



SUMMARY RECORD OF THE 11th MEETING

Chairman: Mr. FRANCIS (Jamaica)

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AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 126: REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS (continued) (A/41/41; A/41/81-S/17723 and Corr.1, A/41/411-S/18147 and Corr.1 and 2)

1. Mr. DROUSHIOTIS (Cyprus) said that the principle of non-use of force in international relations, embodied in Article 2, paragraph 4, of the Charter, formed the corner-stone of the United Nations. That principle was a peremptory norm from which no derogation was allowed. However, new acts of aggression were still taking place, indigenous peoples were still being expelled from their homes, and attempts were still being made to change the demographic character of countries through the use of force. At the same time, a number of territories and countries remained under foreign occupation. The international community therefore had an obligation to intensify its efforts to enhance the principle of non-use of force. It was the non-aligned and developing countries which had suffered the most from the violation of that principle. In many cases, such as that of Cyprus, repeated resolutions of the General Assembly and of the Security Council aimed at redressing the situations resulting from such violations had been flouted and remained unimplemented.

2. One of the tasks of the Sixth Committee was to assess and guide the work of the Special Committee. The report of that Committee (A/41/41) and the introductory statement by its Chairman once again showed that various members continued to have different approaches, which hindered the work of the Special Committee. Cyprus was disappointed and deeply concerned at the lack of concrete results.

3. Of the three approaches proposed in the report, two were mutually exclusive. The third, aimed at the drafting of the main elements of the principle without prejudging the form they would take, had not yielded the tangible results sought by its proponents. The 1985 adjusted mandate of the Special Committee had not proved helpful. It was against that background that attention had been drawn to the elements contained in the revised working paper submitted by non-aligned members of the Special Committee, including Cyprus. A number of delegations had called for the drafting of a declaration on the basis of general agreement. Moreover, the heads of State or Government of non-aligned countries, meeting recently at Harare, Zimbabwe, had expressed their full support for the adoption of a universal declaration on the non-use of force in international relations and had pledged themselves to work towards that end through the Special Committee.

4. In line with the position concerning the drafting of a universal declaration taken at the Harare, Cyprus welcomed the procedural suggestions made during previous discussions. The Sixth Committee should consider those suggestions as well as future ones, and make the appropriate recommendation to the Special Committee for the early elaboration of a draft declaration to be adopted by the General Assembly.

5. In that regard, the Working Group of the Special Committee had done valuable work in considering the various headings in Mr. Elaraby's paper, which could offer guidance on the necessary elements to be agreed upon for the drafting of a future declaration. If the loopholes which had allowed the violation of the principle of

(Mr. Droushiotis, Cyprus)

non-use of force could be closed by the adoption of a declaration, that would in itself be a worthy contribution to the international community. Efforts towards the legal regulation of the use of force in international relations should be intensified, and the Special Committee should continue to work for the successful, early completion of its work.

6. Mr. BATH (Brazil) said that, by remaining in a state of deadlock, the Special Committee was doing a disservice to the cause for which it should be working. The headings proposed by Mr. Elaraby represented a common denominator for the purpose of reconciling views, and the procedure adopted by the Special Committee should allow delegations to enter into discussions with an open mind and in a constructive manner. The headings must be seen in the right perspective. They were not an end in themselves. They had been taken from the working papers that had been submitted to the Special Committee, and it was the substance of those working papers that mattered. Unfortunately, the discussions remained fragmented, with no substantive progress being made.

7. Consideration of the future action to be taken must be based on four basic ideas. Firstly, a decision on the nature of the instrument to be prepared by the Special Committee must be left for a future stage. Secondly, serious attention must be given to proposals that offered a real possibility of bridging differences. Thirdly, more flexibility on the part of some of the Special Committee's members was needed. Fourthly, the General Assembly must establish more precise guidelines to be followed by the Special Committee. Reference in the relevant resolution to a treaty prejudged the final result of the Special Committee's work. His delegation welcomed the approach taken in the proposal put forward by the representative of Iraq at the Sixth Committee's 9th meeting, and felt strongly that a new mandate must be found for the Special Committee.

8. Mr. CULLEN (Argentina) said that the consistent differences in the approaches taken to fundamental aspects of the Special Committee's mandate had led to a total stagnation. His delegation's views on the situation were shared by a great number of delegations, especially the group of countries members of the Non-Aligned Movement, which were frustrated by the intransigence of other groups and had failed in their endeavour to mediate between extreme positions. The group of countries in question believed that the reiteration of delegations' views each year should be avoided and was seeking to ensure that the main effort was focused on the Working Group.

