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**CONTENTS**

*Agenda item 87:*

*Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (continued) . . . . .*

Page

1

*Chairman:* Mr. K. Krishna RAO (India).

**AGENDA ITEM 87**

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (*continued*) (A/7326)

1. Mr. PRANDLER (Hungary) said that, in comparing the work accomplished by the Special Committee in 1968 with that accomplished at its previous three sessions, many delegations had expressed regret that it had failed to formulate even one principle in 1968. While it might thus seem that its work had advanced but little in 1968, his delegation felt that the Special Committee, and especially its Drafting Committee, had been able to make real progress toward the formulation of 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.

2. An agreement had now been reached on the formulation of a general prohibition concerning the use of force. Although that formulation had been worked out at the 1967 session and had been approved by an unofficial working group, an improved and broader text had been adopted by the Drafting Committee and endorsed by the Special Committee in 1968. Even greater progress had been made with regard to the consequences and corollaries of the prohibition of the threat or use of force. Agreement had been reached not only on the wording "a war of aggression constitutes a crime against the peace, for which there is responsibility under international law" but also on the long-debated issue that "in accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression".

His delegation welcomed the fact that that agreement had been made possible by the more conciliatory attitude shown by a number of delegations which had hitherto resolutely opposed the inclusion of the matter of war propaganda. That more flexible attitude was based on the realization that, as the United Kingdom representative had put it in the Special Committee, "since the principal purpose of the United Nations... was the maintenance of international peace and security, States themselves had a duty to refrain from propaganda for wars of aggression" (see A/7326, para. 119). While his delegation did not wish to over-estimate the importance of that change of position, it hoped that the more flexible attitude taken by those delegations might portend further breakthroughs towards the formulation of the seven principles of international law. Lastly, his delegation noted with satisfaction that agreement had also been reached on the statement that "States have a duty to refrain from acts of reprisal involving the use of force." Although his delegation would have preferred greater clarity of wording, since the present formulation left open the long-debated problem whether or not it implied the prohibition of reprisals not involving the use of armed force, it felt that that formulation was of great practical value.

3. Definite progress could also be recorded in still other areas, such as the question of the organization of armed bands and the instigation of civil strife and terrorist acts. He agreed with the Czechoslovak representative's opinion (1086th meeting) that, for substantive and methodological reasons, those two provisions should be included under the principle of non-intervention rather than under the principle prohibiting the threat or use of force, but he would have no objection to their inclusion in the formulation of both principles.

4. At the same time, a number of problems remained to be solved. His delegation regretted that no progress had been made on the question of armed force or repressive measures against colonial peoples, the position of territories under colonial rule, and the Charter obligations with respect to dependent territories. On those points, agreement was being hindered by a small number of delegations which could not yet accept the final consequences, including the legal consequences, of decolonization. Their arguments, based in particular on the interpretation of Chapters XI and XII of the United Nations Charter, merely provided sustenance for the racist régimes in southern Africa.

5. His delegation also regretted that there had been no progress in the formulation of the principle of equal rights and self-determination of peoples. It fully agreed with those who urged the Special Com-

mittee to seek to reach agreement on that principle on the basis of the proposals so far submitted.

6. His delegation hoped that the draft resolution now being worked out in informal consultations would recommend that the Special Committee should give priority to the two principles it was currently discussing, namely, the principle prohibiting the threat or use of force and that of equal rights and self-determination of peoples, and at the same time endeavour to complete the formulation of all principles. It also hoped that it would be possible to commemorate the twenty-fifth anniversary of the establishment of the United Nations by the final adoption of a declaration on the seven principles of international law concerning friendly relations and co-operation among States. He appealed to the members of the Special Committee to do their best to fulfil that expectation, which would be a major step in the progressive development and codification of international law.

7. Mr. DADZIE (Ghana) regretted that in 1962 the Special Committee had, as a compromise, adopted the wording "consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations", proposed by the delegations of Chile, Dahomey, Greece, Ireland, Japan, Pakistan, Turkey and the United States, rather than "consideration of principles of international law relating to peaceful coexistence of States", proposed by the delegations of Afghanistan, Cambodia, Ceylon, Czechoslovakia, Ghana, Indonesia, Iraq, Libya, Mali, Romania, the United Arab Republic and Yugoslavia.<sup>1/</sup> Had General Assembly resolution 1815 (XVII) not been adopted at the height of the cold war, which had affected the Committee's attitude towards the words "peaceful coexistence", the result might have been very different.

