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Chairman: Mr. MENDOZA (Philippines)

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CONTENTS

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AGENDA ITEM 124: CONCLUSION OF A WORLD TREATY ON THE NON-USE OF FORCE IN
INTERNATIONAL RELATIONS (continued)

AGENDA ITEM 123: DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE TAKING OF
HOSTAGES

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The meeting was called to order at 11 a.m.

AGENDA ITEM 124: CONCLUSION OF A WORLD TREATY ON THE NON-USE OF FORCE IN INTERNATIONAL RELATIONS (A/31/243, A/31/305; A/RES/31/9; A/C.6/31/7) (continued)

1. Mr. BUSSE (Federal Republic of Germany) said that his delegation had noted with interest the Soviet proposal for a treaty on the non-use of force in international relations, since his country considered that the maintenance and safeguarding of peace were prerequisites for the coexistence, and even survival, of nations, and, like other Member States, was committed to the principle of the non-use of force. It was in the interest of all Member States that that principle as laid down in Article 2, paragraph 4, of the Charter, should continue to be fully binding, and any initiatives aimed at establishing new international norms should be the subject of detailed legal analysis to ensure that they were compatible with the Charter. In that connexion, he noted that a number of resolutions had been adopted in a desire to give emphasis to certain principles of the Charter without affecting existing international law. They included General Assembly resolution 2625 (XXV) (Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations), resolution 2734 (XXV) (Declaration on the Strengthening of International Security) and resolution 3314 (XXIX) (Definition of Aggression).
2. A determining factor, in his delegation's view, was the political will to inject life into existing international instruments, particularly the Charter. His country had given proof of that will by consistently adhering to a policy based on the principle of the non-use of force. As a result, there had been a reduction of tensions in Europe and the way had been paved for increased co-operation among nations. Also, bilateral agreements had been concluded with neighbouring Eastern European countries and had done much to bring about the Conference on Security and Co-operation in Europe.
3. Member States should prove by their actions that they took the goal of peaceful co-operation seriously. He trusted that, in their own interest, they would accord to the principle of the non-use of force the importance that it received under the Charter.
4. Mr. UPADHYAY (Nepal) said that his delegation supported the proposal for a treaty on the non-use of force in international relations and failed to understand the argument that the codification of international law and further elaboration of the principles contained in the United Nations Charter might weaken that instrument. The proposal should be examined as a matter of urgency, since countries, such as his own, wishing to devote all their resources to the fight against under-development were particularly interested in attaining a legal order that would guarantee the security of the State against the use or threat of force.

(Mr. Upadhyay, Nepal)

5. His delegation had already referred to the need to elaborate many of the concepts in the Charter, and particularly in Chapter VII, but would reiterate that the term "use of force" should be carefully handled so that no loophole was left to enable a relatively stronger nation to use force against a weaker one. In that connexion, his delegation considered, as it had already had occasion to state when the Committee had considered the definition of aggression in 1974, that the blocking of land-locked countries' access to the sea was tantamount to indirect aggression. The basic right of a State to a sovereign and independent existence depended on its channels of communication and that point should be borne in mind when considering the term "use of force".

6. Mr. SIAGE (Syrian Arab Republic) said that the remarks he would make on the legal aspects of the Soviet proposal were of a preliminary nature. His Government reserved the right to submit further comments later.

7. His delegation believed that a treaty on the non-use of force in international relations was necessary for several reasons. In the first place, it would underline the mandatory nature of the obligation not to use force which the Charter imposed on States. Secondly, it would consolidate the provisions of the Charter, without replacing or changing them in any way. Thirdly, it would promote the codification and progressive development of international law, by means of detailed provisions that took account of changes in international relations.

8. Further, such a treaty would affirm, and elaborate on, the provisions of the Charter in the same way as, for example, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Declaration on the Strengthening of International Security, the Definition of Aggression and the Final Act of the Conference on Security and Co-operation in Europe signed at Helsinki in 1975.

9. His delegation would welcome any international initiative to prohibit the use of force in international relations, in keeping with the principles of the Charter, and to settle disputes by peaceful means. It considered that a treaty on the non-use of force would constitute a new commitment to respect the provisions of the Charter.

10. Mr. GANA (Tunisia) said that his delegation's support for the draft treaty on the non-use of force in international relations was in keeping with the policy which Tunisia had always followed in accordance with the basic principles of the Charter. In particular, the treaty would not affect the right of peoples fighting for their independence to make use of all means at their disposal, including armed force, as provided in Article 51 of the Charter and article 6 of the Definition of Aggression; also, it would not affect the rights of the Security Council under Article 42 et seq. of the Charter.

