind that, in 1960, the General Assembly had adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV)). It was also pointed out by some that the administering Powers had to take immediate measures to remove impediments to the free exercise of those rights, including their own withdrawal from the territory concerned.

(vi) Status of dependent Territories

183. 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 para. 135 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 para. 136 above) and 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 para. 140 above).

184. It was the view of some representatives that the formulation of the principle should include a provision to the effect that all colonial situations were strictly temporary. The Charter ordained a speedy transfer of powers to subject peoples. While such temporary situations existed, the territories of colonies or other Non-Self-Governing Territories did not constitute an integral part of the territory of States exercising colonial rule over them.

(b) Questions discussed concerning the implementation of the principle with respect to other than colonial peoples

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

185. 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 para. 137 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 para. 139 above).

186. Some representatives discussing the above aspect of self-determination focused their attention on the close interdependence between the principle of equal rights and self-determination of peoples on the one hand and respect for human rights and fundamental freedoms on the other hand, which was brought out in Article 55 of the Charter. Nowadays, it was pointed out, every Government, to correspond to the concepts set out in the Charter, had to derive its existence and powers from a certain minimum of consent of the peoples under its control. Although the Charter did not prescribe to Member States any particular form of Government, it was understood that the Government should be established in a democratic manner. One representative referred in this connexion to Article 21 of the Universal Declaration of Human Rights which unequivocally affirmed that the will of the people should be the basis of the authority of the Government, and that that will should be expressed in periodic free elections.

187. One representative observed that a Government which practised discrimination or denied self-determination tended no longer to be recognized as a legitimate Government. Consequently, the legal rules about non-intervention were suspended in such instances. However, in order to avoid instability, the non-recognition of such an authority should be recorded in a United Nations resolution.

188. Some representatives stressed the duty of States to accord to peoples within their jurisdiction the right freely to determine and to pursue their political, economic, social and cultural development. One representative also emphasized that as the principle was founded on basic human rights and fundamental freedoms and on justice under the law, it was essential in any formulation of it to state clearly by whom those rights should be enjoyed and against whom and under what conditions.

(ii) Questions concerning the implementation of the principle in relation between States

Non-violation of national unity and territorial integrity

189. 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 joint proposal of Algeria, Burma, Cameroon, Dahomey, Ghana, India, Kenya, Lebanon, Madagascar, Nigeria, Syria, the United Arab Republic and Yugoslavia (see para. 136 above), paragraph 2 (c) of the proposal contained in part VI of the draft declaration submitted by the United Kingdom (see para. 139 above) and paragraph 2 (c) 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 para. 140 above).

190. A number of representatives made a reference in the course of their statements to the importance of the inclusion in any formulation of the principle of a provision to the effect that a State must refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of other States. On that point guidance could be found in operative paragraph 6 of resolution 1514 (XV) to the effect that the principle of equal rights and self-determination of peoples could not be applied to parts of the territory of a sovereign State. That provision also reassured those who feared that the universal application of the principle might favour secessionist movements inside independent States.

191. Another representative believed that the principle imposed on States the duty to respect the institutions of other States and not to impede their progress.

C. Consideration of the report of the Drafting Committee

1. Report of the Drafting Committee

192. The following report (A/AC.125/L.66) 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 the possibility of studying in depth the proposals concerning the principle of equal rights and self-determination of peoples. It has not, however, been able to carry out such a study owing to lack of time. The Committee would nevertheless like to recommend that in parallel with continuing work on the principle of the non-use of force due priority should continue to be given to consideration of the proposals submitted to the Special Committee concerning the principle of equal rights and self-determination of peoples.

2. Statement by the Chairman of the Drafting Committee

193. The above report was introduced by the Chairman of the Drafting Committee at the 96th meeting of the Special Committee on 30 September 1968. He stressed the recommendation of the Drafting Committee that in parallel with continuing work on the principle of the non-use of force, due priority should continue to be given to consideration of the proposals concerning the principle of equal rights and self-determination.

3. Comments by members of the Special Committee

194. The report of the Drafting Committee was discussed at the 96th meeting of the Special Committee after the report had been introduced by the Chairman of the Drafting Committee. The representatives of the USSR and the United Arab Republic made general remarks applicable to both the reports of the Drafting Committee on the principle of equal rights and self-determination and the report on the prohibition of the threat or use of force. These remarks are referred to in paragraphs 121 and 122 above. In addition, specific remarks on the report concerning the principle of equal rights and self-determination were made by the representatives of Canada, India, United Kingdom, Romania, Madagascar, Kenya, Lebanon and Poland. A summary of these remarks is given below in the order in which they were made.

195. The representative of Canada said that his delegation regretted that the Drafting Committee had not had time to study in depth the proposals concerning the principle of equal rights and self-determination of peoples, and believed that priority should be given to that principle at any future session.

196. The representative of India expressed his disappointment that the Drafting Committee had not had time to study the proposals concerning the principle of equal rights and self-determination of peoples, but agreed with the Committee's recommendation that due priority should continue to be given to consideration of those proposals.

197. The representative of the United Kingdom said that his delegation had been disappointed that the Drafting Committee had not had sufficient time to consider the proposals concerning the principle of equal rights and self-determination of peoples, and it accepted the recommendation contained in the report on this principle that due priority should continue to be given to consideration of those proposals, parallel with further work on the principle of the non-use of force.

198. The representative of Romania expressed his delegation's regret that, owing to lack of time, the Committee had been unable to make progress in formulating the principle of equal rights and self-determination; it believed, however, that the combined efforts of members and the goodwill which they had shown at the present session would enable the Committee to take important steps towards the formulation of this principle in the future.

199. The representative of Madagascar expressed regret that there had been no agreement on the principle of equal rights and self-determination of peoples. Her delegation welcomed the Drafting Committee's report, however, and would not oppose its adoption.

