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

Report of the Sixth Committee

Rapporteur: Mr. Kenneth MCKENZIE (Trinidad and Tobago)

I. INTRODUCTION

1. The item entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations" was included in the provisional agenda of the forty-second session of the General Assembly pursuant to paragraph 8 of Assembly resolution 41/76 of 3 December 1986.
2. At its 3rd plenary meeting, on 18 September 1987, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. In connection with the item, the Sixth Committee had before it the report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, 1/ which was introduced by the Chairman of the Special Committee at the 16th meeting of the Sixth Committee, on 7 October 1987.
4. The Committee also had before it the following communications:
 - (a) Letter dated 23 February 1987 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/42/140-S/18716 and Corr.1);

1/ Official Records of the General Assembly, Forty-second Session, Supplement No. 41 (A/42/41).

(b) Letter dated 4 March 1987 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/42/163-S/18736);

(c) Letter dated 20 April 1987 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/42/233-S/18817);

(d) Letter dated 29 April 1987 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/42/260-S/18832);

(e) Note verbale dated 1 June 1987 from the Permanent Representative of Mozambique to the United Nations addressed to the Secretary-General (A/42/312-S/18887);

(f) Note verbale dated 16 June 1987 from the Permanent Representative of Mozambique to the United Nations addressed to the Secretary-General (A/42/351-S/18929);

(g) Note verbale dated 16 June 1987 from the Permanent Representative of Mozambique to the United Nations addressed to the Secretary-General (A/42/352-S/18930);

(h) Note verbale dated 28 July 1987 from the Permanent Mission of Mozambique to the United Nations addressed to the Secretary-General (A/42/425-S/19003);

(i) Letter dated 17 August 1987 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/42/479-S/19055);

(j) Letter dated 3 September 1987 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/42/536-S/19104);

(k) Letter dated 5 October 1987 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/42/616-S/19174).

5. The Sixth Committee considered the item at its 17th to 21st meetings, held from 8 to 13 October, and at its 50th meeting, on 13 November. The summary records of those meetings (A/C.6/42/SR.17-21 and 50) contain the views of the representatives who spoke on the item.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/42/L.4

6. At the 50th meeting, on 13 November, the representative of Italy introduced a draft resolution (A/C.6/42/L.4) sponsored by Brazil, Bulgaria, Cyprus, Egypt and Italy.

7. At the same meeting, the Committee adopted draft resolution A/C.6/42/L.4 without a vote (see para. 9).

8. Statements in explanation of position were made by the representatives of the Syrian Arab Republic, the United Kingdom of Great Britain and Northern Ireland, Israel, the Netherlands, France, the Federal Republic of Germany and New Zealand.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Declaration on the Enhancement of the Effectiveness of the
Principle of Refraining from the Threat or Use of Force in
International Relations

The General Assembly,

Recalling its resolution 41/76 of 3 December 1986, in which it decided that the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations should complete a draft declaration on the enhancement of the effectiveness of the principle, including, as appropriate, recommendations on the peaceful settlement of disputes, and submit its final report containing a draft declaration to the General Assembly at its forty-second session,

Taking note of the report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations which met in New York from 9 to 27 March 1987, 2/

Considering that the Special Committee has completed a draft Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations and decided to submit it to the General Assembly for consideration and adoption,

Convinced of the need for the effective universal application of the principle of refraining from the threat or use of force in international relations and of the importance of the role of the United Nations in this regard,

Convinced also that the adoption of the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations should contribute to the improvement of international relations,

2/ Official Records of the General Assembly, Forty-second Session, Supplement No. 41 (A/42/41).

1. Approves the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, the text of which is annexed to the present resolution;
2. Expresses its appreciation to the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations for completing its work by elaborating the Declaration;
3. Recommends that all efforts should be made so that the Declaration becomes generally known.

