



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/32/181 *dated 1*
12 September 1977
ENGLISH
ORIGINAL: ARABIC/ENGLISH/
FRENCH/RUSSIAN/
SPANISH

Thirty-second session
Item 37 of the provisional agenda*

CONCLUSION OF A WORLD TREATY ON THE NON-USE OF FORCE
IN INTERNATIONAL RELATIONS

Report of the Secretary-General

CONTENTS

	<u>Page</u>
I. INTRODUCTION	3
II. REPLIES RECEIVED FROM GOVERNMENTS	4
Australia	4
Barbados	6
Belgium	6
Bulgaria	8
Byelorussian Soviet Socialist Republic	8
Canada	8
Czechoslovakia	9
Democratic Yemen	10
Denmark	11
Finland	12
France	13
German Democratic Republic	14
Germany, Federal Republic of	15

* A/32/150.

CONTENTS (continued)

	<u>Page</u>
Hungary	15
Italy	16
Japan	18
Kuwait	19
Luxembourg	21
Mongolia	22
Netherlands	23
Norway	23
Pakistan	24
Poland	26
Portugal	26
Senegal	26
Seychelles	27
Spain	28
Swaziland	28
Sweden	29
Syrian Arab Republic	29
Thailand	31
Ukrainian Soviet Socialist Republic	31
Union of Soviet Socialist Republics	32
United Kingdom of Great Britain and Northern Ireland	32
United States of America	33
Upper Volta	34

I. INTRODUCTION

1. At its 57th plenary meeting, on 8 November 1976, the General Assembly adopted resolution 31/9, entitled "Conclusion of a world treaty on the non-use of force in international relations", in which it requested Member States to communicate to the Secretary-General their views and suggestions on this subject and requested the Secretary-General to report to the Assembly at its thirty-second session on the communications received by him.
2. Pursuant to that request, the Secretary-General, on 20 January 1977, addressed a note to the Governments of Member States, transmitting the text of the resolution and requesting their views and suggestions on the subject.
3. As at 3 August 1977, replies containing such views and suggestions had been received from 36 States. The substantive parts of these communications are reproduced in section II below. 1/

1/ At the request of the Governments concerned, nine of these replies have already been issued as separate documents. The relevant document symbols are given under the heading of those countries.

II. REPLIES RECEIVED FROM GOVERNMENTS

AUSTRALIA

/Original: English/

/13 July 1977/

Australia is unequivocally committed to the avoidance of force or threat of force in the conduct of its international relations and to the obligation to settle disputes by peaceful means. This is a matter of political principle as well as a legal obligation. Australia's foreign policy is determined by its unqualified adherence to the terms of Article 2, paragraph 4, of the United Nations Charter.

Australia considers that a world treaty on the non-use of force in international relations, the fundamental aim of which appears to be to reiterate obligations that all Member States are bound to accept under the Charter, is not necessary. It believes that the avoidance of force in international relations and the promotion of the peaceful settlement of disputes will not be furthered by the conclusion of such a generalized treaty.

The following are specific comments on the articles of the draft treaty:

Article I

The first subparagraph of paragraph 1 of article I opens with an undertaking to comply with an existing and fully operative obligation which is set out in Article 2, paragraph 4 of the Charter. There can be no merit in restatement unless the original obligation has been eroded or unless some new concept has been introduced. The paragraph expresses the operative undertaking in words which are similar to but not identical with the original undertaking. No explanation of why the variation is deemed necessary has been provided.

The second subparagraph of paragraph 1 repeats the obligation of the first subparagraph regarding the use of force. The qualification "involving any types of weapons" is also unnecessary since if the use of force is prohibited, then the use of any type of weapons is also prohibited. The parenthetical phrase "including nuclear weapons and other types of weapons of mass destructions" presents a difficulty in that it could be read as an attempt to secure a formal and absolute treaty prohibition of the use of such weapons. If so, it clearly goes beyond the present terms of the Charter and would require careful thought and elaboration in the context of arms control considerations.

The second paragraph of article I is one logical consequence of the basic Charter obligation but does not appear in that obligation. It is questionable whether this consequence, and not others, should be singled out. Moreover, by limiting the scope of the consequence to "States", non-statal elements would implicitly be licensed as instruments for the use of force.

/...

The third paragraph of article I runs counter to the Charter in failing to reflect the terms of Article 51 on the inherent right of self-defence. If there is to be some repetition of the Charter, there must be repetition of all associated parts of the Charter.

Article II

This article reaffirms the basic Charter undertaking in Articles 2, paragraph 3, and 33 to settle disputes by peaceful means. If recognition and repetition of the general obligation is directed only at its basic reaffirmation, it would only tend to further a misapprehension that general statements on peaceful settlement of disputes have some value. Such repetition would only be relevant if it was intended to initiate a debate on strengthening the procedures for peaceful settlement.

Article III

If the basic intent of the draft treaty is to reiterate Charter obligations, this article is meaningless. It is moreover totally inadequate as a means of not ruling out important provisions of the Charter not specifically covered in the draft treaty, particularly Article 51.

Article V

By becoming Members of the United Nations, States undertake a legal obligation to abide by the provisions of the Charter. A reiteration of this obligation according to domestic constitutional procedures would be as unnecessary as its reaffirmation internationally.

General comments

The principle of the non-use of force has received elaboration in a number of United Nations documents, in particular the 1970 Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. The sponsors have drawn attention to this elaboration. The highly selective and abbreviated approach adopted in the draft treaty must cast doubt on the continuing relevance and force of the items which have been the subject of progressive development and codification in earlier texts. This suggests that the current proposal may be a retrogressive rather than a progressive step.

In short, Australia, while recognizing the paramount importance of the principle of the non-use of force, does not believe that a re-examination of the basic concepts and obligations will contribute to the furtherance of the fundamental objective, which must depend ultimately on the exercise of political will. If the initiative is to be pursued at all, it can only be on the basis of the closest legal scrutiny with a view to determining the impact of the draft treaty upon the basic obligations of the Charter to the extent that they may be affected by existing General Assembly resolutions. The Sixth Committee of the General Assembly is therefore the appropriate forum to deal with the matter.

/...

BARBADOS

/Original: English/

/14 June 1977/

The draft treaty reiterates principles of non-aggression in international relations which are already set out in the Charter of the United Nations and other existing instruments. These principles meet with the approval of the Government of Barbados.

The Barbados Government notes that the draft treaty makes no mention of machinery for enforcement, and considers that there is need to strengthen and enforce the provisions of the Charter in this respect.

The Barbados Government would welcome further debate on the question of incorporating a reference to the right of self-defence in the draft treaty.

BELGIUM

/Original: French/

/10 June 1977/

The principle of the non-use of force or the threat of force is one of the primary objectives of our Organization and the States of which it is composed. It is already included among the purposes and principles of the Charter of the United Nations.

Apart from the undertakings of the Charter, the non-use of force can be considered one of the essential principles of international law, and its universal application is numbered among the main tasks of the international community.

This principle has already been reaffirmed on several occasions in texts adopted in the course of the work of the General Assembly of the United Nations, particularly in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV)), the Declaration on the Strengthening of International Security and the resolution on the Definition of Aggression (resolution 3314 (XXIX)). The principle has also been restated at the European regional level in the Final Act of the Conference on Security and Co-operation in Europe.

