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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 Secretary-General

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* A/34/150.

I. INTRODUCTION

1. On 16 December 1978, the General Assembly adopted resolution 33/96 entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations", paragraphs 2 and 3 of which read as follows:

"The General Assembly,

...

"2. Decides that the Special Committee shall continue its work with the goal of drafting, at the earliest possible date, a world treaty on the non-use of force in international relations as well as the peaceful settlement of disputes or such other recommendations as the Committee deems appropriate;

"3. Invites the Governments which have not yet done so to communicate their comments or suggestions or to bring them up to date, in accordance with General Assembly resolution 31/9." 1/

2. Pursuant to paragraph 3 quoted above, the Secretary-General, by a note dated 13 February 1979, invited Member States to communicate to him as soon as possible the comments and suggestions referred to in that paragraph.

3. As at 8 August 1979, comments had been received from Cuba and Qatar. Any further observations will be published as an addendum to the present report.

1/ Pursuant to the decision in para. 2 of the resolution, the Special Committee met in New York from 17 April to 11 May 1979. For its report, see Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 41 (A/34/41).

II. OBSERVATIONS RECEIVED FROM GOVERNMENTS

CUBA

/Original: Spanish/

/23 May 1979/

1. Cuba's position on this question has been expressed during the debates of the General Assembly and the Special Committee; we shall therefore confine ourselves here to making just a few comments.
2. As has been previously stated, the Government of Cuba considers that the draft treaty proposed by the Union of Soviet Socialist Republics 2/ provides a good basis for discussion and negotiation.
3. It should be emphasized that there is general agreement that this principle represents the most important rule of contemporary international law.
4. After all, not so many years ago, international law to some extent sanctioned the use of force in relations between States. There was de jure recognition of situations resulting from war. The will of the victor was law, no matter on whose side justice lay.
5. Today the written law is that Members of the United Nations shall refrain 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.
6. As a consequence of the formulation of this principle, it is no longer possible to talk about the jus ad bellum as an article of international law. The use of force, particularly war of aggression, constitutes an international crime and has become part of codified international criminal law by virtue of its incorporation in the Nürnberg Charter of 1945.
7. At first sight, the formulation of this principle in the clear and vigorous terms in which it appears in Article 2, paragraph 4, of the Charter of the United Nations, requires no elaboration. However, given the history of international relations since the Second World War, it is advisable to give it the shape of legal rules, with immediate effect, in order to prevent aggressors from utilizing escape clauses that allow the offence to be represented as a superficially legitimate coercive measure.
8. The use of force in international relations is illegal today, except in the instances and in the manner sanctioned by the Charter of the United Nations.

2/ Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 41 (A/34/41), annex.

9. The use of force is legally permissible only in self-defence or in carrying out an order of the Security Council. Self-defence cannot be extended to preventive war launched on the basis of the suspicion or pretext that the victim of the attack was itself preparing to attack.
10. The prohibition of resort to force must not diminish the right of peoples to self-defence against colonial and neo-colonial domination, in exercise of their right to self-determination.
11. The theory that colonies constitute an integral part of the territory of the metropolitan State must be rejected, since colonialism per se constitutes permanent aggression, and exploited and oppressed peoples have an inalienable right to self-defence against that form of aggression. It is likewise legitimate to use force against foreign occupation from which no sovereign rights may validly be derived over territories seized by means of a war of aggression.
12. Contemporary international law confers no legal significance of any kind on de facto situations resulting from the exercise of brute force. The presence in the territory of a State of foreign military bases and troops, ordered and maintained against the wishes of its people, who have an inalienable right to self-defence against this form of aggression, represents a permanent threat to the territorial integrity and political independence of that State.
13. In the opinion of the Government of Cuba, any military, political or economic threat or action by a State for the purpose of coercing another State constitutes the use of force.

QATAR

/Original: Arabic/

/9 April 1979/

The expenditure of international efforts to enhance the effectiveness of the principle of non-use of force in international relations has been adopted by the State of Qatar as a major objective in its policy within and outside the United Nations. It firmly believes that the arms race constitutes a major obstacle and presents real threats to international peace and security. The fact that intensive competition in the field of nuclear weaponry and nuclear tests is on the increase, and the existence of conventional weapons of mass destruction, a large portion of which are directed at regions of instability and crisis, jeopardize the maintenance of international peace and security and expose mankind to danger and the threat of annihilation.

Accordingly, the State of Qatar believes that it is necessary to intensify international efforts to enhance the effectiveness of the principle of non-use of force, and it therefore sets forth below its views and comments on the proposed Treaty on the Non-Use of Force in International Relations:

/...

1. On the basis of its total respect for the purposes and principles of the United Nations and for the policy of non-alignment, the State of Qatar is in favour of any initiative aimed at strengthening and enhancing the principle of non-use of force in international relations. As a member of the non-aligned movement, the State of Qatar also supports the world-wide application of the principles of peaceful coexistence, national independence, sovereignty, territorial integrity, non-interference in the internal affairs of States and the inadmissibility of the acquisition of territory by force.

2. The State of Qatar believes that the draft Treaty must be given full and comprehensive study in the light of the following:

(a) The Charter of the United Nations, so that the Treaty will be a new addition to the Charter and not a mere repetition of its provisions and principles;

(b) The resolutions of the General Assembly of the United Nations relating to the principles of international law, mutual co-operation among States, the Declaration on the Strengthening of International Security and the definition of aggression.

3. The right of peoples to:

(a) Counter aggression, whatever its source and motives;

(b) Defend their national independence, natural resources and territorial integrity by all available means, including armed struggle;

(c) Self-determination;

(d) Resist any form of racial discrimination, racial segregation, racist settlement and alien occupation;

(e) Defend their natural resources and exploit these resources in a way which accords with their national interest.

4. The conclusion of the proposed Treaty would not remove the need to ensure international circumstances favourable to the enhancement of the principle of non-use of force in international relations, foremost among which are the following:

(a) Amendment of the Charter of the United Nations to guarantee its effectiveness for the maintenance of peace and resistance to aggression;

(b) Disarmament and a halt to the arms race;

(c) The establishment of the ocean and seas as zones of peace, removing from them military bases and installations and all manifestations of the military presence of the big Powers and other States; the non-use of force against the sovereignty of any State or against its territorial integrity and its independence;

/...

and the removal of nuclear weapons and weapons of mass destruction from these areas as a step towards the establishment of collective international security;

(d) The enhancement and promotion of the concept of détente and its significant effect on the easing of the international climate, as well as expansion of the area of détente;

(e) Speedy action to establish the new international economic order to remedy the current crisis from which the developing countries are suffering as a result of the decline in their economic situation and the continued exploitation by the advanced countries of the resources of the developing countries in a way which ignores the national interests of the latter; it is therefore essential and urgent that a fundamental change be effected in the international economic order, with a view to creating favourable circumstances for accelerating the steady economic growth of the developing countries.
