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at 10 a.m.
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SUMMARY RECORD OF THE 17th 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 (continued)

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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 (continued) (A/42/41; see also A/C.6/42/L.1)

1. Mr. BROWN (Australia), after congratulating the Chairman of the Special Committee upon his successful efforts to bring about consensus on the draft Declaration, said that Australia acknowledged the key role of the non-aligned group in breaking the deadlock in the Special Committee. His delegation approached the draft in the spirit recommended by the Chairman of the Special Committee, and was able to support its adoption as a declaration of the General Assembly on the understanding that it maintained the existing prohibitions in international law on the use of force and gave no expansive interpretation of the right to individual or regional self-defence. In that connection, his delegation particularly noted the contents of paragraph (a) following paragraph 33 of the draft (A/42/41, sect. III).

2. The text as a whole represented a balancing of views, some of which, taken singly, his delegation would not share, or with whose practical application it would have difficulties. Other delegations, too, would doubtless be in the same position. Australia nevertheless accepted the draft Declaration and sincerely hoped that it would meet with approval across the regional and political spectrum of the Sixth Committee's membership. The adoption of a measure aimed at enhancing the effectiveness of a principle as important as that of non-use of force in international relations would be a credit to the United Nations. Moreover, the winding up of the Special Committee would release additional resources for other activities and might even lead to savings, an objective of which the United Nations should never lose sight in any aspect of its work.

3. Mr. HUCKE (German Democratic Republic) said that the drafting of the Declaration had been possible because all States members of the Special Committee and other participating States had been guided by common sense and realism. Such an achievement was of more importance today than ever before in view of the grave dangers to international peace and security posed by the arms race, hotbeds of tension and military clashes. The draft Declaration expressly reaffirmed the complex interrelationship between the enhancement of the effectiveness of the principle of refraining from the threat or use of force in international relations on the one hand, and the comprehensive implementation of that binding norm of international law on the other.

4. As Mr. Erich Honecker, Chairman of the Council of State of the German Democratic Republic, had said recently, ideological and social differences must not be applied to State-to-State relations, and must on no account be dealt with by force. Pursuant to the German Democratic Republic's foreign policy, which sought peace, understanding and international co-operation, his Government supported the draft Declaration and advocated its adoption at the earliest possible date.

5. Mr. BERNAL (Mexico) said that the hurried drafting of the Declaration was the result of an express agreement to bring the work of the Special Committee to an end, rather than a fundamental solution to the substantive problem of the use of force in international relations. A highly restricted and sometimes erroneous interpretation and the total lack of political will on the part of some members had led the Committee to draft a general and repetitive Declaration.

6. The fundamental purpose of the United Nations had been strengthened by the draft Declaration in only two ways. Firstly, the unanimous acceptance of the Declaration represented a commitment to the juridical value of the rules and provisions contained therein, not merely a reiteration of previously adopted agreements. Secondly, the draft Declaration organized and expanded the areas and elements related to the principle of non-use of force. However, many proposals which might have helped to broaden the fields of application of international law had been rejected by some delegations because of the need to force unanimous agreement, or so-called "consensus".

7. During the Special Committee's most recent session, it had not been possible to develop in any significant way the rules of international law in respect of the non-use of force, nor had it been possible to include in the draft practical measures to enhance the effectiveness of that principle. The text failed to codify important advances which had been consolidated by the United Nations, jurists, State practice, and the case-law of the International Court of Justice since the adoption of General Assembly resolution 2625 (XXV) in 1970.

8. Despite those deficiencies, his delegation supported the draft Declaration because it reaffirmed the principles and rules of international law, both treaty law and customary law. Such principles and rules were the cardinal and guiding principles of Mexico's foreign policy. The draft Declaration recalled the principles enshrined in Article 2 of the Charter and the detailed codification of its most important corollaries incorporated in General Assembly resolution 2625 (XXV). The prohibition of the threat or use of force was total. The end could not justify force, whether the use of arms or coercion, as a lawful means of international relations. In paragraph 1 of the draft Declaration (A/42/41, sect. III), the phrase "or in any other manner inconsistent with the purposes of the United Nations" was a limitation on State conduct and not an escape clause.

9. The draft Declaration stressed the prohibition of the threat of force. The mere existence of nuclear weapons was not a reasonable alternative to peaceful relations between States. Thus, not only was the use of force prohibited, but States were required to strengthen peace.