The risks of tension and the causes for anxiety are still such as make it essential to pay special attention to any initiative designed to strengthen the legal and political system established by the Charter of the United Nations and confirmed on several occasions since that time. Mindful of this, the Belgian authorities have carefully studied the draft treaty on this subject submitted by the Soviet Union at the thirty-first session of the General Assembly.

/...

The wording of most of the articles of the Soviet draft has been borrowed from existing international documents. That being so, the Belgian authorities wonder whether it is necessary to legislate further on principles of law to which all Member States have already adhered.

Moreover, the draft in fact contains no specific undertaking which has not already been contracted by Member States. The content of the draft does not seem to require the drawing up of a new treaty.

In addition, closer scrutiny of the proposed provisions has led the Belgian authorities to wonder whether such a text might not create a certain degree of confusion and give rise to legal ambiguities in relation to existing international texts.

The text also runs the risk of giving the principle of the non-use of force a more restrictive interpretation than that contained in the Charter of the United Nations and in the texts approved by the General Assembly.

In view of the importance of the subject to which the Soviet Union's draft treaty refers, Belgium is prepared to discuss the matter further in the appropriate United Nations bodies. It wishes, however, to emphasize the importance, for the international community, of devoting greater effort to devising concrete measures relating to disarmament and arms control throughout the world.

BULGARIA

/Original: English/Russian/

/14 June 1977/

/See A/32/114./

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

/Original: Russian/

/1 June 1977/

/See A/32/97./

CANADA

/Original: English/

/8 July 1977/

The commitment of the Government of Canada to the maintenance of peace and the peaceful settlement of disputes is well known and has been confirmed through the years in many ways, including a long record of active service in the United Nations peace-keeping forces. There is ample evidence to indicate the importance which Canada attaches to the principle of the non-use of force in international relations.

Canada has carefully examined the draft treaty tabled by the Soviet delegation, published in document A/31/243 of 28 September 1976. Canada questions whether the conclusion of such a treaty would contribute to the goal of non-use of force in international relations, and has a number of serious reservations about specific provisions in the draft.

Every Member State is committed to the provisions of the United Nations Charter, which sets the standard of obligations which govern the non-use of force in international relations. Article 2, paragraph 3, of the Charter calls upon all Members to settle international disputes by peaceful means and Article 2, paragraph 4, sets out the obligations upon Members to "refrain in their international relations from threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations". The Charter is the standard against which any proposals for reaffirmation for the development of international law in this area must be judged. A close examination of the text of the draft treaty reveals, however, that the draft contains significant variations and departures from the provisions set out with such authority in the Charter.

The norms contained in Article 2 and other Articles of the Charter must be seen as a comprehensive and interrelated legal framework. The Soviet draft offers a

/...

restatement or paraphrase of certain of these norms in a highly selective way. There is no reference in the draft to the principle contained in Article 51 of the Charter concerning the inherent right of individual or collective self-defence. Article I, paragraph 3, of the draft provides that: "No consideration may be adduced to justify resort to the threat or use of force in violation of the obligations assumed under this treaty." Not only does this provision depart from the Charter, but it appears to be wholly inconsistent with and contrary to Article 51.

Another notable omission from the Soviet draft relates to the Security Council, which is not mentioned, but which, under Chapter 7 of the Charter, plays an important role in relation to threats to the peace, breaches of the peace and acts of aggression. Another example of a serious weakness in the draft is article 5 which, apart from other problems, appears to be inconsistent with article 26 of the 1969 Vienna Convention on the Law of Treaties, which reflects the rule "pacta sunt servanda" and states: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." Moreover, the primacy of the obligations of the Charter is established by Article 103 of the Charter.

These and other defects in the draft treaty raise serious questions. It is essential in the view of Canada to avoid any steps which would have the effect of weakening the full authority of the obligations imposed by the United Nations Charter. There would appear to be a risk that, in restatement or reformulation of Charter principles, the principles themselves will be called into question or eroded. Differing interpretations could be placed on similar but divergent language and opportunities for disputes would be increased.

In summary, the Government of Canada believes that to the extent that the draft treaty is a restatement of existing principles on international law, it is redundant. To the extent that the proposed treaty departs from existing norms and breaks new ground, intentionally or not, Canada would have grave reservations about any weakening of the framework of the United Nations Charter and the rules of international law binding upon Member States. There is no lack of authority in these rules. What is required is a willingness on the part of Member States to honour these rules and contribute to the strengthening of international peace and security in word and in deed.

CZECHOSLOVAKIA

/Original: English/

/31 May 1977/

/See A/32/95./

/...

DEMOCRATIC YEMEN

/Original: Arabic/

/29 June 1977/

I. The Government of the People's Democratic Republic of Yemen believes in the importance of concluding this treaty, because it will open up new vistas for the promotion of world peace and security and for the relaxation of international tensions. Moreover, development of the policy of détente in international relations and peaceful coexistence among peoples will save mankind, if it actually adheres to the provisions of the treaty, from a descent into the perils of war, armed conflicts, invasion and intervention in the internal affairs of small States.

The Government of Democratic Yemen does not see any justification for the argument that the conclusion of this treaty will lead to a weakening of the United Nations Charter; such interpretations are not based on any realistic grounds.

II. Democratic Yemen has on many occasions expressed its view that the conclusion of any agreement or bilateral or multilateral treaty will in no way impede the right of States to defend their own territory or the peoples' struggle against the spirit of expansionism, aggression, incursion, occupation, hegemony, racism and colonialism in all its forms or recognition of the established and inalienable right of peoples to self-determination or their opposing by all available means intervention in their internal affairs, whatever the form or source of such intervention may be, or the safeguarding of their full sovereignty over their territory and its resources or their absolute and full enjoyment of their exercise of these powers or their conduct of external relations on a basis of mutual respect, reciprocity and the common interest in such a way as will ultimately serve to promote their prosperity and stability and contribute to the peace and security of all mankind.

III. The Government of Democratic Yemen believes that the conclusion of the treaty is fundamentally linked to the provision of scope for all States to arrive at conclusive and definitive norms for general and complete disarmament, the halting of the arms race, a ban on weapons of mass destruction and diversion of unrealistic expenditure on the purchase of weapons to purposes of economic and social development. Furthermore, the conclusion of this treaty would support and strengthen existing international agreements, treaties and declarations calling for the strengthening of world peace and security drawn up within or outside the framework of the United Nations.

/...

DENMARK

/Original: English/
/27 June 1977/

A fundamental purpose of the United Nations is to maintain international peace and security. In pursuit of this purpose Article 2 of the Charter of the United Nations imposes upon Member States the obligation to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State and to settle their disputes by peaceful means. This principle, which is of overriding importance for the structure of the Organization, has repeatedly been confirmed in texts adopted by the General Assembly, such as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations /resolution 2625 (XXV)/, the Declaration on the Strengthening of International Security /resolution 2734 (XXV)/ and the Definition of Aggression /resolution 3314 (XXIX)/.

Realizing that the maintenance of international peace and security is of crucial importance to mankind, the Government of Denmark has consistently lent its full support to the adoption of any such specific measures as would be conducive to the realization of this principle. In doing so the Government of Denmark has constantly kept in mind that such measures should by no means be allowed to cast any doubt upon the authoritative character of the Charter of the United Nations and the credibility of the aforementioned texts. In the Danish view the existing texts are couched in such a clear and yet flexible language that when used in a proper, fair and conciliatory manner they constitute an excellent and unique framework for the furtherance of international peace and security. Hence, the Government of Denmark firmly believes that strenuous efforts should be devoted to the scrupulous implementation by all States of the United Nations Charter and other existing legal instruments.

