



SUMMARY RECORD OF THE 11th MEETING

Chairman: Mr. ENKHS AIKHAN (Sri Lanka)

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AGENDA ITEM 116: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

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The meeting was called to order at 10.40 a.m.

AGENDA ITEM 116: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued) (A/36/41, 415, 116, 388, 446, 526 and 556)

1. Mr. HAKAPAA (Finland) said that the principle of non-use of force in international relations was a corner-stone of international peace and security and one of the main precepts of the Charter of the United Nations. Finland, which pursued a policy of neutrality and maintained friendly relations with all States, therefore took a great interest in the establishment of the more rational world order envisaged in the Charter.
2. The present international situation, policies of confrontation and the ever more frequent resort to force in international relations underlined the urgency of the task before the Special Committee and highlighted the importance of reaching a common understanding as soon as possible on measures and agreements which, more effectively than those now existing, would guarantee the non-use of force or threat of force in circumstances relating to an international dispute. It was therefore appropriate that the Special Committee, in accordance with its mandate, had also considered ways and means of promoting the peaceful settlement of disputes.
3. Mr. KRIZ (Czechoslovakia) said that, at a time when there was open talk of the possibility of nuclear war, when armaments were being stepped up and new types of weapons, including the neutron weapon, were being introduced, when the forces of international imperialism approached the settlement of international problems from a position of force and when acts of aggression were committed against Afghanistan, Angola, Iraq, the Libyan Arab Jamahiriya and other countries, the codification of the prohibition of the use of force in international relations would represent an important step towards the principal goal of the United Nations, namely, the maintenance of international peace and security. That was why the Czechoslovak Socialist Republic fully supported the proposal of the Soviet Union to elaborate and adopt a world-wide treaty on the non-use of force in international relations.
4. The main argument used by those who were against including the treaty was the allegation that it would weaken the Charter of the United Nations or even lead to its revision. In reality, the proposal of a world treaty on the non-use of force in international relations was fully in keeping with the Charter and further developed and rendered more specific the provisions of the Charter in the key area of the maintenance of international peace and security, namely, the provisions of Article 2, paragraph 4. It should, moreover, be pointed out that the attempts at hampering the work of the Special Committee originated from those very circles which were responsible for the current increase in international tension.
5. The draft treaty submitted by the Soviet Union provided a good basis for constructive work in the Special Committee. His country's position on the subject was contained in detailed form in the observations submitted in accordance with General Assembly resolution 35/50 and published in document A/36/415. There were also many positive ideas on the question in the working paper submitted to the Special Committee by the group of non-aligned countries. In Czechoslovakia's view,

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(Mr. Kriz, Czechoslovakia)

a binding treaty would reaffirm the binding and universally recognized ins cogens rules of international law relating to the non-use of force international relations and applying to all types of weapons, including nuclear ones. The elaboration and adoption of the treaty would be an expression of the political responsibility of States and of their political will to contribute to the improvement of international relations. His delegation was therefore in favour of extending the mandate of the Special Committee, which should proceed with concrete work on the draft of the world treaty on the non-use of force in international relations and bring that work to a speedy conclusion.

6. Mr. KURUKULASOONYA (Sri Lanka) stressed the urgency of adopting measures to ensure the respect of the international community for the provisions of the Charter of the United Nations, and, in particular, for the principle of non-use of force enshrined in Article 2, paragraph 4. There were currently many threats to international peace and security, and among them must be mentioned not only the arms race but also hunger and poverty. In order to eliminate those evils, it was necessary to establish a more equitable international economic order that would provide the means necessary to alleviate human sufferings. Another aspect which should be highlighted was the level of environmental pollution and the problems it caused.