ANNEX

Declaration on the Enhancement of the Effectiveness of the
Principle of Refraining from the Threat or Use of Force in
International Relations

The General Assembly,

Recalling the principle that States shall refrain in their international relations from the 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,

Recalling that this principle is enshrined in Article 2, paragraph 4, of the Charter of the United Nations and has been reaffirmed in a number of international instruments,

Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 3/ the Definition of Aggression 4/ and the Manila Declaration on the Peaceful Settlement of International Disputes, 5/

Reaffirming the obligation to maintain international peace and security in conformity with the purposes of the United Nations,

Expressing deep concern at the continued existence of situations of conflict and tension and the impact of the persistence of violations of the principle of refraining from the threat or use of force on the maintenance of

3/ Resolution 2625 (XXV), annex.

4/ Resolution 3314 (XXIX), annex.

5/ Resolution 37/10, annex.

international peace and security, as well as at the loss of human life and material damage in the countries affected, whose development may thereby be set back,

Desiring to remove the risk of new armed conflicts between States by promoting a change in the international climate from confrontation to peaceful relations and co-operation and taking other appropriate measures to strengthen international peace and security,

Convinced that, in the present world situation, in which nuclear weapons exist, there is no reasonable alternative to peaceful relations among States,

Fully aware that the question of general and complete disarmament is of the utmost importance and that peace, security, fundamental freedoms and economic and social development are indivisible,

Noting with concern the pernicious impact of terrorism on international relations,

Stressing the need for all States to desist from any forcible action aimed at depriving peoples of their right to self-determination, freedom and independence,

Reaffirming the obligation of States to settle their international disputes by peaceful means,

Conscious of the importance of strengthening the United Nations system of collective security,

Bearing in mind the universal significance of human rights and fundamental freedoms as essential factors for international peace and security,

Convinced that States have a common interest in promoting a stable and equitable world economic environment as an essential basis for world peace and that, to that end, they should strengthen international co-operation for development and work towards a new international economic order,

Reconfirming the commitment of States to the basic principle of the sovereign equality of States,

Reaffirming the inalienable right of every State to choose its political, economic, and social and cultural systems without interference in any form by another State,

Recalling that States are under an obligation not to intervene directly or indirectly, for any reason whatever, in the internal or external affairs of any other State,

Reaffirming the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

Reaffirming the principle of equal rights and self-determination of peoples enshrined in the Charter,

Reaffirming that States shall fulfil in good faith all their obligations under international law,

Aware of the urgent need to enhance the effectiveness of the principle that States shall refrain from the threat or use of force in order to contribute to the establishment of lasting peace and security for all States,

Solemnly declares that:

I

1. Every State has the duty to refrain in its international relations from the 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. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and entails international responsibility.
2. The principle of refraining from the threat or use of force in international relations is universal in character and is binding regardless of each State's political, economic, social or cultural system or relations of alliance.
3. No consideration of whatever nature may be invoked to warrant resorting to the threat or use of force in violation of the Charter of the United Nations.
4. States have the duty not to urge, encourage or assist other States to resort to the threat or use of force in violation of the Charter of the United Nations.
5. By virtue of the principle of equal rights and self-determination enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.
6. States shall fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in paramilitary, terrorist or subversive acts, including acts of mercenaries, in other States, or acquiescing in organized activities within their territory directed towards the commission of such acts.
7. States have the duty to abstain from armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements.

8. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.

9. In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

10. Neither acquisition of territory resulting from the threat or use of force nor any occupation of territory resulting from the threat or use of force in contravention of international law will be recognized as legal acquisition or occupation.

11. A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

12. In conformity with the Charter of the United Nations and in accordance with the relevant paragraphs contained 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, States shall fulfil in good faith all their international obligations.

13. States have the inherent right of individual or collective self-defence if an armed attack occurs, as set forth in the Charter of the United Nations.

.II

14. States shall make every effort to build their international relations on the basis of mutual understanding, trust, respect and co-operation in all areas.

15. States should also promote bilateral and regional co-operation as one of the important means to enhance the effectiveness of the principle of refraining from the threat or use of force in international relations.

16. States shall abide by their commitment to the principle of peaceful settlement of disputes, which is inseparable from the principle of refraining from the threat or use of force in their international relations.