8. To the remarks made by the United States representative (1091st meeting) concerning the adoption of General Assembly resolution 1815 (XVII), he would like to add some further pertinent remarks. In the contemporary world, big nations were bullying and threatening small ones and intervening in their domestic affairs; some people despised others because of their race, colour of skin or religion; and some countries were held in subjection by others despite the many resolutions of the General Assembly. The indigenous people of South Africa were languishing under the cruel policy of apartheid practised by the immigrant Afrikaners; the indigenous people of Namibia were suffering the worst type of racial discrimination and forced labour; and the people of Southern Rhodesia, who were yearning for the freedom that was their birthright, were being murdered by the minority settlers in power. Some nations were vying with each other to produce the most deadly weapons the world had ever seen, instead of trying to meet the requirements of peace. Those examples showed that man had yet to learn to coexist, let alone co-operate, with his fellow men. Accordingly, the need to lay down the principles of international law which would bring man-

kind closer to that concept, which alone held out hope for his future, could not be over-estimated.

9. During the discussions that had followed the identification of the seven principles ripe for progressive development and codification, some delegations had contended that there was no need to restate principles that were already in the Charter. But if the Charter had been perfect during the seventeen years prior to the adoption of resolution 1815 (XVII), there would have been no need for the General Assembly to adopt the Universal Declaration of Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, all of which were declarations of principles proclaimed in the Charter. The need for the study and codification of the seven principles had arisen, *inter alia*, because various interpretations were being given to the principles proclaimed in the Charter, since States needed a pretext for carrying out illegal acts and since nations were still unable to live together in peace and unite their strength to maintain international peace and security. Furthermore, the Charter had been weakened by many of its own provisions, including the right of veto.

10. Since Ghana's views on the seven principles were already well known, he would merely comment on one or two. The need to settle international disputes by peaceful means could not be over-emphasized. The threat or use of force, whether in international relations or in settling disputes, placed the world in danger of nuclear war and threatened mankind with virtual annihilation.

11. The question of the subjection of peoples to alien domination had been deplored by all freedom-loving nations and had been given close attention by the United Nations. General Assembly resolution 1514 (XV), a milestone in United Nations law, gave—particularly in its second preambular paragraph and its operative paragraph 2—the exact wording of the principle of equal rights and self-determination of peoples. No statement of the law on that point could be more appropriate; yet that principle was even today being disregarded by some colonial Powers.

12. At a time when the sovereignty and territorial integrity of small nations was more at stake than ever before and when, unless all nations, large and small, learned to coexist and co-operate, the consequences would be too fearful to contemplate, the need to emphasize the need for non-intervention in the internal affairs of other States had never been greater.

13. His delegation was satisfied with the progress so far made by the Special Committee, especially its agreement on a statement on the general prohibition of force, including the idea that the threat or use of force should never be employed as a means of settling international issues. It also welcomed the agreement reached on the texts of statements on wars of aggression; responsibility for wars of aggression and wars of propaganda; acts of reprisal; the organization of armed bands; making the United Nations security system more effective; the use of force in territorial disputes and boundary problems; and the duty of a State to refrain from involvement in civil strife and

<sup>1/</sup> See *Official Records of the General Assembly, Seventeenth Session, Annexes*, agenda item 75, document A/5192, paras. 5-8.

terrorist acts in another State. It also welcomed the agreement reached at the 1967 session on the inclusion of the concept of general and complete disarmament under effective control as a corollary to the principle prohibiting the threat or use of force, and the recommendation that States should strive to adopt measures to reduce international tensions and strengthen confidence among States.<sup>2/</sup>

14. His delegation hoped that the Special Committee would continue its efforts to reach agreement on the questions of military occupation and non-recognition of situations brought about by the illegal threat or use of force; the use of armed force or repressive measures against colonial peoples, the position of territories under colonial rule, and the Charter obligations with respect to dependent territories; economic, political and other forms of pressure; and the use of force by peoples of dependent territories in self-defence against colonial domination, in the exercise of their right of self-determination, which constituted the lawful use of force under the Charter.