In line with the above reasoning the Government of Denmark is at this stage not convinced of the need for a treaty on the non-use of force in international relations. Such a treaty does not appear to contribute in any essential way to guaranteeing the realization of the principle of non-use of force, set out in Article 2 of the Charter.

While, to all appearances, the proposed treaty does not add anything essential to the Charter of the United Nations, it involves the risk of detracting from the clarity of the Charter by repeating some of its provisions and leaving out others of relevance for the issue, and undermining its authoritativeness, inter alia, by juxtaposing Charter principles and selected extracts from other documents and by not providing for an enforcement mechanism.

The Government of Denmark considers it of paramount importance that at the thirty-second session of the General Assembly the Sixth Committee take up the draft treaty for a further scrutiny.

/...

FINLAND

/Original: English/

/25 July 1977/

1. The principle of the non-use of force, which is contained in the United Nations Charter in general terms, has in recent years been reaffirmed in a number of basic documents approved by the international community within the framework of the United Nations as well as in other contexts. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations /resolution 2625 (XXV)/, adopted in 1970, prohibits, as its first principle, the threat or use of force. In 1972 the General Assembly adopted a solemn declaration on the non-use of force in international relations and permanent prohibition of the use of nuclear weapons /resolution 2936 (XXVII)/. The Definition of Aggression /resolution 3314 (XXIX)/, adopted in 1974, was another step forward in this field. One of the most recent contributions to this end was the signing, in Helsinki in 1975, of the Final Act of the Conference on Security and Co-operation in Europe. The Final Act confirms the principle of refraining from the threat or use of force as one of the principles guiding relations between States. Furthermore, though on a different level, the Agreement between the United States and the Soviet Union of 1973 on the Prevention of Nuclear War can be seen as another contribution towards the same end.

2. Finland has endeavoured to make an active contribution to the process of détente for which respect for and application of the principle of the non-use of force is of central importance. This process is not an abstract phenomenon, and it cannot be viewed in isolation. The fostering of détente depends on concrete achievements, such as the progress which Europe has been able to witness as a result of the Conference on Security and Co-operation in Europe, which is now being continued in Belgrade. But political détente - however important in itself - is not enough. As an integral part of détente, genuine progress in arms control and disarmament is imperative for security in Europe and elsewhere. Détente should not be a privilege of the few, it belongs to all, because its ultimate aim is peace and security with economic and social justice everywhere and for all.

3. Norms and principles guiding relations between States are meaningful only to the extent in which they are respected and put into practice by all States. Similarly, any pledge not to use force, however solemn, will have limited effect unless, at the same time, States remind themselves of their commitment to settle disputes through peaceful means only. Therefore, every effort should be made to exclude use of force from international relations and replace it by co-operation and the peaceful settlement of disputes. In this context, the Government of Finland attaches special attention to international co-operative efforts to overcome difficulties encountered in the implementation of the new economic order.

4. As a country whose foreign relations are based on a policy of neutrality and a sincere desire to maintain friendly relations with all other nations, Finland has a vested interest in the establishment of a more rational and peaceful world order, which naturally excludes the use of force as a means of national policy of any country.

/...

5. For these reasons Finland has consistently supported all international efforts to prohibit the use or the threat of the use of force in relations between States. It is in the same spirit that the Government of Finland has welcomed the initiative by the Soviet Union aimed at achieving through an international agreement which would have universal application, a renewed commitment by States to the principle of non-use of force in accordance with the Charter of the United Nations and the Final Act of the CSCE.

FRANCE

/Original: French/
/24 June 1977/

The French Government, which is profoundly dedicated to peace, and concerned with machinery to ensure that it is safeguarded, has carefully considered the draft treaty submitted by the Union of Soviet Socialist Republics, the merits of which have to be assessed in the light of the provisions of the Charter and the great advance it represented, from the juridical point of view, in remedying the deficiencies that existed in earlier instruments.

The rule on the non-use of force set forth in Article 2, paragraph 4, is general in scope and application and is just as valid now as it was in the past.

It plays a central role in the Charter and cannot be isolated from the other Charter provisions with which it is inextricably bound up. First, there are those concerning the principle of the peaceful settlement of disputes, which is stated in Article 2, paragraph 3, and developed in Chapter VI, which is an essential complement to that Article. The same applies, of course, to the machinery provided for in Chapter VII to ensure the maintenance of peace.

On another level, nor can it be separated from the natural right of individual or collective self-defence laid down in Article 51.

In this connexion, it should be noted that the reference made to the Charter in article III of the draft treaty is the only implicit reference to that provision, and it is also far from adequate. Moreover, this article III also has the drawback of placing earlier treaties and agreements on the same footing as the Charter, whereas under Article 103 of the Charter those treaties and agreements are made subject to a principle of subordination.

In addition, the references made to certain United Nations resolutions and to the use of specific weapons are unacceptable to the French Government, whose position on this point is well known.

However commendable it may be in principle, the Soviet Union's initiative in isolating the non-use of force from the relevant provisions and machinery laid down in the Charter, in actual fact, jeopardizes the Charter's authority. If the draft were completely identical with the Charter, it would merely be a useless exercise

/...

but if, as we believe, there are some differences, a treaty on this subject becomes a source of confusion which weakens the Charter.

There is an even greater danger that the Soviet proposal would weaken the authority of the provisions concerning the non-use of force in that the proposed treaty, unlike the Charter, would not become universal in nature, at least for a very long time, since certain States have expressed opposition in principle to the conclusion of this new instrument. This, even at the current stage, raises the question of relations between States parties to the treaty and those which are not parties to it.

The French Government, for its part, wishes to reaffirm its firm commitment to the provisions of the Charter and to full and scrupulous observance of them, both in letter and in spirit.

The French Government reserves the right to elaborate on these comments at the next session of the General Assembly, as well as on other points in connexion with such matters as the difference in wording between the draft and the provisions of the Charter. It regrets, however, that even at this stage it must state that the problems presented are such that, in its estimation, they could lead in practice to a weakening of the principle which the treaty is intended to strengthen.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]

[8 June 1977]

[See A/32/112.]

GERMANY, FEDERAL REPUBLIC OF

/Original: English/

/14 June 1977/

The Federal Republic of Germany reaffirms that the maintenance of international peace and security is of the utmost importance to the future of mankind. The Federal Republic of Germany therefore fully supports any initiative effectively strengthening the prohibition under international law of the use of force in international relations. This principle is laid down in Article 2, paragraph 4, of the Charter of the United Nations which constitutes a generally recognized principle of international law and has been endorsed on several occasions in resolutions adopted by the United Nations General Assembly, notably in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations /resolution 2625 (XXV)/, in the Declaration on the Strengthening of International Security /resolution 2734 (XXV)/ and in the Definition of Aggression /resolution 3314 (XXIX)/.

In addition it was also reaffirmed by the signatories of the Final Act adopted by the Conference on Security and Co-operation in Europe. Without creating new law, these texts underline the established position in international law.

The Federal Republic of Germany is therefore in doubt whether an additional codification of United Nations principles is still necessary and useful.

In view of the legal issues which need more clarification the Federal Republic of Germany considers it appropriate that the draft treaty be given further consideration in the Sixth Committee.