7. Recent international events showed a lack of due respect for the peremptory norms of international law, especially the principle of non-use of force in the settlement of international disputes and non-interference in the internal affairs of other States. It should be recalled, that, after the Second World War, the international community had placed in the Charter of the United Nations their hopes that succeeding generations would be saved from the scourge of war. The international community had subsequently drawn up the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. Still later, after 20 years of painstaking negotiations, the United Nations had proceeded to adopt the definition of aggression. Nevertheless, in spite of all the above, acts of armed aggression against independent sovereign States were increasing and intensifying in the world.

8. In the opinion of Sri Lanka, the reason why the survival of mankind was threatened was disregard for the rule of law. As lawyers, the members of the Sixth Committee had a duty to develop and clarify the concepts and principles agreed on by nations to constitute the basis for international relations. Only a firm commitment on the part of States not to resort to the use of force in the settlement of international disputes that went further than the declarations, conventions, treaties and even the Charter could suffice to ensure world peace. His delegation, therefore, associated itself with all the efforts made to enhance the effectiveness of the principle of non-use of force in international relations.

9. Sri Lanka had been in the vanguard with regard to various measures taken to ensure the establishment of a lasting peace for mankind. At the San Francisco Conference in 1951, his country's delegation had played a leading role and had

(Mr. Kurukulasoonya, Sri Lanka)

sought forgiveness and compassion for the vanquished. Later, at the height of the Cold War in the 1950's, Sri Lanka had been the venue of the South-East Asian Prime Minister's Conference, where the idea of non-alignment had first been discussed as a possible instrument of foreign policy in the context of Great Power rivalry. Sri Lanka had later proposed that the Indian Ocean should be declared a zone of peace, and that proposal had been the origin of United Nations General Assembly resolution 2832 (XXVI) of 16 December 1971. Sri Lanka had also proposed the establishment of a world disarmament authority that would function within the United Nations system with a view to contributing to the realization of the objective of general and complete disarmament. Lastly, Sri Lanka had also proposed, as a means of enhancing the effectiveness of the principle of non-use of force in the settlement of border disputes, the establishment of a border disputes commission, and the proposal had been adopted unanimously by the Conference of Heads of State or Government of Non-Aligned Countries held in Havana in September 1979.

10. In accordance with its constitutional rules, the Government of Sri Lanka also guaranteed the universally recognized fundamental human rights for all citizens of Sri Lanka, irrespective of race, caste or religion.

11. Mr. KAHALEH (Syrian Arab Republic) said that the principle of non-use of force was fundamental and had an influence on each country's future. That was proved by the fact that part of the Arab homeland was under foreign occupation. If the principle was really applied, if there was strict compliance with international treaties and conventions, the world would be free of regional conflicts and innocent blood would not have been shed. No international legal instrument could have positive effects if it did not contain provisions delimiting responsibility for violations and specific rules for the punishment of the guilty parties. After two world wars, the world had understood that the countries' acceptance of the principle of the non-use of force was not enough to do away with wars, and first the League of Nations and then the United Nations had been established for the protection of collective security. Chapter VII of the United Nations Charter also contained punitive measures for such cases. If the measures laid down in Chapter VII had been faithfully applied from the outset, there would have been no need to reaffirm the principle of the non-use of force in international relations and there would be no territories occupied by force and no recurrent armed attacks. It was precisely the fact that those measures had not been applied that had led to the use of force and given impetus to the armaments race, which was now in full swing.

12. It was sad that a great country like the United States should repeatedly oppose the application of punitive measures both to South Africa and to Israel. The United States representative on the Committee had invoked the principle of the non-use of force laid down in the Charter on several occasions but he had not mentioned the punitive clauses, which were the only guarantee that the principle would be respected. Furthermore, the United States had allied itself with a

(Mr. Kahaleh, Syrian Arab Republic)

country that was known for its use of force and which ignored the resolutions of the United Nations and world public opinion. The military, political and economic aid that the United States was offering Israel was an incentive for Israel's current attacks on refugee camps in Lebanon, and if the United States had taken a firm stand after the bombing of Beirut and of the nuclear plant in Iraq, the results would have been very different. All the United States had done, however, was to reward Israel with the strategic treaty about which there was so much talk.