15. His delegation believed that the Special Committee should follow up the progress it had made at its 1968 session on the principle prohibiting the threat or use of force, that it complete its formulation on the principle of equal rights and self-determination of peoples, and that if it had time it should take up other principles. It would therefore support a draft resolution along those lines, whether or not the other principles were specified. Since it felt that the Special Committee could undoubtedly accomplish even more useful work in the years ahead, it would support a proposal to extend the Special Committee's next session to at least five weeks.

16. Mr. ANDRIAMISEZA (Madagascar) said that the report under consideration was very cogent and showed that, although the results of the Special Committee's 1968 session were not entirely satisfactory, greater progress had been made in 1968 than in 1967, especially with regard to the principle prohibiting the threat or use of force. That progress had resulted from a number of factors, including the inter-session contacts among members of the Special Committee, the more flexible attitude adopted by all delegations and their common determination to complete their work successfully. Larger areas of agreement had been defined, despite continuing differences of opinion on important questions such as international lines of demarcation, self-defence, the definition of the term "force", and the lawful use of force, all of which required further study.

17. His delegation's views were a matter of record, for it was a member of the Special Committee and had co-sponsored some of the proposals submitted to it. However, he wished to make a few supplementary comments. With regard to the principle prohibiting the threat or use of force, it was regrettable that no progress had been made concerning the non-recognition of situations brought about by the threat or use of force, which his delegation considered a direct and logical corollary of the general principle on which agreement had already been reached. He hoped all delegations would realize that if an acceptable formu-

lation of that corollary was not found, some States might be encouraged to resort to force. In that connexion, his delegation would have reservations regarding any formulation implying that colonial countries were part of the territory of the colonial Power.

18. No agreement had been reached on the principle of equal rights and self-determination of peoples at the 1968 session, or indeed at any previous session, owing largely to lack of time. His delegation therefore hoped that the Special Committee would devote more time to that principle at its next session, for a joint statement on self-determination, which Madagascar had always considered an inalienable right of all peoples, would be of the greatest value to the peoples still under colonial domination. At its next session, the Special Committee should also consider the principle of non-intervention and seek to enlarge the areas of agreement already defined.

19. Madagascar attached the greatest importance to the principles being studied by the Special Committee, as was shown by the fact that it had requested the inclusion in the agenda of the twentieth session of the General Assembly of item 94, which Assembly resolution 2013 B (XX) requested the Special Committee to take into account. His delegation would therefore support any draft resolution proposing the prolongation of the Special Committee's mandate, and was confident that the Special Committee would eventually bring its work to a successful conclusion.

20. Mrs. KELLY DE GUIBOURG (Argentina) said that the final formulation of the principle prohibiting the threat or use of force should make it clear that the term "force" related exclusively to armed force. Economic and political forms of pressure, which her delegation strongly condemned, could be dealt with in special regulations designed to minimize their effect on the life of the international community. In addition, the final formulation should proclaim the inviolability of the territory of a State and its corollary—that the territory of a State could not be the object, even temporarily, of military occupation or of other measures of force on any grounds whatsoever and that territorial acquisitions or advantages obtained by the use of force or other forms of coercion should not be recognized in any way. The final formulation would be incomplete if it did not take those points into account, and it was to be hoped that the Special Committee would be able to reach agreement on them at its next session, taking as a starting-point the formula which had been advanced in the Drafting Committee as a basis for discussion.

21. Her delegation felt most strongly that every State should refrain from organizing irregular forces for attacks on other States and from supporting, in any form whatsoever, subversive or terrorist activities directed towards the violent overthrow of the régime of another State. Such activities amounted to intervention and were therefore prohibited in paragraph 2 of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the and the Protection of Their Independence and Sovereignty, contained in General Assembly resolution 2131 (XX). However, they also involved the use of armed force and should therefore be included in the

<sup>2/ Ibid., Twenty-Second Session, Annexes, agenda item 87, document A/6799, para. 107.</sup>

formulation of the principle prohibiting the threat or use of force.

22. It was to be hoped that at its next session the Special Committee would be able to finish its work on the principle prohibiting the threat or use of force and the principle of equal rights and self-determination of peoples. It would then be able to consider, perhaps in 1970, the final form of the declaration on the seven principles of international law concerning friendly relations and co-operation among States.

