

With regard to the relationship of the draft treaty to the Charter, and the danger that the Charter could be affected by it, the problem is somewhat similar to the one that I have just described. When the question was asked, the Soviet delegation replied by a statement of principle: the purpose of the treaty, it said, was to give specific form to the principles defined in the Charter, not to create new obligations; the treaty could therefore have no negative effect on the legal force of the Charter. This is a fine formula, but it does not in any way resolve the dilemma which has been put forth by a number of delegations. If the treaty reaffirms the provisions of the Charter, it is unnecessary and gives the impression that these provisions have eroded or weakened. If the treaty diverges from the Charter (a very real danger in an effort at "concretization" of its provisions), it could create confusion, particularly if the conflict between the two instruments is not immediately evident, that is, if Article 103 of the Charter does not come into play. It is clear that the power of the Security Council to interpret the provisions of the Charter would be affected and that the treaty itself could constitute in practice a disguised amendment. The problem becomes even more serious, of course, in the very probable case that the signatories of the treaty do not include all members of the United Nations. A solemn declaration by the General Assembly, however, would not entail the same dangers and would on the contrary help the Security Council in its task. It would be interesting if the delegation of the Soviet Union would tackle this problem as it has been posed on several occasions in the Special Committee and elsewhere.

Mr. Chairman, having observed the difficulties in which the Special Committee could become entangled, my delegation really wonders whether the differences of opinion are not so deep that they jeopardize its chances for success, particularly in view of the practical impossibility and the inadvisability of imposing ready-made solutions on one or another of the groups in attendance here. We must still consider the hypothesis that the Special Committee could be called upon to continue its deliberations in 1979, and in particular we must consider how the Committee could solve the problem posed by the fact that the question of peaceful settlement of disputes is being dealt with by two separate committees, the Special Committee on the Charter and the Special Committee on the Non-Use of Force. This situation should be corrected. However, we do not see why the peaceful settlement of disputes question should be dealt with only by the Special Committee on the Charter, particularly since that committee will soon be taking up other questions as requested by the majority of its members. A simple solution to the problem of overlapping would probably be to turn over to the Special Committee on the Non-Use of Force the results of consideration of the peaceful settlement of disputes question by the Special Committee on the Charter at its next session, whether these results take the form of recommendations or simply a list of proposals. The Special Committee on the Non-Use of Force would thus have two working papers, one on each of the two main aspects of its mandate, and could proceed to study them at leisure. However, whether or not there is a solution to the overlapping problem, my delegation considers it essential that the Committee continue studying all the proposals submitted to it concerning all aspects of its mandate. In particular, it must not dissociate the question of non-use of force from that of peaceful settlement of disputes, and it must remain faithful to the spirit of the United Nations Charter.