13. The Syrian delegation would support any proposal aimed at strengthening the principle of the non-use of force. In its view, the working paper presented by the non-aligned countries provided a sound basis for future work because it included punitive measures and its definition of the principle of the non-use of force was clearer than the one contained in the Charter, particularly with respect to the legitimacy of liberation movements. Lastly, his delegation was in favour of the extension of the Special Committee's mandate so as to enable it to prepare a final text.

14. Mr. LUU DINH (Viet Nam) said that careful study of the report of the Special Committee confirmed the importance and the validity of the item now before the Sixth Committee. The imperialist warmongers, in collusion with the hegemonists and in flagrant violation of the principle of the non-use of force, were now busy with military preparations and were devoting themselves to an all-out armaments race which threatened to engulf the whole world. The concrete effects of that policy could be seen in different parts of the world and, that being the case, the conclusions of a treaty on the non-use of force would meet the wishes of the entire international community, threatened as it was by war and the armaments race, particularly the nuclear arms race.

15. To achieve that purpose, the relevant resolutions of the United Nations must be borne in mind, particularly resolution 2160 (XXI) on strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination, resolution 2625 (XXV), which contained the 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) on the Definition of Aggression.

16. Although 36 years had gone by since the signing of the Charter and the solemn promulgation of the principle of the non-use of force in international relations, there had been numerous cases of aggression and the illegal use of force over that period, and many wars against the peoples of Asia, Africa and Latin America, most of which had been started by the imperialists, colonialists, racists and hegemonists in order to maintain their domination and exploitation. The Vietnamese people, which had suffered for more than 30 consecutive years from the wars of aggression imposed by the colonialists, the neo-colonialists and the imperialists, had good reason to know the importance and the urgency of the problem. Only three years before, Viet Nam had once again been the victim of a real war of aggression unleashed by a neighbouring expansionist and hegemonistic power which, even now, in defiance of every legal and moral rule, was continuing its provocations and preparing a new war of aggression against Viet Nam.

(Mr. Luu Dinh, Viet Nam)

17. The only reason that the Vietnamese delegation was bringing up those facts was to emphasize the importance and urgency of preparing a legal instrument that would help to stop acts of aggression and provide real and effective legal assistance for the people that were struggling for their freedom and independence. In that spirit, his delegation strongly supported the initiative taken by the Soviet Union in submitting a draft world treaty as a basis for the preparation of the legal instrument in question, and it also welcomed that working paper prepared by the non-aligned countries.

18. In the view of his delegation, that treaty should prohibit all forms of aggression, including the so-called "limited wars" and punitive wars, or acts of aggression committed on the pretext of reprisals or as preventive measures, and spell out the obligation of all the States parties to refrain from using not only armed force but any form of coercion, such as economic pressure, intimidation, influence, subversion, hostile propaganda and attempted destabilization. The treaty should also cover the right of legitimate self-defence, spelling out the provisions of Article 51 of the Charter, more clearly and the right of peoples under colonialist, racist, apartheid and zionist régimes to use every means, including armed force, in their struggle to recover and defend their right to self-determination, independence and freedom. Lastly, Viet Nam was of the opinion that any country which had recourse to the illegal use of force should be held internationally responsible and that the Special Committee should strive to define and make positive provision for that responsibility.

19. Side by side with the preparation of an international treaty, the signing of regional treaties should be encouraged, and in the connexion, Viet Nam supported the proposal of the People's Republic of Mongolia that a treaty of non-aggression and non-use of force should be concluded between the countries of Asia and the Pacific. Lastly, the Vietnamese delegation was in favour of extending the mandate of the Special Committee to enable it to complete the work with which it had been charged.