In this connexion the Federal Government wishes to emphasize the need of continuing efforts to achieve the strengthening of international peace and security on a world-wide level through the implementation of existing legal instruments and by the elaboration of concrete measures in the field of disarmament and arms control.

HUNGARY

/Original: English/

/10 June 1977/

/See A/32/108./

/...

ITALY

/Original: English/

/6 June 1977/

1. The Italian Government wishes to stress its sincere interest in the examination of all initiatives which may contribute to strengthen the effectiveness of the United Nations and to enable the Organization to fulfil its essential tasks. In this context, Italy has studied with an open mind the proposal, introduced by the Soviet Union at the thirty-first session of the General Assembly, concerning the conclusion of a world treaty on the non-use of force in international relations.

Nevertheless, the Italian Government feels it necessary to reiterate, at the present stage, its basic reservations, already expressed by the Italian delegation during the debates in the First and Sixth Committees of the General Assembly, in the discussions on the proposed conclusion of a treaty based on the draft treaty submitted by the Soviet Union.

These reservations derive from a single and fundamental concern; that is, the danger that the adoption of such a draft treaty - notwithstanding the noble intentions of its proponents, which the Italian Government is pleased to acknowledge - may in some way diminish the importance of the obligations of States according to the Charter of the United Nations. The Italian Government, adhering to a policy of strict observance by all Member States of all the obligations under the Charter, believes that these obligations must be upheld to the fullest extent.

The danger noted above is all the more serious in so far as the draft treaty submitted by the Soviet Union concerns one of the fundamental principles of the Charter - perhaps, in fact, the most important of these. This principle, contained in Article 2, paragraph 4, is to be examined in connexion with the other principles in the system and, in particular, with that of Article 2, paragraph 3, which requires all States to settle their disputes by peaceful means, in such a way as not to endanger international peace or security.

On the other hand, the principle of refraining from the threat or use of force in international relations, to which the proposed Soviet draft treaty relates, is defined in its scope and its limits by other provisions of the Charter which indicate the cases where resorting to the use of force is legitimate or even necessary. Special reference is made, in the first case, to Article 51 (natural right to individual or collective self-defence) and in the second, to articles 42 ff., which empower the Security Council to take measures, coercive and otherwise, in response to a threat to the peace, a breach of the peace, or an act of aggression. In the opinion of the Italian Government, it is of prime importance to avoid the adoption of new texts which might even minimally weaken the scope of the above provisions.

/...

2. The Italian Government wishes to emphasize the active contribution made by its delegations to the elaboration of the General Assembly resolutions - including in particular resolution 2625 (XXV), entitled "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations", and resolution 3314 (XXIX), entitled "Definition of Aggression" - which have served to clarify some of the same problems as those confronted in the draft treaty submitted by the Soviet Union. It must be pointed out, however, that if extreme care and a lengthy consideration were necessary for the adoption of the resolutions recalled - and these, moreover, were by nature merely recommendations - it is even more essential that caution and a close examination be exercised in connexion with the assumption of international obligations in the form of a treaty. There is indeed the risk that the Charter of the United Nations might eventually be altered, even unintentionally, in one of its basic principles.

Therefore, the Italian Government, while reaffirming its willingness to participate constructively in the examination of the draft treaty submitted by the Soviet Union and the important implications of that text, believes it necessary to reserve its position until the analysis has produced definitive results and has allayed every possible doubt. To this end, the Italian Government believes that priority should be given to the study of the legal implications of the Soviet draft treaty, and feels that such a study should be conducted by the Sixth Committee of the General Assembly or by an ad hoc committee.

3. As far as concerns, more specifically, the proposed text, it will be necessary to determine precisely whether even slight variations in its language, with respect to the terms used by the Charter of the United Nations, may raise the danger of interpretations aimed at altering the scope of the fundamental obligations incorporated therein. This observation has particular importance in connexion with the text of article I, paragraph 1, first sentence, of the Soviet draft, in which is described the main commitment which would derive from the proposed treaty. Furthermore, regarding article I, the Italian Government maintains that its present text does not adequately reflect the consequences of the obligation not to resort to the threat or use of force. In particular, the second sentence of the first paragraph, whose implications for the delicate concerns of disarmament are clear, is worded in an ambiguous manner, and tends to make undue distinctions between the uses of various kinds of weapons. As it stands, paragraph 2 of article I does not reflect satisfactorily all the cases of illegal recourse to force - among which are to be included, as in article 3 (g) of the Definition of Aggression, cases in which, stricto iure, the use of force against a foreign State is not attributable to another State or group of States.

On the other hand, the language used in the text proposed by the Soviet Union does not seem to safeguard adequately the possibility of resorting to force in the case of legitimate defence, such as is specifically provided for in Article 51 of the Charter. Viewed in this light, the proposed text represents a step backward with respect to article 6 of the Definition of Aggression. This omission is not absolutely justifiable, and the Government of Italy feels obliged to formulate the broadest reservations in regard to it.

/...

Concerning article II, the Italian Government continues to stress its unconditional support for every initiative which might strengthen the obligation of States, deriving from Article 2, paragraph 3, of the United Nations Charter, to settle their disputes by peaceful means. This obligation is defined in Chapter VI of the Charter. In view of it, the Italian Government believes that the wording of article II of the Soviet draft is inadequate, and that much more can and must be done in this context, while in full respect of the United Nations Charter. The Italian Government hopes, moreover, that the opportunity to examine the Soviet initiative may allow for a suitable, in-depth consideration of the problems involved in the application of peaceful means to the solution of international disputes. It is clear, in fact, that the achievement of positive conclusions in this field would facilitate the acceptance of conventional rules which would reiterate and specify the prohibition of recourse to the use of force, such as those proposed by the Soviet Union.

Finally, concerning article III, the Italian Government observes that its present wording falls short of guaranteeing the absolute inapplicability of agreements concluded in a given moment which might conflict with the tenets of the United Nations Charter. The text of article III will have to be closely re-examined.

The Italian Government reserves the right to elaborate further observations in the course of the future debate - in the light, as well, of the comments to be submitted by the Governments of other Member States.

JAPAN

/Original: English/

/1 August 1977/

1. The Government of Japan is always prepared to consider seriously all initiatives which may contribute to the effective pursuit of the objective which is most important for the survival of mankind, i.e. the maintenance of international peace and security.
2. There is no doubt that in order to attain the objective mentioned above, the non-use of force is one of the most important principles for the regulation of the conducts of States between each other. The Government of Japan is therefore in agreement with the views, expressed by many countries during the thirty-first session of the General Assembly, that efforts must be made to ensure that the principle of the non-use of force, including that of nuclear and conventional weapons, becomes a universally established practice among States.
3. However, effective implementation of the non-use of force cannot be attained by mere repetition of that principle in international treaties. It is by adopting concrete disarmament measures, thus fostering a relationship of mutual trust among nations, that the effective implementation of the principle of the non-use of force can be ensured.

/...

4. Furthermore, the Charter of the United Nations already provides for the non-use of force in international disputes, and this is legally binding upon all Member States. Therefore, if the commitments as to the non-use of force already contained in the Charter of the United Nations are to be repeated in the draft treaty on the Non-Use of Force in International Relations, one might ask what is the usefulness of concluding such a treaty. On the other hand, if the proposed treaty should provide for rights and duties different from those contained in the Charter, there is the risk that it would lead to the weakening of the obligation regarding the non-use of force, as already contained in the Charter. Also, if all Member States should not become parties to the proposed treaty, a complex legal problem would arise from any discrepancy in the legal obligations fixed by the Charter and the proposed treaty.