10. The draft Declaration provided for exceptions to the prohibition of the threat or use of force, namely, collective measures taken by United Nations organs, and the inherent right of individual or collective self-defence if an armed attack occurred. In addition, there was the obligation to refrain from the use of force against any struggle for self-determination.

(Mr. Bernal, Mexico)

11. Paragraph 3 of the draft Declaration was clear and categorical. No consideration of whatever nature might be invoked to warrant resorting to the threat or use of force directly or indirectly against another State. The invocation of the right of collective self-defence did not alter the basic prerequisite that a direct armed attack must have occurred.

12. His delegation interpreted the title of the draft Declaration to mean that the purpose of the text was to give full effect to the principle of non-use of force, for the effectiveness and legal validity of that principle, despite its constant violation by States, had never been in doubt.

13. He drew attention to a series of provisions contained in the draft Declaration which were aimed at strengthening the implementation of the principle of non-use of force, including the need to promote a stable and just world environment, the obligation to take measures towards the ultimate achievement of general and complete disarmament, the obligation to respect the effective exercise of human rights, the prevention of international terrorism and its underlying causes, the need to build international relations on the basis of mutual understanding, trust, respect and co-operation, and the fundamental obligation to settle disputes peacefully. Lastly, his delegation interpreted the reference in paragraph 1 to international responsibility to mean that a State which was found to have international responsibility for the unlawful use of force was under an obligation to compensate for any damage caused.

14. Mr. SKIBSTED (Denmark), speaking on behalf of the 12 States members of the European Community, recalled the position consistently held by those States from the time of the Special Committee's first meeting in 1977, namely, that the principle of non-use of force was adequately covered by Article 2, paragraph 4, of the Charter, and that attempts to interpret that Article or to elaborate upon it might create doubts about, or even undermine, the obligations of States under the Charter. However, in the light of views expressed on the topic at the forty-first session of the General Assembly, in particular by the delegation originally responsible for proposing a world treaty, and taking into account the general willingness to adopt a more realistic approach, the States members of the European Community had agreed, under certain conditions, to engage in discussions on the drafting of a declaration.

15. The draft now under consideration, which was the result of the Special Committee's work under its new mandate set forth in resolution 41/76, was a text of a non-normative nature. Those paragraphs which repeated terms of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations did not subtract from or add to that Declaration, and in no way changed the meaning which those terms had in the context of the Declaration. The other paragraphs of the draft, especially those in sections II and III, could also be regarded as generally positive.

(Mr. Skibsted, Denmark)

16. Although their misgivings with regard to certain provisions of the draft Declaration remained unallayed, the 12 States of the European Community were not proposing to reopen discussion on the draft, on the understanding that others would likewise refrain from doing so in the interest of consensus. The factor of lasting importance was the political will of States to abide faithfully by their international legal obligations in accordance with the provisions of the Charter and other rules of international law. If, in encouraging a step in that direction, the draft Declaration contributed to a more favourable international climate, the efforts of so many years would not have been in vain.

17. Mr. PAWLAK (Poland) said that the Special Committee's work had been favourably influenced by the new, more promising attitude at present developing in international relations. The draft Declaration represented a success which was attributable not only to the hard work and genuine goodwill of the Special Committee's members, but also to new factors in United Nations activities and in world affairs in general.

18. The approach reflected, in particular, in paragraphs 14, 15, 19 and 20 of the draft Declaration, was in line with the ideas and solutions consistently advocated by his country, with a view to improving the international situation and averting the threat of war. The most recent Polish initiative in that field was the plan set forth in his Government's memorandum dated 17 July 1987 (A/42/413).

19. Poland attached great importance to the draft Declaration's provisions relating to disarmament issues, and also welcomed the firm stand taken against international terrorism. It particularly valued the provisions relating to the economic sphere, the protection and promotion of human rights, and co-operation between States and United Nations organs. The draft Declaration should be seen as a logical addition to a series of important United Nations documents aimed at strengthening the rule of law and improving the international climate, a series which included the Declaration on Principles of International Law concerning Friendly Relations, the Definition of Aggression, the Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Preparation of Societies for Life in Peace. It was to be hoped that the draft's contribution to the prevention or elimination of armed conflicts and the peaceful settlement of disputes would be not merely theoretical but also practical, and that its provisions would be seriously taken into account by all States when they were formulating their foreign policies.

The meeting rose at 11.00 a.m.