20. Mr. MAYNARD (Bahamas) stressed the interrelationship between the principles of the non-use of force, the peaceful settlement of disputes and collective security under the Charter of the United Nations, and the work relating to the Charter and the strengthening of the role of the United Nations, the draft Code of Offences against the peace and security of Mankind and other activities of the Organization.

21. With reference to ways of enhancing the effectiveness of the principle of the non-use of force, one school of thought held that the peremptory norm expressed in Article 2, paragraph 4, of the Charter should be further developed, and that a treaty should be drafted to that end. Others maintained that since that provision of the Charter already contained a clear prohibition of the threats or use of force in international relations, no complementary measures were necessary.

(Mr. Maynard, Bahamas)

22. His delegation was convinced that an additional instrument relating to the non-use of force should be drafted, even though the relevant principle was already contained in the Charter.

23. In support of that position he pointed out that in the development of international law there were various stages with regard to the approach to the use of force. One stage had distinguished between just and unjust wars. In a later stage, attention had been focused above all on the conduct of the belligerents once war had broken out. Later, the Covenant of the League of Nations had placed limitations on the right to go to war, and had established that States could not resort to armed force until certain procedures had been exhausted. The League of Nations had thus established a system of collective security, but there had been many gaps and shortcomings in the system which had rendered it ineffective. The current stage had begun in the Second World War. Thus it was that at the Nuremberg Trials it had been declared that resort to war was illegal and criminal and it had been decided to establish a new system of collective security which included, inter alia, the prohibition of the threat or use of force, the centralization of sanctions in a single body and a procedure for the peaceful settlement of disputes. At the same time, exceptions had always been invoked to avoid application of the principle of the non-use of force. Some of those were admissible, such as the application by the Security Council of the measures laid down in Chapter VII of the Charter, while others were controversial, such as that based on the arguments that the prohibition was confined to the threat or use of force against the "territorial integrity or political independence" of a State. It could thus be inferred that the principle of the non-use of force could be progressively developed and codified as international law evolved.

24. The Committee had before it several useful proposals, including the draft world treaty submitted by the Soviet Union, the working paper prepared by five European countries and the revised working paper from 10 non-aligned countries. While none of these texts was acceptable as worded at present, the Special Committee should continue its substantive work on the basis of those texts while bearing in mind the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)) and the Definition of Aggression (General Assembly resolution 3314 (XXIX)), as well as other important resolutions and documents.

25. His delegation was prepared to support the two related suggestions that a comparative table of the proposals submitted be prepared and that attempts be made to identify points which commanded general agreement. Finally, no effort should be spared to promote a convergence of views, so that the Special Committee could continue its work and bring it to a successful conclusion.

26. Mr. BRUNO (Uruguay) said that his country's predilection for peace explained the great importance it attached to consideration of the report of the Special Committee. His delegation was concerned, as were others, by the continuing violations of established norms contained in international law and in the Charter of the United Nations.

(Mr. Bruno, Uruguay)

27. The obvious and clear conclusion to be drawn from the report of the Special Committee was that it was necessary to strengthen, as a matter of urgency, the principle of the non-use of force in international relations. That could be done by reaffirming current international norms, by updating measures aimed at guaranteeing their effectiveness, or by adopting some new instrument. Any realistic initiative which helped to reaffirm the fundamental principles of international co-existence would always have Uruguay's support.

28. While there were differing views on how to enhance the effectiveness of the principle of the non-use of force, there was also common ground of which advantage should be taken in order to continue the work. The report of the Special Committee was certainly of great legal value, which could and should be enhanced by suggestions from other countries.

29. In that connexion, he said it was both regrettable and inadmissible that progress in that area had been hampered by attempts to organize civil strife or terrorism in other States and by thinly disguised attempts to undermine the stability of other Governments. If the scourge of war was to be eradicated, it was also necessary to ensure strict observance by States of the principle of non-interference in the internal or external affairs of other States. For his delegation, the legal integrity of States, the territorial inviolability of their frontiers and absolute respect for international treaties were elements which would help to eliminate any possibility of international conflict.