(Mr. Gana, Tunisia)

11. His delegation was pleased to note that, despite differences of opinion regarding its legal aspects, no delegation was opposed to the substance of the draft treaty. Some delegations had, however, adopted a more cautious attitude than others, on the grounds that there was nothing new in the draft treaty, that it contained omissions and ambiguities which could give rise to differing interpretations and that, in any event, it could not be more effective than the Charter, as peace and international security were mainly a question of the political will of States. Without discounting the need for caution in the matter, his delegation considered that such a negative attitude might well result in the catastrophe which the international community hoped to avoid. Moreover, the will to banish forever the spectre of war and to institute an international order based on peace and justice was loudly proclaimed; the draft treaty invited Member States to reaffirm that will and to build a better world where force and the threat of force would be unknown.

12. In his delegation's opinion, all States had a duty to contribute actively to the success of the draft treaty. That would be in keeping with the codification and progressive development of international law as reflected, in particular, in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and the Definition of Aggression.

13. If, as certain delegations felt, the draft treaty was deficient in certain respects, then it was for the Committee to make the necessary improvements. The draft treaty had a wide measure of support and he trusted that the Committee would not fail to lend its valuable contribution by putting it into due legal form.

14. Mr. QAZILBASH (Pakistan) said that, although the principle of the non-use of force in international relations was not new, it was difficult to give legal force to that concept. In his delegation's view, the use of force among nations was rooted in the basic inequalities that characterized the modern world; it reflected a situation in which weaker nations were subjected to domination and interference and the legitimate rights of peoples, especially the right of self-determination, were still denied. Consequently, any instrument designed to promote the non-use of force in international relations could not be divorced from the task of resolving existing conflicts and achieving justice in relations between States.

15. That was the perspective in which his delegation had examined the Soviet draft treaty, whose purpose was to promote international peace and security. It considered, however, that account had not been taken of certain basic considerations. In the first place, any agreement to prohibit the use of force would only be effective if it provided for obligatory machinery for the peaceful settlement of disputes. Secondly, one of the aims of the draft treaty should be to secure full compliance with the principles of the Charter and with United Nations decisions, which afforded the best guarantee of international peace and security. Thirdly, the role of the United Nations, and the purpose of any instrument designed to further international peace and security, was not simply

(Mr. Qazilbash, Pakistan)

to prevent conflict but also to promote just and peaceful solutions to disputes that were an actual or potential danger to international peace and security. Further, the draft treaty should expressly require that States would not interfere in the internal affairs of other States and should refer to the inherent right of individual or collective self-defence, as laid down in Article 51 of the Charter. For those reasons, his delegation had abstained in the vote on General Assembly resolution 31/9 inviting Member States to examine the treaty. It considered that new approaches to the question should be considered within the United Nations before comments were invited on any draft treaty on the matter.

16. Mr. MEDINA (Spain) said that his delegation had voted in favour of General Assembly resolution 31/9 because it considered that the prohibition of the use of force in international relations was an important matter and merited careful examination. Also, since the question had both political and legal implications, his delegation fully agreed that it should be considered by both the First Committee and the Sixth Committee. His remarks were to be regarded as preliminary, since his Government would submit written observations to the Secretary-General in due course.

17. The principle of the non-use of force, as laid down in Article 2, paragraph 4, of the Charter, was basic to the purposes and principles of the United Nations, which his delegation had always regarded as immutable. To ensure that the prohibition of the use of force was really effective, however, the elements that would make for collective security should also be studied. He had in mind, for example, the need to set up machinery to prevent conflicts and to maintain peace, the need to make the provisions of Chapter VII of the Charter effective and the development of methods for the peaceful settlement of disputes. Those elements, which had been the subject of consideration by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, were all interrelated and should be taken into account in any future study of the draft treaty. Among other matters studied by the Special Committee which should also be taken into account were the need to carry out a detailed study of the consequences of any given proposal; to endeavour to secure the general agreement of delegations for any given initiative; and to prevent the mandatory nature of the purposes and principles of the Charter from being affected in any way. His delegation considered that the matter, including its legal aspects, should be the subject of continuing consideration.

