



SUMMARY RECORD OF THE 16th MEETING

Chairman: Mr. AZZAROUK (Libyan Arab Jamahiriya)

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AGENDA ITEM 131: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

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The meeting was called to order at 10.10 a.m.

AGENDA ITEM 131: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (A/42/41; see also A/C.6/42/L.1)

1. Mr. TREVES (Italy), Chairman of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, introducing the Special Committee's report (A/42/41), said that all the requests addressed to the Committee by the General Assembly in its resolution 41/76 had been duly complied with. Section III of the report contained the text of a draft Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, which had been adopted by consensus. The Special Committee, having fulfilled its mandate, considered the latest report to be the final one.

2. The adoption without a vote of General Assembly resolution 41/76 and the co-operative spirit which had enabled the Special Committee to complete the draft Declaration in only three weeks could be attributed to two main factors. Firstly, the non-aligned group had broken the 10-year deadlock over the Special Committee's objectives by suggesting that the Committee should pursue the elaboration of a declaration. Secondly, by the time the item had come under discussion at the forty-first session of the General Assembly, Member States had been able to see more clearly what a generally acceptable declaration might contain. The paragraphs concerning the non-use of force in the document adopted in September 1986 by the Stockholm Conference on Confidence- and Security-building Measures in Europe had provided a useful model; and the list of proposals submitted at the end of the 1986 session of the Special Committee by the socialist States, the working paper presented by the Western European States and the working paper presented by four non-aligned States had proven to be not so far apart as to make the task of reconciling them an impossible one.

3. The draft Declaration could be seen as one link in a chain of precedents which included the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Definition of Aggression and the Manila Declaration on the Peaceful Settlement of International Disputes. The fact that the draft reiterated some of the provisions of those documents and at the same time reaffirmed them in toto showed that it was not the Special Committee's intention to give prominence to particular provisions or propose an interpretation of any of them other than that deriving from their original context.

4. The preambular paragraphs of the draft Declaration recalled the principle of refraining from the threat or use of force as enshrined in the Charter and reaffirmed in a number of international instruments. He drew particular attention to the fifth and twenty-first preambular paragraphs. Section I contained a reaffirmation of the principle and dealt with the consequences of and the exceptions to the principle. Section II indicated in which fields and in which

(Mr. Treves, Italy)

ways States could, in their mutual relations, enhance the effectiveness of the principle. Section III showed how effectiveness could be enhanced within the framework of the United Nations.

5. The draft Declaration concluded with three general clauses. According to the first, nothing in the Declaration should be construed as altering in any way the scope of the provisions of the Charter concerning cases in which the use of force was lawful, nor prejudicing in any manner the relevant provisions of the Charter or the rights and duties of States or the scope of the functions and powers of the United Nations organs under the Charter. The second general clause should be read in conjunction with the nineteenth preambular paragraph and with paragraph 5, both of which reaffirmed the principle of equal rights and self-determination enshrined in the Charter. The third general clause was based on Article 103 of the Charter and confirmed that in the event of a conflict between obligations under the Charter and obligations under any other international agreement, the obligations under the Charter would prevail.

6. The negotiation of the draft Declaration had been made easier by the spirit of co-operation of all those who had participated in the Special Committee's work. Those who had not been completely satisfied with some of its provisions had none the less associated themselves with the consensus because it seemed the best possible compromise. He urged those delegations which might feel that a particular provision could have been drafted differently, or that a particular problem required more adequate treatment, to look at the draft Declaration as a whole and to be primarily guided by the desirability of preserving the general agreement.

7. In recommending to the Sixth Committee that it should adopt the draft Declaration, he noted, firstly, that its adoption would be a manifestation of good will on the part of the Member States and, as such, would contribute to the improvement of the international climate. Secondly, the draft Declaration highlighted the linkages between the principle of non-use of force and various important principles of international law and fields of international co-operation. Thirdly, if the draft Declaration succeeded in encouraging States to work with more energy and good will towards the creation of conditions which would make the principle more effective, the considerable effort put into its negotiation would have proven worth while.

The meeting rose at 10.45 a.m.