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CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY
RELATIONS AND CO-OPERATION AMONG STATES IN ACCORDANCE WITH THE
CHARTER OF THE UNITED NATIONS

Comments received from Governments

Addendum

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MALI

/Original: French/
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1. With reference to sub-paragraphs (a), (b), (c) and (d), my Government has no objection, since the principles enumerated in operative paragraph 3 of General Assembly resolution 1815 (XVII) are identical with those of the Charter of our international policy. They define the policy of my Government.
2. My Government approves and applies without restriction the three principles enumerated in operative paragraph 5 of General Assembly resolution 1966 (XVIII), and endorses the question of methods of fact-finding pursuant to operative paragraph 1 of General Assembly resolution 1967 (XVIII).

SWEDEN

/Original: English/
11 August 1964

The belief, pronounced in resolution 1967 (XVIII) - of which Sweden was one of the sponsors - that "an important contribution to the peaceful settlement of disputes and to the prevention of such disputes could be made by providing for impartial fact-finding" seems amply confirmed in the valuable report on the subject submitted by the Secretary-General (A/5694) pursuant to the said resolution.

There are several reasons why impartial fact-finding is needed for the prevention and solution of disputes. Unless all the facts of a controversy are available and correctly assessed, it is very unlikely that a rational solution can be found in any context. Ignorance of facts or misunderstanding of them is likely to lead to misconceived solutions, if any at all. Neither an electronic nor a human brain will be able to provide correct replies, if it is not fed with accurate facts. Another consideration is that controversies are sometimes accompanied and aggravated by an inflamed public opinion, which might be calmed by an authoritative and impartial establishment of the facts.

Naturally, as controversies of many different kinds may arise in many different contexts, the methods of fact-finding must of necessity be of a great variety. The survey supplied by the Secretary-General, although it does not cover all kinds of inter-governmental fact-finding machineries, clearly demonstrates this. It also demonstrates the usefulness of the various methods which have been employed in practice. That there is still use for traditional commissions of inquiry was demonstrated as recently as 1962 in the case of the Red Crusader, which involved Denmark and Great Britain and which was settled on the basis of the report of the commission appointed. That such new methods as the appointment of special representatives of the Secretary-General of the United Nations to be present and cognizant of events in an area of potential conflict has proved useful, is also fully documented. Between the oldest and the newest methods there is a whole spectrum of methods, designed to meet many various needs.

Evidently, the prospect of solving controversies, though always chiefly dependent upon the will of the parties to come to a solution, is also linked to the availability of suitable methods and procedures. If such do not exist, they should be devised; if they are antiquated, they should be brought up to date.

The resolution adopted by the General Assembly on methods of fact-finding has provided a useful opportunity for the review of the available methods and a discussion of the possible needs for new methods.

The General Act for the Pacific Settlement of Disputes, which was adopted by the Assembly of the League of Nations in 1926, was widely and rightly hailed as an important step forward. It was but natural that the General Assembly of the United Nations undertook, in 1949, by its resolution 268 A (III) to bring it into harmony with the new institution which had been created after the Second World War. It is a remarkable and regrettable fact that this Act, which offers States the possibility of accepting inter alia a procedure for fact-finding and conciliation, has been adhered to by only six Governments (up to January 1964). The Swedish Government, which is one of these six, would find it natural if an appeal were made for wider adherence to the Act. In many cases it appears quite probable that the non-adherence is due simply to oversight. The Swedish Government would likewise endorse the suggestion made at the end of the Secretary-General's report

that Members of the United Nations be urged to participate in the panel of persons available to serve on commissions of inquiry or of conciliation in accordance with resolution 268 D (III). Appeals in these two regards would simply aim at increasing the potential usefulness of existing procedures, to keep the house in order.

About the broader question of the feasibility and desirability of establishing a new machinery in the shape of a special international body for fact-finding, the Swedish Government feels doubtful. As the report of the Secretary-General shows, there is no lack of procedures and methods of fact-finding. Moreover, new methods seem to be devised on a universal or regional basis - ad hoc - without much difficulty, when the need arises. It is possible that smaller international organizations might find it convenient and more economical to rely upon a special international body, especially if that body were to be composed of highly regarded members and would succeed in establishing itself as an institution. It is not improbable, on the other hand, that the smaller international organizations which generally deal with quite specific, and sometimes highly technical matters, are likely to need fact-finding bodies, equipped with quite special qualifications. Although not established by a "small" international organization, the fact-finding and conciliation commission concerned with the freedom of association and set up by the ILO in consultation with the Economic and Social Council of the United Nations might be a case in point.

In conclusion, it seems to the Swedish Government that until a need is more clearly pronounced a new special fact-finding body, to be available for a variety of tasks, would not be required.