23. The Special Committee would also have to decide whether to include in the declaration other proposals compatible with General Assembly resolution 2131 (XX), with the aim of widening the area of agreement reached on the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State. The Argentine delegation considered that any new terms of reference to be given to the Special Committee should not affect the decision reached at its 1966 session<sup>3/</sup> and at the twenty-second session of the General Assembly (see Assembly resolution 2327 (XXII)) concerning the value and the nature of resolution 2131 (XX). That resolution, which had been adopted without opposition, represented the most complete formulation of the principle of non-intervention. The Special Committee should not undo what had been done and should not restrict the area of agreement expressed in the resolution but should widen it, as requested in General Assembly resolutions 2181 (XXI) and 2327 (XXII).

24. The positive results which all expected from the Special Committee would be achieved only if the international conduct of States reflected a genuine intention to base their relations with others on the principles established in the United Nations Charter. Recent history contained numerous examples of violations of territorial integrity. States which overstepped their own boundaries and invaded the territory of other States were committing a flagrant juridical violation and undermining confidence in the effectiveness of international organizations and in the rule of law. It was vital to restore respect for the principles of the Charter, if the moral conscience of mankind was not to be irreparably warped.

25. Mr. NACHABEH (Syria) noted that the Special Committee had made only slight progress at its 1968 session, partly because of the short time at its disposal but mainly because there were two basically different approaches to the consideration of the principles of international law concerning friendly relations and co-operation among States. The first approach maintained that the formulation of those principles should reflect certain basic changes in international life which had occurred since the adoption of the Charter in 1945. The second approach claimed that most of those changes could not be taken into account because the proposals reflecting them were political rather than juridical in content. The Syrian delegation considered that it was vital to reflect those basic changes in a declaration emanating from an essentially political organ, the General Assembly. It agreed with the remark made by the United

States representative during the discussion of the question of defining aggression, at the sixth session of the General Assembly, that "juridical considerations could not be divorced from political, economic and social factors" (see 280th meeting, para. 17).

26. His delegation supported the formulation of the principle of territorial integrity contained in item 4 of the ten-Power proposal (see A/7326, para. 26) and restated in item 2 (e) and (f) of the five-Power Latin American proposal (*ibid.*, para. 27). It could therefore not accept restrictive formulations such as the one referred to under item 7 of the report of the Drafting Committee (*ibid.*, para. 111).

27. The use of force in exercise of the right of individual or collective self-defence constituted an exception to the prohibition of the use of force, but that right should be invoked only in cases of armed attack, as stated in Article 51 of the Charter. The same proviso appeared in item 6 of the ten-Power proposal and in item 3 (b) of the Latin American proposal. Any other formulation allowing the right of self-defence to be invoked for other reasons—for instance, to justify expansionism by armed forces such as was currently being practised in the Middle East—would lead to flagrant violations of international law and of the Charter provisions, which would pose a threat to international peace and security.

28. Another exception to the prohibition of the use of force was its use in exercise of the right to self-determination. His delegation could not accept the argument that that exception should be excluded because it involved the "right of internal rebellion". The current era had rightly been called the age of decolonization, and numerous resolutions and decisions had proclaimed the end of colonialism and the legitimacy of the struggle of the dependent peoples to eliminate its last vestiges.

29. He reiterated his delegation's reservations with respect to the formulae under items 5 and 6 of the report of the Drafting Committee concerning the organization of armed bands and the instigation of civil strife and terrorist acts (*ibid.*, para. 111). In the existing wording, those formulae might be interpreted in a way which would be detrimental to the rights of dependent peoples.

30. Owing to lack of time, the Special Committee had been able to devote only three meetings at its 1968 session to the principle of equal rights and self-determination of peoples. The essential elements for a formulation of that principle were incorporated in the ten-Power proposal on the subject (*ibid.*, para. 140). The Special Committee should continue its work on that principle, the principle prohibiting the threat or use of force, and the principle of non-intervention. In connexion with the last-named principle, it should widen the area of agreement expressed in General Assembly resolution 2131 (XX), on the basis of proposals compatible with that resolution and not proposals such as those submitted to the Special Committee in 1967, which had tended to restrict the area of agreement.

31. The work of the Special Committee would be facilitated if consultations were held among its members prior to the next session.

<sup>3/</sup> *Ibid.*, Twenty-first Session, Annexes, agenda item 87, document A/6230, paras. 340 and 341.