9. The idea of drafting a declaration, which represented a compromise, had unfortunately not been successful, owing largely to the fact that the Special Committee's mandate had not received sufficient support. The insistence on making an express reference in General Assembly resolution 40/70 to the drafting of a world treaty on the non-use of force in international relations as the Special Committee's chief goal and to a declaration merely as an intermediate stage had led to the general lack of support for the resolution in question. However, the group of delegations that voiced reservations about the adoption of a world treaty also had a duty to co-operate with the other delegations and to submit constructive suggestions.

(Mr. Cullen, Argentina)

10. His delegation strongly endorsed the view that the Special Committee should consider further the question before it and that its efforts should be undertaken on the basis of the broadest possible agreement, as indicated in the Special Committee's report (A/41/41, para. 16). The Special Committee's goal must therefore be clarified. There was no point in discussing the headings proposed by Mr. Elaraby any further, since they had already served their purpose. It was necessary to clarify both the purpose and the content of the proposed declaration, which his delegation believed should be the outcome of a compromise that would enable the Special Committee to make progress. The Movement of Non-Aligned Countries had already pledged its support in the Harare Declaration. It was also important to avoid including in the proposed declaration any elements that were outside its scope and that would lead to reservations on the part of a number of delegations. Instruments drafted by the committees reporting to the Sixth Committee must be adopted by consensus, which would strengthen them and give them legitimacy. Many decisions had to be put to a vote at the United Nations, but the proposed declaration would be of a universal nature and its content would have a general character.

11. The representative of Iraq had put forward a number of practical and imaginative proposals, which could form the basis for agreement on an appropriate draft resolution and a mandate for the Special Committee that could be supported by all delegations. Differences of opinion as to whether or not the draft declaration should be of a normative nature could be settled in due time. The most novel aspect of the proposal concerning the drafting of a declaration was that the initial stage of the work in question should take the form of informal consultations. His delegation believed that that proposal should be given close consideration, taking into account in particular the need for the Special Committee to move forward in its work and to avoid poor use of time and resources.

12. Mr. HUCKE (German Democratic Republic) said that his delegation noted with regret that there had still been no breakthrough in the Special Committee, since some States were not willing to support the Special Committee in the performance of the task entrusted to it by the General Assembly. However, the Special Committee's report showed that there was growing support for the idea of laying down the fundamental principles of international law in specific terms. The proposals put forward in the report concerning a preambular paragraph for a declaration on the non-use of force in international relations (A/41/41, para. 61) and concerning the preparation of a possible future document (para. 90) could form an appropriate starting-point for the Special Committee's drafting work.

13. All States must strictly adhere to the principle of non-use of force, as laid down in Article 2, paragraph 4, of the Charter of the United Nations, as a basis for the establishment of a comprehensive system of international peace and security. The Special Committee's work with a view to preparing another legal instrument on the non-use of force in international relations would not interfere with the system of fundamental principles laid down in the Charter. Moreover, note should be taken of the outcome of the Stockholm Conference on Confidence- and Security-building Measures and Disarmament in Europe, which had been held in September 1986. With the same constructive approach, the Special Committee should be able to prepare an appropriate legal instrument. His delegation also endorsed

(Mr. Hucke, German
Democratic Republic)

the views expressed by the Movement of Non-Aligned Countries at Harare in support of the adoption of a universal declaration on the non-use of force in international relations. Furthermore, it believed that, in the preparation of an international legal instrument, all proposals submitted by States should be duly taken into account, including proposals that such a legal instrument should contain a reference to specific practical measures to enhance the effectiveness of the principle of non-use of force. The Special Committee should proceed without any further delay to draft a declaration on the subject.

14. Mr. VOICU (Romania) said that in the particularly serious and complex international situation prevailing at present, every effort had to be made to strengthen international confidence and security, resume the process of détente, put an end to existing military conflicts, and proceed to the settlement of unsolved problems by exclusively peaceful means. However arduous the path of negotiations might be - whether directly between the countries concerned or through international organizations - it was the only one capable of leading to viable solutions. All other means, including the use of force, interference in the domestic affairs of States and terrorism, were incompatible with the interests of peoples and their aspirations to freedom and independence.