5. In view of the above, the Government of Japan is of the view that a very cautious and serious examination is necessary with respect to the contents of the draft treaty and the effect of putting it into force. The Government of Japan considers that the strengthening of international peace and security is a question of the utmost importance to the international community and that, in order to achieve it, it is indispensable for all Member States to honour existing legal arrangements, in particular, the Charter of the United Nations, while making maximum efforts to realize concrete measures in the fields of disarmament and arms control.

KUWAIT

/Original: English/

/4 March 1977/

The non-use of force in international relations is one of the main objectives of the Charter. The obligation to refrain from any threat or use of force is consistent with the principles and purposes of the United Nations, flows directly from the Charter itself, is unequivocally binding in law and if strictly complied with, can have far-reaching practical consequences.

The structure of international security is weak not because of any inherent defect in the Charter but rather because the enforcement provisions contained in the Charter have never been applied.

While Article 2, paragraph 4, of the Charter enjoins all Members to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, Article 2, paragraph 5, imposes on all Member States an obligation to give the United Nations assistance in any action it takes against a State which is the target of preventive or enforcement action. Lack of unanimity among the permanent members of the Security Council has proved to be an insurmountable obstacle to preventive or enforcement action by the United Nations. It is for this reason that a mechanism is needed to deter an aggressor State or force it to give up the fruits of aggression. Lack of enforcement action is largely responsible for the weak structure of international security.

/...

The Government of the State of Kuwait has no doubt that a new international instrument, if properly drafted, will reinforce the relevant provisions of the Charter and serve as a reminder that resort to force in international relations is an evil that must be completely uprooted from the corpus of international society. However, it is not clear how a new instrument will solve the problem of enforcement measures while the veto is exercised by some big Powers in a manner inconsistent with the purposes and principles of the United Nations.

The Government of the State of Kuwait has examined carefully the draft World Treaty on the Non-Use of Force in International Relations submitted by the Union of Soviet Socialist Republics. It finds a lot of merit in the Soviet draft. However, there is a major omission in the draft in that it is not sufficiently explicit in upholding the rights of countries and peoples who are the victims of aggression, foreign occupation and oppression.

The Government of the State of Kuwait would like the treaty to contain a clear provision in one of its operative paragraphs which would proclaim the already existing legitimate right to rebuff aggression or eliminate its consequences. The treaty should condemn in strong terms all acts of aggression, the forcible holding on to territories occupied as a result of aggression, and the policy employed by aggressors to suppress the indigenous population.

The draft must contain a clear and explicit provision which states that assistance to States which seek to rebuff aggression or eliminate its consequences or assistance to colonial peoples which fight for their independence shall not be construed as being inimical with the undertaking by States in article I, paragraph 3, not to adduce any consideration to justify the resort to the threat or use of force in violation of the obligations assumed under this treaty.

The wording of article III is ambiguous and may conflict with the provision of Article 103 of the Charter which states that the obligations of Member States under the Charter shall prevail over their obligations under any other international agreement.

The draft also has some minor technical defects. The wording of article V seems to give the parties some latitude in ensuring compliance with their obligations under the treaty. It is a well-known principle of international law that no State may invoke its constitutional procedures and domestic laws as a means of evading its international obligations. There can be no degrees of compliance, whether full or according to the wording of the draft "fullest".

The treaty need not be open for signature by any State of the world at any time. The common practice is to open the treaty for signature for a limited period. States which do not sign can always accede to the treaty.

We commend the universal character of the draft since the nature of the legal régime involved requires universality.

A provision must be inserted in article VII to make entry into force of the

/...

treaty contingent upon ratification or accession by a certain number of States, especially those who have a record in committing aggression, occupying other countries' territories or who practise apartheid and deny peoples their right to self-determination and independence.

The treaty must uphold the provisions of the new international economic order and insure respect for the sovereignty of States over their natural resources. Any encroachment on this sovereignty is tantamount to the use of force in a clandestine and surreptitious manner against the basic attributes of nationhood and the well-being of States.

LUXEMBOURG

/Original: French/

/6 June 1977/

As the maintenance of international peace and security is of the greatest importance for the future of mankind, the Government of Luxembourg must support any initiative which effectively strengthens the prohibition of the use of force in international affairs. This principle, moreover, is already embodied in Article 2, paragraph 4, of the Charter of the United Nations, and has been reaffirmed on several occasions by the General Assembly, especially in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations /resolution 2625 (XXV)/, the Declaration on the Strengthening of International Security /resolution 2734 (XXV)/ and the Definition of Aggression /resolution 3314 (XXIX)/.

In addition, the principle has been reaffirmed by the signatories of the Final Act adopted by the Conference on Security and Co-operation in Europe.

Nevertheless, as explicitly emphasized in the Declaration on Friendly Relations, none of these resolutions has altered the position with regard to international law.

For these reasons, the Luxembourg Government is not convinced that another treaty, such as that proposed by the Soviet Union, is necessary or desirable, since the draft treaty not only seems to add nothing to the existing provisions of the Charter, but also creates the risk that such a draft, if adopted, might be considered as reducing the authority of the Charter, in particular by distorting and confusing its principles through juxtaposition with isolated quotations from other United Nations documents. The preamble to the draft treaty, for example, quotes two resolutions /1653 (XVI) and 2936 (XXV)/ which have not been fully endorsed by a number of Members of the Organization.

Similarly, Article II of the draft treaty omits two of the means of pacific settlement of disputes mentioned in Article 33 of the Charter of the United Nations.

/...

Finally, Article V of the draft appears to suggest that the application of the non-use of force may be limited by the internal constitutional procedures of States. This might constitute a serious problem for Member States.

All these points, together with other potential legal problems, have persuaded the Luxembourg Government that it is of the greatest importance to devote sustained attention to the draft treaty and to submit it to detailed study in the Sixth Committee of the General Assembly.

The Luxembourg Government is of the general view that the strengthening of international peace and security at the world-wide level will be most effectively implemented at this juncture by applying existing legal instruments, particularly the United Nations Charter itself.

The Luxembourg Government, however, wishes to emphasize the importance for the international community of devoting greater effort to devising concrete measures relating to disarmament and arms control throughout the world.

MONGOLIA

/Original: Russian/

/21 June 1977/

/See A/32/122./

NETHERLANDS

/Original: English/

/21 June 1977/

Speaking on behalf of the nine States Members of the European Community in the First Committee at the thirty-first session of the General Assembly on 28 October 1976, the Permanent Representative of the Netherlands stressed the fundamental importance of the principle laid down in Article 2, paragraph 4, of the Charter of the United Nations, which prohibits the threat or use of force in international relations and thereby represents one of the main objectives of the United Nations. This principle has been confirmed on several occasions within the framework of the United Nations as well as in the Final Act adopted by the Conference on Security and Co-operation in Europe, but none of these later instruments have changed the position in international law of the Charter article.

For this same reason the Netherlands Government is far from persuaded that a treaty as proposed by the Union of Soviet Socialist Republics would be useful. Such a treaty would not add substance to the aforementioned principle, but might on the contrary tend to obscure the authority of the Charter of the United Nations.

It was furthermore pointed out by the representative of the Netherlands in the Sixth Committee on 24 November 1976 that, if the proposal were to be supposed to create new legal obligations under international law, the Netherlands would consider it appropriate that the draft treaty be further examined in that Committee of the General Assembly.