17. States parties to international disputes shall settle their disputes exclusively by peaceful means in such a manner that international peace and security, and justice, are not endangered. For this purpose they shall utilize such means as negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice, including good offices.

18. States shall take effective measures which, by their scope and by their nature, constitute steps towards the ultimate achievement of general and complete disarmament under strict and effective international control.

19. States should take effective measures in order to prevent the danger of any armed conflicts, including those in which nuclear weapons could be used, to prevent an arms race in outer space and to halt and reverse it on Earth, to lower the level of military confrontation and to enhance global stability.

20. States should co-operate in order to undertake active efforts aimed at ensuring the relaxation of international tensions, the consolidation of the international legal order and the respect of the system of international security established by the Charter of the United Nations.

21. States should establish appropriate confidence-building measures aimed at preventing and reducing tensions and at creating a better climate among them.

22. States reaffirm that the respect for effective exercise of all human rights and fundamental freedoms and protection thereof are essential factors for international peace and security, as well as for justice and the development of friendly relations and co-operation among all States. Consequently, they should promote and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion, inter alia, by strictly complying with their international obligations and considering as appropriate becoming parties to the principal international instruments in this field.

23. States shall co-operate at the bilateral, regional and international levels in order to:

(a) Prevent and combat international terrorism;

(b) Contribute actively to the elimination of the causes underlying international terrorism.

24. States shall endeavour to take concrete measures and promote favourable conditions in the international economic environment in order to achieve international peace, security and justice; they will take into account the interest of all in the narrowing of the differences in the levels of economic development, and in particular the interest of developing countries throughout the world.

III

25. The competent United Nations organs should make full use of the provisions of the Charter of the United Nations in the field of maintenance of international peace and security with a view to enhancing

the effectiveness of the principle of refraining from the threat or use of force in international relations.

26. States should co-operate fully with the organs of the United Nations in supporting their action relating to the maintenance of international peace and security and to the peaceful settlement of international disputes in accordance with the Charter of the United Nations. In particular, they should enhance the role of the Security Council so that it can fully and effectively discharge its duties. In this regard, the permanent members of the Security Council have a special responsibility under the Charter.

27. States should strive to enhance the effectiveness of the collective security system through the effective implementation of the provisions of the Charter, particularly those relating to the special responsibilities of the Security Council in this regard. They should also fully discharge their obligations to support United Nations peace-keeping operations decided upon in accordance with the Charter. States shall accept and carry out the decisions of the Security Council in accordance with the Charter.

28. States should give the Security Council every possible type of assistance in all actions taken by it for the just settlement of crisis situations and regional conflicts. They should strengthen the part the Security Council can play in preventing disputes and situations the continuation of which is likely to endanger the maintenance of international peace and security. They should facilitate the task of the Council in reviewing situations of potential danger for international peace and security at as early a stage as possible.

29. The fact-finding capacity of the Security Council should be enhanced on an ad hoc basis in accordance with the Charter.

30. States should give full effect to the important role conferred by the Charter on the General Assembly in the area of peaceful settlement of disputes and the maintenance of international peace and security.

31. States should encourage the Secretary-General to exercise fully his functions with regard to the maintenance of international peace and security and the peaceful settlement of disputes, in accordance with the Charter, including those under Articles 98 and 99, and fully co-operate with him in this respect.

32. States should take into consideration that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court as an important factor for strengthening the maintenance of international peace and security. The General Assembly and the Security Council should consider making use of the provisions of the Charter concerning the possibility of requesting the Court to give an advisory opinion on any legal question.

33. States parties to regional arrangements or agencies should consider making greater use of such arrangements and agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate, pursuant to Article 52 of the Charter.

Declares that nothing in the present Declaration shall be construed as:

(a) Enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful;

(b) Prejudicing in any manner the relevant provisions of the Charter or the rights and duties of Member States or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the threat or use of force;

Declares that nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to 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, particularly peoples under colonial and racist régimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration;

Confirms that, in the event of a conflict between the obligations of Members of the United Nations under the Charter of the United Nations and their obligations under any other international agreement, their obligations under the Charter will prevail in accordance with Article 103 of the Charter.