18. Mr. ROSSIDES (Cyprus) said that the Soviet proposal was valid in that the conclusion of a world treaty on the non-use of force in international relations would serve to re-emphasize the faith of the international community in the non-use of force. The need for such a measure was demonstrated by the number of items on the agenda of the current session of the General Assembly directly connected with the use of force. The provisions of the Charter concerning the non-use of force were continually violated and the United Nations had regrettably failed to enforce its resolutions in that regard.

(Mr. Rossides, Cyprus)

19. The main problem facing the international community was that of ensuring compliance with the provisions of the proposed treaty. To that end, the draft treaty should contain a reference to Article 2, paragraph 5, of the Charter. The draft treaty should also provide for modalities for the peaceful settlement of disputes. Such modalities already existed in the Vienna Convention on the Law of Treaties and other international instruments.

20. Mr. ROSENSTOCK (United States of America) said that nothing his delegation had heard had altered its already expressed views as to the utility or appropriateness of the material before the Committee. Although no one denied the need to ameliorate the world situation, any attempt to do so in a counter-productive or misleading manner would be worse than inaction.

21. There was every reason to anticipate an agreed conclusion to the Committee's consideration of the question which would respond to the request made of the Committee by the President of the Assembly. The conclusion which his delegation anticipated would be consistent with its own views as to how any future consideration of the matter should proceed.

22. He was confident that any decisions taken by the General Assembly at its thirty-second session would be informed and influenced by the views expressed at the current session concerning both inscription and allocation of the question.

23. Miss AGUTA (Nigeria) said that the fact that the question of concluding a world treaty on the non-use of force in international relations had been submitted to the Committee at the current stage of its work gave the impression that the discussions on disarmament in general must be yielding fruitful results and that regulations would soon emerge which eliminated not only the arms race, but also the use of force in settling disputes.

24. It was difficult to say what was meant by the legal implications of a legal draft. Since the Committee was being asked to develop rules from scratch, in conformity with the idea of progressive development of international law, it might have been preferable if it could have been furnished with the political implications of the question. Furthermore, the question whether the subject was ripe for codification must be answered by the First Committee and the General Assembly before the matter was referred to the Sixth Committee for further treatment and codification.

25. To draft a successful preventive or prohibitive law, attention must be focused on the cause, the effect and the remedies for the matter in question. The draft should provide not only for the regulation of the non-use of force, but for the prevention of its cause, as well as for settlement procedures freely endorsed by all States. Expeditionary settlement procedures involving an impartial third party were very essential, since the stronger party might use its superior power not only as an offensive weapon, but also to evade a peaceful settlement.

(Miss Aguta, Nigeria)

26. The proposed draft merely touched on some of the essential ingredients of a possible treaty. To examine the draft article by article would require more time than was available to the Committee. For example, it should be made clear whether article I was intended to stipulate an existing undertaking or to regulate directly the non-use of force. If the former was the case, reference should be made to the particular area of existing law and not simply to the purposes of the United Nations. It could not be taken for granted that the parties concerned were aware of the lofty ideals of the Charter, in which case a new international law would be unnecessary.

27. It would be very helpful if the observations made in the First Committee could be made available to delegations and Governments. The allocation of items was a question to be decided by the General Committee, although, unquestionably, a topic with legal connotations should be allocated to the Sixth Committee. In order to achieve its desired goal, the draft might be made wider in scope and design. Both the wording and order of the articles would need rearrangement and improvement, a task which would not be very difficult if intentions were serious and genuine.

28. The CHAIRMAN suggested that the following paragraph should be included in the Committee's report on its consideration of the question:

"The Sixth Committee notes that the General Assembly has adopted a resolution concerning 'Conclusion of a World Treaty on the Non-Use of Force in International Relations' (A/RES/31/9). In this connexion, the Sixth Committee requests the General Assembly to recommend that, in their consideration of statements and proposals on this item to be reported to the Secretary-General, Member States give due weight to the important legal issues involved. The Sixth Committee recalls the role it played in elaborating the Declaration on Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Definition of Aggression. The legal issues which the item under discussion involves have been, and will need to be, examined in the current and future deliberations on this subject which any further General Assembly considerations of this item will entail."

If he heard no objection, he would take it that the Committee agreed to that suggestion.

29. It was so decided.

AGENDA ITEM 123: DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES (A/31/242; A/C.6/31/3; A/C.6/31/L.10)

30. The CHAIRMAN suggested that the list of speakers on the item should be closed at 1 p.m. on Friday, 26 November.

31. It was so decided.

The meeting rose at 12.10 p.m.