Finally the Netherlands Government holds the view that strengthening of international peace and security would most usefully be served by concrete progress in the field of arms control and disarmament as well as by the peaceful settlement of existing political disputes.

NORWAY

/Original: English/

/14 June 1977/

The maintenance of international peace and security remains a question of paramount importance to all mankind. As laid down in Article 2, paragraph 4, of the United Nations Charter, it is a fundamental principle that there should be no use or threat of the use of force in international relations. Since the adoption of the United Nations Charter important efforts have been made with the purpose of strengthening international peace and security both inside and outside the United Nations.

The Norwegian Government has supported these efforts. It is recalled that the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations

/...

/resolution 2625 (XXV)/, the Declaration on the Strengthening of International Security /resolution 2734 (XXV)/ and the Definition of Aggression /resolution 3314 (XXIX)/ were all adopted by consensus by the Members of the United Nations. Norway was also one of the signatories of the final act of the Conference on Security and Co-operation in Europe, adopted in Helsinki in 1975.

In view of these considerations the Norwegian Government has carefully studied the draft world treaty on the non-use of force in international relations, submitted by the Union of Soviet Socialist Republics during the thirty-first session of the General Assembly (A/31/243, annex).

The Norwegian Government fully shares the concern of the Government of the Union of Soviet Socialist Republics on the non-use of force in international relations, but it is of the opinion that the implementation of existing international legal instruments including the principles of the United Nations Charter, must remain a priority task. In this respect concrete steps in the field of disarmament and arms control ought to be given increased attention during the special session of the General Assembly devoted to disarmament. The Norwegian Government is, therefore, in favour of new international efforts aiming at specific steps to achieve the objectives of existing obligations entered into by States under international law. This concern will determine the position of the Government with regard to the draft world treaty on the non-use of force.

PAKISTAN

/Original: English/

/8 June 1977/

1. Pakistan strongly endorses the principle of non-use of force in international relations as enunciated in Article 2, paragraph 4, of the United Nations Charter. This principle has been reaffirmed at various international forums, including the Bandung Conference, where 10 principles of peaceful co-existence, setting out the positive elements of an agreement among nations to renounce the use or the threat of use of force, were proclaimed.

2. Despite these and many other declarations of intent regarding the non-use of force, the world has witnessed no abatement of conflicts among States and force has been used time and again by one State against another to settle disputes and to achieve narrow national ends. Addressing the General Assembly in September 1973, the Prime Minister of Pakistan posed the following questions:

"How can one be oblivious of the fact that while the use of force is decried in the pronouncements of the United Nations, it is tolerated when it actually occurs? Who can deny that, while there are numerous declarations against interference in the internal affairs of States, such interference is often connived at in reality? Is there any exaggeration in the statement that too often we condemn wrongdoings in principle but condone them in practice /A/PV.2122, para. 35/."

/...

3. Pakistan firmly believes that the basic reason for the continued use of force in international relations is the unequal size and potential of nation States wherein the threat of force remains implicit even when force is not actually used. History is witness to the fact that powerful States have not hesitated to use or threaten to use force when it has served their interest. Secondly, the persistence of injustices, especially efforts to undermine the sovereignty and independence of weaker States and the suppression of the legitimate rights of peoples, are an additional cause of conflict in the present era.

4. International inequality and injustice, far from being redressed, as called for by the United Nations Charter, are being further accentuated by the growing economic and military disparity between the nations of the world. Consequently, any effort, legal or political, aimed at promoting the non-use of force in international relations cannot be divorced from the task of fostering a transition to a more democratic and equitable world order.

5. Pakistan acknowledges that the initiative to outlaw the use of force in inter-State relations is inspired by a sincere desire for peace. However, a treaty to ban the use of force can be effective only if it provides safeguards against the resort to force by the larger and more powerful States in the pursuit of their national objectives and helps to remove the injustices and inequalities which are the underlying causes of conflict.

6. Bearing in mind these caveats, Pakistan wishes to suggest that any treaty or convention regarding the non-use of force in international relations should:

(a) Serve to secure full compliance of all States with the principles of the United Nations Charter and with United Nations decisions as the best guarantee of international peace and security;

(b) Make it clear that the prohibition on the use of force is without prejudice to the fulfilment of the legitimate rights of peoples, by all means provided by the United Nations Charter, the resolution of outstanding disputes and conflicts in accordance with binding international decisions and the inherent right of self-defence, as laid down in Article 51 of the Charter;

(c) Provide machinery for the obligatory and peaceful settlement of disputes and for securing compliance with the United Nations Charter and binding decisions of the United Nations;

(d) Expressly require States not to interfere in the internal affairs of other States;

(d) Commit Member States to transforming the existing unequal international relationships and to creating a more democratic and just world order.

POLAND

/Original: English/
/21 June 1977/

/See A/32/119./

PORTUGAL

/Original: English/
/2 June 1977/

When resolution 31/9 was adopted, the Portuguese delegation abstained in the vote primarily because it shared many of the doubts expressed by several delegations during the course of the debate. In fact, in the opinion of the Portuguese Government, the draft under discussion seems to suggest that it is necessary to reaffirm certain dispositions of the United Nations Charter, namely those referring to the non-use of force in international relations. This not being the case, the repetition of such dispositions is not only redundant but can also weaken them.

Nevertheless, if the responses of the other Governments to the Secretary-General's note indicate that a majority of States would like further study of this question the Portuguese Government would be willing to reconsider the matter.

If such be the case, it is the opinion of the Portuguese Government that the problem must be analysed extensively and the very question of the necessity of approving a treaty on the non-use of force in international relations must be studied.

SENEGAL

/Original: French/
/19 August 1977/

Senegal considers that a treaty on the non-use of force in international relations is necessary for several reasons.

First of all, it would emphasize the mandatory nature of the obligation to refrain from the use of force, placed on States by the Charter. Secondly, it would strengthen the provisions of the Charter without replacing or altering them in any way. Thirdly, it would promote the codification and progressive development of international law by laying down detailed provisions taking account of the changes that have occurred in international relations. Also, such a treaty would reaffirm and clarify the provisions of the Charter as was the case, for example, with the

/...

Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations /resolution 2625 (XXV)/, the Declaration on the Strengthening of International Security /resolution 2734 (XXV)/, the Definition of Aggression /resolution 3314 (XXIX)/ and the Final Act of the Conference on Security and Co-operation in Europe, signed at Helsinki in 1975.

Senegal would welcome any international initiative to prohibit the use of force in international relations in accordance with the principles of the Charter and to settle disputes by peaceful means. Our country believes that a treaty on the non-use of force would constitute a new commitment to respect the provisions of the Charter. The treaty must not affect the right of peoples struggling for their independence to use all the means at their disposal, including armed force, which is implicit in Article 51 of the Charter and article 6 of the Definition of Aggression. Furthermore, the treaty must expressly prohibit all interference in the internal affairs of States.

The use of force in international relations is the result of the basic inequalities characteristic of the modern world. It is a reflection of a situation in which the weaker nations are subjected to the domination and interference of other States, and the legitimate rights of peoples, such as the right to self-determination, are still not properly recognized. Consequently no instrument designed to promote the non-use of force in international relations can be dissociated from the task of settling existing conflicts and instituting justice in relations among States.