15. Deeply concerned by the persistence of numerous conflicts around the world, his country had issued at the previous session of the General Assembly a solemn appeal to States in conflict to cease armed conflict forthwith and to settle disputes between them through negotiations. That appeal had been adopted in resolution 40/9. Romania had also submitted proposals for the enhancement of the principle of peaceful settlement of international disputes and the strengthening of the United Nations machinery provided for that purpose. In particular, a proposal regarding a commission of good offices, mediation or conciliation within the United Nations had been considered at the last session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/41/33, para. 14) and would come before the Sixth Committee in connection with its consideration of agenda item 124. Romania was also a sponsor of the draft resolution on the establishment of a comprehensive system of international security submitted by a group of socialist countries (A/41/191).

16. His delegation, like others, considered that it was high time to break the deadlock within the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations and to proceed actively with the preparation of an appropriate document reaffirming the universal value of that principle. In his delegation's view, the document to be drawn up should stress the universal and peremptory nature of the principle; affirm that States must refrain from any act involving the use or threat of force, propaganda measures in support of a war of aggression, or any form of military intervention, and any act that prevented a State from exercising its sovereign rights; and list the aspects of the principle of peaceful settlement of disputes that were closely linked to that of non-use of force. While firmly in favour of the idea of a universal treaty prohibiting the use or threat of force, his delegation had never refused to consider other means of enhancing the effectiveness of the principle.

(Mr. Voicu, Romania)

In that spirit, it had endorsed the suggestion put forward by the Soviet delegation and reflecting the views of many non-aligned and certain Western countries to the effect that the Special Committee should draft a declaration on the non-use of force in international relations.

17. His delegation did not share the view that instead of adopting a document, the United Nations should seek to shape the political will of States in abstracto. It was by adopting resolutions and declarations that the Organization could influence the attitude and behaviour of States. A declaration adopted by general agreement would not have normative force, but would carry the full weight of a solemn pronouncement of the General Assembly.

18. That being so, the Special Committee should have tried to fulfil at least a part of its mandate, and should have focused its attention on paragraph 3 of resolution 40/70 rather than on paragraph 2. Instead of considering a reduction in the length of its session, it should have taken full advantage of the time and resources made available to it. In the current International Year of Peace, the United Nations and its Member States could not remain indifferent to the fundamental issue before the Special Committee.

19. Clearly, the role and responsibility of the United Nations in applying and enhancing the principle of non-use of force could not be confined to the drafting of a document or to consideration of the topic in a committee. The issue was a fundamental and permanent one, and the Organization was called upon to deal with it at all levels and through all its bodies.

20. The Sixth Committee should invite the Special Committee to apply itself efficaciously to its task, with a view to completing it at the earliest possible date, and should provide the Special Committee with the guidelines necessary for that purpose. His delegation was in favour of renewing the Special Committee's mandate and was prepared to associate itself with efforts aimed at achieving genuine progress in the Special Committee's work.

21. Mr. HAMID (Pakistan) said that his country had always supported the principle of non-use of force in international relations enshrined in Article 2, paragraph 4, of the Charter and reaffirmed in many international forums, including the recently concluded summit meeting of the non-aligned countries. The international community's efforts to outlaw the use of force in relations between States must be continued, and the item under consideration represented a step in the right direction. No effort, however, would prove fruitful unless States were willing to abide by the principles they adopted. A treaty banning the use of force in international relations could be effective only if it provided safeguards against the use of force by the larger and more powerful States against their weaker neighbours, and helped to remove the injustices and inequalities which were the underlying causes of conflict.

22. The principle of not resorting to the threat or use of force in inter-State relations was the corner-stone of his country's policy. As a concrete manifestation of its unreserved commitment to that principle, Pakistan had taken the initiative of proposing a no-war pact, at present under negotiation, to India.

(Mr. Hamid, Pakistan)

23. While Pakistan was firmly and unreservedly committed to the principle of non-use of force in international relations, it took the view that any declaration on the subject should contain the following elements. First, all States must fully comply with the principles of the Charter and with decisions of the United Nations. That was important, since non-compliance would invariably lead to friction, thereby endangering peace and security in specific regions or in the world at large. Secondly, prohibition of the use of force should be without prejudice to the inherent right of self-defence as acknowledged in Article 51 of the Charter. Thirdly, the principle of non-use of force should not in any way prejudice the right of peoples and liberation movements struggling for the fulfilment of their legitimate right of self-determination and against colonialism or foreign occupation. Fourthly, the declaration should prohibit interference in the internal affairs of States. Fifthly, it should stress the need for peaceful settlement of disputes. Lastly, it should reflect the need to establish a just and stable world order.