30. In conclusion, his delegation supported the continuation of the work of the Special Committee, in the conviction that the Committee would soon bring it to a successful conclusion.

31. Mr. CASTRO VILLALOBOS (Mexico) said that his delegation attached great importance to the principle of the non-use of force in international relations as the corner-stone of the United Nations system. The international community could not fail to be concerned with one of the cardinal principles of international law, which redounded to the credit of the country that had put forward the proposal relating to that principle.

32. Although Article 2, paragraph 4, of the United Nations Charter was clear and unambiguous, it could be improved by subsequent codification while being complemented by a series of related provisions that would enhance its effectiveness in international life. That would be so for the provisions of Chapter VII of the Charter and those on legitimate self-defence. The recent violations of the principle of the non-use of force emphasized the lack of political will to respect it and the absence of any alternative machinery for the effective settlement of international disputes.

33. The position his delegation had taken in 1980 was sufficiently flexible for it not to prejudge the legal form in which the principle should be codified. Although Mexico was not opposed to an international treaty, other possibilities should be explored, such as a solemn declaration by the General Assembly.

(Mr. Castro Villalobos, Mexico)

34. The adoption of a treaty might mean that a superfluous instrument in no way facilitating the progressive development of international law would be created and the principle of non-use of force in international relations linked to two systems which were separate and of different constitutional force: the Charter and a treaty. It was more than doubtful whether the treaty would ever come into force, and the principle would be greatly weakened if the treaty were not ratified widely and promptly by a large number of States. The advantages of a solemn General Assembly resolution on the subject were that the difficult technical problems and difficulties of legal interpretation described earlier would be avoided.
35. The Special Committee's mandate from the General Assembly clearly referred to the conclusion of a treaty. If the conditions were such that that could be achieved, his delegation would co-operate, as it had always done in order to attain that goal. Because the Special Committee's work was so important, extreme positions must be reconsidered and a positive attitude shown to enable it to fulfil its mandate.
36. Mr. FRANCIS (Jamaica) said that his delegation supported the renewal of the Special Committee's mandate to enhance the effectiveness of the principle of non-use of force in international relations. Referring to the introduction to the Special Committee's report, he said that note should be taken of the continuing interest shown in the subject by Member States not represented on the Committee, and of the fact that a permanent member of the Security Council which had withdrawn from the work of the Committee, had become involved in it once more.
37. With respect to the reasons for the illegal use of force in international relations, he said that poverty and the international community's inability to meet the needs of the developing countries had to be kept in mind. Those evils were inextricably linked with the topic before the Committee, and therefore many developing countries, including Jamaica, were deeply concerned with it.
38. Disarmament could undoubtedly have a profound impact on development and the latter, in turn, could have a positive influence on the non-use of force in international relations. Paragraph 12 of the revised document submitted by a number of non-aligned countries at the thirty-second meeting of the Special Committee's Working Group and contained in document A/36/41 referred specifically to the relationship between those two factors.
39. Many delegations had opposed the extension of the Committee's mandate to draft a treaty, and among their arguments had been that, if a treaty were concluded, it might include provisions that conflicted with Article 2, paragraph 4, of the Charter, and that that paragraph was sufficient in itself and needed no amplification.
40. To refute the first argument one needed only to read Article 103 of the Charter, which incontrovertibly stipulated that in the event of a conflict between a treaty like the one being envisaged and the provisions of the Charter, the latter would prevail. The Sixth Committee must find a way to resume its consideration of the text of the treaty and try to remove the source of the conflict.

(Mr. Francis, Jamaica)

41. It should also be recalled that when the Charter had been drafted it had been intended as an international security system, and that the Security Council's lack of effectiveness in fulfilling its tasks was one of the reasons for the persistent illegal use of force. Certainly, a basic problem in that connexion was the use of the veto in the Council, but it was also clear that the veto itself was not the cause of the problem, and that the difficulties it engendered could not be considered the exclusive responsibility of the leaders of the countries which were permanent members of the Council. The developing countries also should keep foremost in mind the need to resolve disputes and conflicts, and they should not forget that those conflicts arose for many reasons, including the fact that national objectives often differed or competed with each other.