Consequently the draft treaty must not only include provisions governing the non-use of force but must also make provision for measures that will enable the causes of the use of force to be prevented, and for procedures for the settlement of disputes which are freely accepted by all States.

At the thirty-second session, the United Nations General Assembly could therefore consider the draft treaty submitted to it and refer it to a working group for study in consultation with the permanent members of the Security Council.

SEYCHELLES

/Original: English/

/11 August 1977/

The Government of the Republic of Seychelles supports the draft World Treaty on the Non-Use of Force in International Relations and has no comments to make on the text thereof.

SPAIN

/Original: Spanish/
/27 May 1977/

In the opinion of the Spanish Government the item on the prohibition of the use of force in international relations has both political and legal angles, and should continue to be the subject of consideration by the First and Sixth Committees of the General Assembly.

In connexion with the eventual conclusion of a treaty, the Spanish Government considers that the exception in respect of self-defence should be made more explicit, and to that end it might be appropriate to add to article III a second paragraph in which it would be stated that the conclusion of the treaty would not impede the exercise of self-defence or resistance to unjust oppression supported from outside.

In addition it should not be forgotten that, in order to ensure that the prohibition of the use of force is really effective, it is necessary to study another set of factors forming part of a system of collective security. To that end it would be necessary to establish machinery designed to avert the outbreak of conflicts and functioning in a preventive manner before situations constituting a threat to peace could turn into armed confrontations, to institutionalize a system of peace-keeping operations, to implement Chapter VII of the Charter and to develop methods for the peaceful settlement of disputes. All these factors are interrelated and should be taken into account.

It would also be necessary to proceed cautiously with a view to achieving a final result that would meet with the general approval of the various groups of delegations. Finally, an initiative of this kind should in no way undermine or weaken the peremptory character of the purposes and principles of the Charter of the Organization and particularly Article 2, paragraph 4.

If the item were approached in the light of the foregoing considerations, the Spanish Government feels that positive results could be achieved and that the eventual conclusion of a world treaty on the prohibition of the use of force would be able to contribute to détente in the international sphere, to create conditions more conducive to a limitation of the arms race, including nuclear weapons, and to facilitate progress towards general and complete disarmament.

SWAZILAND

/Original: English/
/21 July 1977/

Swaziland has no objection to the conclusion of such a treaty as the principle is in accordance with our policy.

/...

SWEDEN

/Original: English/

/16 June 1977/

The principle of the non-use of force constitutes the basis of the United Nations Charter. My country strictly adheres to that principle in its foreign relations and also attaches the greatest importance to having it effectively implemented everywhere in the world. Our activities in the disarmament field are one example of our concern for strengthening that principle and translating it into concrete, positive measures.

A treaty on the non-use of force would, however, raise certain serious problems. The authority of the United Nations Charter could be weakened or be put in doubt, if the basic clauses were subject to new efforts of interpretation. Let me just give a few examples of the difficulties I have in mind.

The United Nations Charter legitimizes the use of force in two instances: self-defence and sanctions by the Security Council. My Government could not subscribe to articles in a further treaty that would go beyond those exceptions to the prohibition of the use of force; otherwise we might in fact undermine the authority of the Charter. It is also important to note that the Charter provisions on the non-use of force are linked to the whole system of enforcement under Chapter VII which can hardly be duplicated in a treaty. Those provisions in the Charter could severely be weakened.

We would also be hesitant to accept the introduction in a draft treaty of references to various multilateral, regional or bilateral treaties and declarations which have no direct connexion with the Charter. Such references would create uncertainty as to the exact relationship between the fundamental and universally accepted United Nations Charter and other, possibly new, rules that might have been agreed upon in other contexts. Such uncertainties could, in our view, make a clear and unambiguous interpretation of the Charter more difficult and, consequently, not strengthen the Charter but weaken it.

Given those and other elements in regard to a suggested draft treaty, the Swedish Government has not been persuaded of the usefulness of preparing and concluding such a treaty. However, as the decision to proceed with deliberations on this matter has now been taken, the Swedish Government will obviously give further consideration to this subject.

SYRIAN ARAB REPUBLIC

/Original: Arabic/

/16 March 1977/

1. The Syrian Arab Republic welcomes any international effort to confirm the prohibition of the use of force in international relations. This position is based

/...

on the realities and experience of the Middle East region in which Syria is situated.

2. The confirmation of the non-use of force in international relations is above all in the interest of small nations and peace-loving peoples in their relations with the super-Powers. It is further in the interest of the super-Powers themselves in their relations with each other, particularly in an era characterized by the balance of nuclear terror.

3. The proposal to conclude a treaty on the non-use of force in international relations would add a new supporting instrument to the many pertinent instruments and declarations adopted by the United Nations in its efforts to establish firm principles for international relations and for the achievement of a secure and stable future for mankind.

4. The draft treaty should be fully based on, and also complement, the principles of the Charter. It should remedy the shortcomings of instruments and declarations previously adopted in this respect by the United Nations General Assembly and by other international organizations.

5. The need for this new treaty has arisen because provisions and principles contained in the Charter and in numerous international covenants and declarations have not resulted in the non-use of force, nor in the prohibition of aggression, in international relations.

6. It must be admitted that no treaty, however important, will attain the same status as the United Nations Charter. However, as long as its control measures are not implemented, the Charter will be unable to ensure the peace of small peoples or their protection against aggression.

7. The experience gained by peoples and nations in their struggle for political and economic liberation from all forms of hegemony and aggression should serve as a basis for the articles of the proposed treaty. Foremost among these provisions should, of course, be the absolute right of nations and peoples to repel and resist aggression, to liquidate its vestiges, and to fight for the right to self-determination by all available means and methods.

8. The treaty should include, in a manner that leaves no scope for interpretation or equivocation, a guarantee that invaders, racists and aggressors shall not use the obligations imposed by the treaty on the non-use of force as a pretext for curbing the freedom of peoples and nations to exercise their legitimate right to self-defence by all means, to liberate their land from occupation, to expel aggressors, to thwart aggression and to defend their right to self-determination, sovereignty and independence.

9. The close relationship between political and economic liberation makes it difficult to build the foundations of international peace and security as long as the natural resources and economic interests of many States and peoples are subject to exploitation and pillage. It is essential therefore that the proposed treaty should uphold, with absolute clarity, the unrestricted right of peoples to fight

/...

by all means to recover the control of their own economic interests and natural resources.