32. Mr. OMBERE (Kenya) regretted that the Special Committee had been unable to reach complete agreement on the principle prohibiting the threat or use of force. That principle, to which Kenya attached great importance, was particularly significant in the contemporary world, where a few Powers had boundless striking potential. The concept of the prohibition of the threat or use of force, which had emerged as a result of the development of military techniques and armaments endangering mankind's very existence, had been emphatically proclaimed in the 1899 and 1907 Hague Conventions for the Pacific Settlement of International Disputes, the 7th principle of the 1955 Bandung Declaration, chapter II of the 1961 Belgrade Declaration, articles II and III of the Charter of the Organization of African Unity, and Article 2, paragraph 4, of the United Nations Charter.

33. His delegation considered that the prohibition of the threat or use of force should embrace not only armed force but also economic, political or any other form of pressure and the activities of irregular forces or armed bands operating against a State from bases within the territory of another State which condoned their presence. However, a clear distinction should be drawn between the latter activities and certain types of assistance designed to help colonial peoples to obtain their freedom, which did not violate the principle prohibiting the threat or use of force. He recalled in that connexion that the 1963 Summit Conference of Independent African States had agreed on joint action to promote the national liberation of colonial peoples. On the other hand, the use of force to prolong colonial domination was unlawful and should be prohibited, since it ran counter to General Assembly resolution 1514 (XV). Force could, however, be used lawfully in certain circumstances, for example by a regional agency acting in accordance with the United Nations Charter, by States exercising their individual or collective right of self-defence, or in exercise of the right of self-defence against colonial domination.

34. His delegation regretted that owing to lack of time the Special Committee had been unable to complete the formulation of the principle of equal rights and self-determination of peoples, which was explicitly embodied in Article 1, paragraph 2, and Article 55 of the Charter and implicitly stated in Chapters XI, XII and XIII of that instrument. The principle had been the corner-stone of the United States Declaration of Independence, the French Revolution of 1789 and the 1917 October Socialist Revolution in the USSR, and it now formed the basis of the activities of various national liberation movements in Asia and Africa. His delegation had co-sponsored a proposal on that principle which had been submitted to the Special Committee (see A/7326, para. 136). It attached particular importance to items 2 (b), (c), (d) and (e) of that proposal, and hoped that the Special Committee would consider them in its future discussions.

35. Lack of time had likewise prevented the Special Committee from discussing the principle of non-intervention. That principle, which was proclaimed

in the United Nations Charter as well as in many other international agreements signed during the past 150 years, was a basic component of contemporary international law, and its violation constituted a major threat to international concord and co-operation. However, assistance to colonial peoples struggling for their freedom did not contravene the principle.

36. His delegation considered that the Special Committee should be allowed to continue its work on the remaining principles and would vote for any draft resolution to that effect.

37. Mr. ALLAN (Kuwait) said that the Special Committee's work had, on the whole, been slow, but he commended that Committee for its perseverance. His delegation attached special importance to the principle prohibiting the threat or use of force. He paid a tribute to the sponsors of the proposal on that subject submitted to the Special Committee (see A/7326, para. 26) and stressed item 4 of that proposal, which would protect States against any encroachment upon their territorial integrity, prevent the imposition of solutions based on accomplished facts, and preclude the use of force to acquire new territory or advantages of any kind and would thus erect a firm barrier against the territorial ambitions of some States. The final formulation should include a statement to the effect that the territory of a State should never be the object of military occupation or other measures of force on any grounds whatsoever, and that situations brought about by the illegal threat or use of force should not be recognized.

38. His delegation was also following very closely the progress of work on the principle of equal rights and self-determination of peoples and commended the proposal submitted to the Special Committee on that subject (*ibid.*, para. 136). The principle of self-determination, embodied in the Charter, could not be implemented so long as the colonial Powers refused to recognize it. The struggle against colonial rule was a legitimate exercise of the right of self-defence and deserved active assistance from all freedom-loving peoples. All attempts by colonial Powers to dismember other States were contrary to the right of self-determination, for they sought to frustrate the will of the indigenous peoples and disrupt their national unity. Colonialism could be liquidated if all States were willing to fulfil their obligations under the Charter. What was needed was an international strategy to ensure universal compliance with the requirements of self-determination and a concerted plan of action to liquidate colonialism.

39. The Special Committee's task was a noble one, but the work had been impeded by the widely divergent viewpoints which had to be reconciled and by the regrettable conditions prevailing in the modern world. Kuwait, as a peace-loving country, attached great importance to the Special Committee's aims and believed that they could be attained if patience and proper understanding were shown by all concerned.

*The meeting rose at 5.25 p.m.*