42. The permanent members of the Council, for their part, had the duty to act in all cases with special restraint and circumspection, recalling their obligation to give effect to their own decisions. In cases of the use of force in which none of the permanent members of the Security Council was involved and to which Chapter VII of the Charter applied, the drafting of a treaty by the Special Committee would greatly help to create conditions that would induce a large part of the international community to refrain from using force, which could launch a new era of mutual confidence and respect for the Charter.

43. With respect to the Working Group's future efforts, there seemed to be a consensus that they should be continued without yet specifying the final form of the instrument which was to be adopted. In that connexion, the Mexican delegation's suggestion that the Special Committee should first adopt a declaration and then elaborate another type of instrument should be kept in mind, for it was certainly useful.

44. Among the working documents the Committee had before it, the draft submitted by the non-aligned countries deserved special consideration. As had often been pointed out, the non-aligned countries were especially anxious to preserve international peace and security in order to safeguard their rights as independent nations, and consequently believed that it was essential to have an international system guaranteeing peace and security and protecting their independence and their freedom to develop their economic and social systems unhindered.

45. Mr. SANDIGA (Peru) said that, as the Peruvian Minister for Foreign Affairs had recently noted in his speech before the General Assembly, Peru fully supported the principle prohibiting the use of force for the solution of conflicts, a principle which underpinned and guided its foreign policy, and would collaborate in the adoption of any international instrument definitively prohibiting the use of force in relations among States. That support, however, did not entail the endorsement of actions at variance with respect for precisely that principle, which could be seen in the political attitudes of countries which were the principal proponents of that important idea.

46. Article 2, paragraph 4, of the United Nations Charter clearly referred to the obligation of States Members to refrain from the threat or use of force as a means

(Mr. Sandiga, Peru)

of resolving their conflicts. The Charter also prohibited the illegal use of force when it discussed the collective security measures to be adopted in conformity with the norms contained in Chapter VII. The legal use of force was provided for under the inherent right of self-defence. In reference to that subject, respect for the obligations arising out of treaties, or the principle of pacta sunt servanda, was one of the fundamental rules for international co-existence.

47. His delegation firmly believed in the need for an international instrument designed to improve or enhance the effectiveness of the principle of non-use of force in international relations, and considered the draft submitted by a number of non-aligned countries represented on the Special Committee to be a positive step in that direction, although it was in no way final and was not intended to replace any of the other proposals submitted to the Working Group. It was, however, among the documents most closely relating to the Special Committee's objectives, and therefore when it was next revised some of its concepts should be clarified and some of the principles contained in it should be better formulated, in order to achieve the objective of a multilateral instrument tending toward universality. In that connexion, he noted that scant attention had been given to the principle of pacta sunt servanda, which was not reflected clearly, concisely and unequivocally in the document, and he stressed the fact that that principle must occupy a prominent place in any instrument adopted by the Special Committee. His delegation fully supported the renewal of the Special Committee's mandate.

48. Mr. ROSENNE (Israel), speaking on a point of order, asked to exercise his right of reply immediately, because personal attacks had been directed against him in violation of diplomatic and procedural practice.

49. The CHAIRMAN appealed to the Israeli representative to be forebearing and informed him that, in conformity with the rules of procedure of the General Assembly, he could exercise his right of reply at the afternoon meeting, after all the speakers on the list had made their statements. He would then have time enough to exercise his right fully.

50. Mr. ROSENNE (Israel) said that in view of the lateness of the hour and in deference to the wishes of the Chairman, he would accept, under protest, the suggestion that he exercise his right of reply at the afternoon meeting.

The meeting rose at 1 p.m.