THAILAND

/Original: English/

/1 June 1977/

1. The conclusion of a world treaty on the non-use of force in international relations would mainly affect those countries which compete in arms build-up and accumulations beyond a limit necessary for self-defence. Mankind would however greatly benefit if all States would strictly adhere to non-violation and the observance of such a treaty and endeavour to settle their disputes by peaceful means such as through negotiations without using force.
2. The conclusion of a world treaty on the non-use of force in international relations would help stress and reinforce the provisions of the United Nations Charter which prohibit the use of force in inter-State relationship. States should value and respect scrupulously all concluded treaties and agreements, especially the United Nations Charter and this world treaty.
3. Non-use of force and disarmament are two related problems. If and when all States are sincere and intend to possess arms only for their own defence, the question of the use of force would hardly arise. The problem of non-use of force also involves the race by the big Powers for the production of arms of mass destruction. The race for the production of both conventional arms and arms of mass destruction should cease. Another matter which should receive serious consideration, in order to prevent countries from accumulating unnecessary arms, concerns the export of variety or arms from arms producing nations to various countries in the world in the form of purchase, aid and other means.
4. As stated in paragraph 3, non-use of force and disarmament are interrelated. Therefore, when considering the problem of disarmament or reduction of armaments, it should be emphasized that instead of having various countries divert their scarce resources towards the production and the purchase of arms for aggressive purpose, those resources could better be utilized to improve global economic and social situation thus contributing toward the happiness of their own peoples as well as the advancement of world civilization.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

/Original: Russian/

/22 June 1977/

/See A/32/123./

UNION OF SOVIET SOCIALIST REPUBLICS

/Original: Russian/

/27 May 1977/

/See A/32/94./

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

/Original: English/

/3 June 1977/

The United Kingdom recognize that the maintenance of international peace and security is of the utmost importance to the future of mankind. The United Kingdom therefore fully support any initiatives effectively strengthening the prohibition under international law of the use of force in international relations. This principle, which is laid down in Article 2, paragraph 4, of the Charter of the United Nations, has already been reaffirmed on several occasions in texts adopted by the United Nations General Assembly, notably in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations /resolution 2625 (XXV)/; the Declaration on the Strengthening of International Security /resolution 2734 (XXV)/ and the Definition of Aggression /resolution 3314 (XXIX)/. In addition, it was also reaffirmed by the signatories of the Final Act adopted by the Conference on Security and Co-operation in Europe. But, as is stated explicitly in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, none of these resolutions has changed the position in international law.

The United Kingdom is not therefore convinced that a further treaty on the lines proposed by the Soviet Union is necessary.

Not only does the draft treaty seem to add nothing to the Charter, but there is the risk that, if adopted, it could be seen as detracting from the authority of the Charter. Thus, unlike the Charter, it fails to provide for an enforcement mechanism and, by the juxtaposition of Charter principles and selected extracts from other documents, it runs the risk of distorting and confusing principles of the Charter.

In view of the legal issues involved, the United Kingdom consider it appropriate that the draft treaty be given further consideration in the Sixth Committee. It is moreover the United Kingdom's general view that at this stage the strengthening of international peace and security on a world-wide level is best achieved through the implementation of existing legal instruments, in particular the Charter itself, and by the elaborations of concrete measures in the field of disarmament and arms control.

/...

UNITED STATES OF AMERICA

/Original: English/

/9 June 1977/

The United States remains firmly committed to the prohibition on the threat or use of force as set forth in the Charter of the United Nations. We actively support the principle of peaceful settlement of disputes and the role that the United Nations plays in the realization of that principle. We believe that initiatives to strengthen existing mechanism for the prompt, efficient and just resolution of disputes deserve the most careful consideration.

The Charter of the United Nations reflects a solemn and shared commitment to the maintenance of international peace and the prevention of war. Every Member State has expressly pledged to uphold the provisions of the Charter, including Article 2, paragraph 3, which calls upon Members to "settle their disputes by peaceful means", and Article 2, paragraph 4, which obligates all Members to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State". These provisions represent more than a treaty obligation binding only on Member States; they enunciate a clear and direct rule recognized as a peremptory norm of international law binding on all States.

In the view of the United States, it is essential to preserve the fundamental and authoritative nature of this obligation and to seek broad and consistent adherence to it. Precisely because the Charter's provisions concerning the conduct of States are so clear and have such authoritative application, the United States views with concern any proposal for their restatement or revision.

For this reason, the United States abstained in the vote on resolution 31/9 in the General Assembly and continues to have the serious reservations stated at that time with respect to the need for and purpose of a separate treaty on the non-use of force in international relations. We see no merit in paraphrasing existing obligations under the Charter. On the contrary, we are concerned that restatement of the prohibition on the use of force would do no service to the primacy of the Charter and might in fact diminish the solemnity of the legal commitments undertaken therein through needless duplication or selective reiteration. Moreover, we believe the proposed treaty risks creating loopholes and confusion in the Charter structure, particularly with respect to the inherent right of self-defence. We believe it is essential that any attempt to modify that fundamental commitment be undertaken only in accordance with the provisions of the Charter.

In addition, we are concerned that the attempt to draft such a treaty would detract from continuing efforts to reach agreement on realistic solutions to concrete arms control problems. The United States places great importance on the prompt achievement of practical measures to achieve real control of arms. Adoption of vague declarations and generalities in whatever form must not be a substitute for effective efforts to settle international disputes peacefully,

/...

to reduce tensions, and to promote disarmament in the international community - efforts in which Members of the United Nations are now engaged.

The United States believes that it is a moral as well as pragmatic imperative that States undertake renewed and redoubled efforts to ensure the peaceful resolution of disputes and the elimination of the use of force in international relations. In this respect, what is needed is not a further gloss on the clear and established prohibition in the Charter against the threat or use of force. Rather, what is needed is greater will on the part of States to honor their existing obligations, to create more effective methods of peaceful settlement as an alternative to the use of force, and to achieve agreement on arms limitation and reduction.

Any future consideration of ways and means to eliminating the use of force would require careful examination of these considerations and must be grounded on realism and legal expertise.

UPPER VOLTA

/Original: French/

/22 August 1977/

At the thirty-first session of the General Assembly, the Republic of the Upper Volta voted in favour of the resolution on the conclusion of a world treaty on the non-use of force in international relations. Although the principle concerning the non-use of force is embodied in several international instruments, such as the 1970 declarations on the strengthening of international security and on principles of international law concerning friendly relations and co-operation among States and the 1972 resolution on the non-use of force in international relations and particularly, in Article 2, paragraph 4, of the Charter, of the United Nations, this principle has been continually disregarded.

In fact, ever since the establishment of the United Nations the use or threat of force has been and still is a tragic feature of international life. Therefore the principle, as enunciated, and the Charter itself have not succeeded in preventing the use of force in relations among nations.

Surely, then, it would be wise to devise more radical and more compelling measures, which go beyond general principles, to require States to resort to other methods in international relations. The Upper Volta feels that the codification of the principle in a new international legal instrument, designed to make the provisions of the Charter concerning the prohibition of the use of force really effective, would serve this purpose. In fact the treaty in question should be viewed as the logical outcome of an initiative that was undertaken a very long time ago.

As for the convention itself, the Government of the Upper Volta wishes to make the following comments:

/...

(a) The Government of the Upper Volta considers that the words "force" and "non-use of force" should not be confined solely to the military field. In the present day and age, measures other than military have often been used as weapons of war, such as the economic measure of the blockade. As a land-locked country without access to the sea, the Upper Volta believes that free access to the sea is an extremely important factor in good relations among nations. In any case, fortunately for the Upper Volta, given the fraternal ties which it enjoys with all the countries of the region, this problem has never arisen. However, as a matter of principle, any measures defined as the use of force should be prohibited by the treaty.

(b) The Government of the Upper Volta believes that it should be possible to change the wording of certain articles, and particularly articles I and II, to make the text clearer.

(c) The Government of the Upper Volta believes that the principle of self-defence and the right of peoples under colonial domination to free themselves by appropriate means should be stated in the text.

(d) The Government of the Upper Volta shares the view that paragraph 3 of article VII should be amended to ensure that the convention can only enter into force after a certain number of instruments of ratification have been deposited with the Secretary-General of the United Nations.

In conclusion, the Government of the Upper Volta believes that a new international legal instrument will not magically dispel the tensions now existing in the world. As in all other cases, only political will on the part of States to change their attitude towards one another can serve as a true convention on the non-use of force in international relations.