200. The representative of Kenya said that it was regrettable that the Committee had been unable to consider the principle of equal rights and self-determination of peoples. That principle should continue to be given a high priority both in the Committee and in the United Nations as a whole.

201. The representative of Lebanon observed that it was a pity that there had been insufficient time for an in-depth discussion of the important principle of equal rights and self-determination of peoples; had there been more time, both for that and for the other principles, various difficulties could have been overcome. He hoped that in the future the Committee would be able to agree on formulations reflecting the world situation and the development of international relations and soundly based on justice.

202. The representative of Poland stated that his delegation regretted that there had been no progress in the formulation of the principles of equal rights and self-determination of peoples, which would serve as an additional instrument for the liquidation of colonialism and would reassert the right of colonial peoples to struggle against colonial domination with all the means at their disposal. His delegation hoped that the Committee would achieve greater success in its work in the future. The Polish delegation would be ready to co-operate fully with other delegations to achieve this success.

4. Decision of the Special Committee

203. At its 96th meeting, on 30 September 1968, the Special Committee adopted the report of the Drafting Committee (see paragraph 192 above) on the principle of equal rights and self-determination.

CHAPTER III. CONSIDERATION OF PROPOSALS COMPATIBLE WITH GENERAL ASSEMBLY RESOLUTION 2131 (XX) ON THE PRINCIPLE CONCERNING THE DUTY NOT TO INTERVENE IN MATTERS WITHIN THE DOMESTIC JURISDICTION OF ANY STATE, IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS, WITH THE AIM OF WIDENING THE AREA OF AGREEMENT ALREADY EXPRESSED IN THAT RESOLUTION 46/

204. At its 94th meeting, on 27 September 1968, the Special Committee decided that, owing to the lack of time, it was unable to consider this item (item 7) of its agenda.

205. In their concluding remarks at the 96th meeting of the Special Committee on 30 September 1968, the representatives of Canada and Romania regretted that there had not been time to consider the principle of non-intervention. The representative of Romania further expressed the hope that important steps towards the formulation of this principle could be taken in the future.

46/ An account of the consideration of this principle by the 1964 Special Committee appears in chapter V of its report (Official Records of the General Assembly, Twentieth Session, Annexes, agenda items 90 and 94, document A/5746); by the 1966 Special Committee in chapter IV of its report (ibid., Twenty-first Session, Annexes, agenda item 87, document A/6230) and by the 1967 Special Committee in chapter III of its report (ibid., Twenty-second Session, Annexes, agenda item 87, document A/6799).

ANNEX

Membership of the Special Committee

Country	Representative	Alternates	Advisers
Algeria	Mr. Ahmed Boussa		
Argentina	Mr. Ernesto de la Guardia	Mr. Rafael M. Gowland	
Australia	Sir Kenneth Bailey	Mr. David W. Evans	
Burma	U Soe Tin	U Thaung Lwin	
Cameroon	Mr. Paul Bamela Engo		
Canada	Mr. Allen Beesley	Mr. David Miller Mr. Angus W.J. Roberston	
Chile	Mr. Fernando Zegers	Mr. Gonzalo Salgado	
Czechoslovakia	Mr. Jiří Mladek Mr. Luděk Handl		
Dahomey	Mr. Cyrille Sagbo Mr. Joseph-Louis Hounton		
France	Mr. Michel Virally	Miss Sylvia Alvarez	
Ghana	Mr. W.B. Van Lare	Mr. Emmanuel Sam	
Guatemala	Mr. Max Kestler Farnes	Mr. Rodolfo Rohrmoser	
India	Mr. G. Parthasarathi Mr. K. Krishna Rao	Mr. A.S. Gonsalves Mr. D.A. Kamat	
Italy	Mr. Gaetano Arangio-Ruiz		
Japan	Mr. Hisashi Owada	Mr. Ribot Hatano Mr. Takehiro Togo	Mr. Hiromu Nitta
Kenya	Mr. F.J.O. Meroka		
Lebanon	Mr. Souheil Chammas	Mr. Yahya Mahmassani	
Madagascar	Mrs. Reine Raoelina		
Mexico	Mr. Sergie Gonzáles-Gálvez	Mr. Jose L. Vallarta	

Country	Representative	Alternates	Advisers
Netherlands	Mr. Willem Riphagen	Mr. Piet-Hein J.M. Houben	
Nigeria	Mr. Bashir A. Shitta-Bey Mr. O. Adegbite O. Oshodi		Mr. A. Akintan
Poland	Mr. Bohdan Tomorowicz	Mr. Andrzej Olszowka Mr. Tadeusz Kozluk	
Romania	Mr. Aurel Cristescu		Mr. Virgiliu Ionescu
Sweden	Mr. Hans Blix	Mr. Ingemar Stjernberg	
Syria	Mr. Dia Allah El-Fattal		
Union of Soviet Socialist Republics	Mr. Lev I. Mendelevich	Mr. Evgeny N. Nasinovsky	Mr. Vladimir N. Fedorev Mr. Valentin V. Lozinski
United Arab Republic	Mr. Adbulla El Erian	Mr. Nabil Elaraby	Mr. Amre M. Moussa Mr. Mohamed El Baradei
United Kingdom of Great Britain and Northern Ireland	Mr. I.M. Sinclair	Mr. H.G. Darwin	Mr. P.J.S. Moon Mr. R.A.C. Byatt
United States of America	Mr. Herbert K. Reis		Mr. Stephen M. Boyd Mr. Robert B. Rosenstock Mr. José L. Villalon
Venezuela	Mr. Manuel Pérez Guerrero Mr. Pedro Zuloaga	Mr. Pedro Emilie Coll	
Yugoslavia	Mr. Milan Šahović		

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