24. His delegation was concerned at the slow pace of progress in the Special Committee, and urged it to speed up its work so that a draft might be submitted for adoption to the General Assembly as soon as possible.

25. Mr. SENE (Senegal) said that several attempts had been made to control the use of force in international relations. Although the Pact of the League of Nations and other legal instruments preceding it had been limited to regulating the use of force in order to prevent its misuse, the Charter of the United Nations, in Article 2, paragraph 4, embodied the principle of the unlawfulness of "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." That general, radical and permanent prohibition was concise and clear enough to be understood by any Member State acting in good faith on the international scene.

26. However, the use of force still remained one of the means of settling conflicts, as witnessed by the numerous war zones and areas of permanent tension. Despite the efforts to control such situations, they could at any moment degenerate into widespread conflicts.

27. At a time when the military Powers had equipped themselves and continued to equip themselves with the most sophisticated weapons of mass destruction, and when military alliances and the interdependence of nations made the idea of localized conflict increasingly erroneous, the use of force in relations between States was the most serious threat to international peace and security.

28. For that reason, the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force deserved full support and encouragement. It was in that spirit that Senegal regularly took part in the work of the Special Committee. Faithful to its long tradition as mediator, and animated by its resolute faith in the virtues of dialogue and consultation, Senegal had always striven and continued to strive for the peaceful settlement of disputes between States.

(Mr. Sene, Senegal)

29. The time had come for States fully to assume their responsibilities as members of the United Nations and, in particular, as members of the Special Committee, taking the necessary decisions to save the Special Committee from the dangers threatening it.

30. His delegation was of the opinion that the Special Committee was handicapped by a congenital disorder, namely, a mandate which had never been the subject of general agreement. Therefore, the first step to be taken was a revision of the mandate contained in resolution 40/70 so that there would be general agreement among the various parties. In that regard, greater flexibility and a stronger spirit of compromise were needed. The work of the Special Committee should be focused on the drafting of a declaration on the non-use of force in international relations. His delegation was not among those which believed that since the principle of non-use of force was clearly stated in the Charter, any other such instrument, treaty or declaration would be useless and could jeopardize the credibility and balance of the Charter. In fact, numerous clear and concise principles embodied in the Charter had subsequently been the subject of declarations. They included the principle of respect for human rights, the principle of self-determination, the principle of peaceful settlement of disputes between States, and the principle of non-interference in the internal affairs of States. Those declarations had, in fact, conferred more legitimacy and political force on the principles concerned.

31. As the principle of respect for human rights had had to be reaffirmed after the Second World War, so the prohibition of the use of force in relations between States needed to be reaffirmed in a world in which security was increasingly precarious. His country supported the adoption of any international instrument, whether binding or declaratory, whose objective was to eliminate the use of force and to foster the peaceful settlement of disputes between States. That was why it had always voted in favour of the resolutions relating to the Special Committee.

32. Senegal was one of a few non-aligned countries which, in 1981, had submitted to the Special Committee a working paper containing compromise proposals on the drafting of a declaration. With regard to the implementation of that proposal, he was of the view that the practical suggestions made by the representative of Iraq deserved the closest attention.

33. Mr. KAMAL (Bangladesh) said that Bangladesh was of the view that the task of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations was essential for the development of international law aimed at maintaining international peace and security in an era which was witnessing a disturbing and potentially dangerous departure from the noble principle embodied in Article 2, paragraph 4, of the United Nations Charter. The arms race was progressing at a frantic pace, mobilizing all the latest technology and resources in its favour, while the issues of food and a minimum standard of living in most parts of the world continued to be neglected. There were no tangible signs of the abatement of the nuclear-arms race. On the contrary, new weapons systems were being invented for possible use in outer space. Some signatories to the Charter occasionally waged war, while the peace-keeping mechanisms of the United Nations system were atrophying, thus creating a crisis of

(Mr. Kamal, Bangladesh)

credibility with regard to the Organization. The causes of those problems were few, and arose mainly from a confusion of highly individual perceptions of national security with concepts of self-defence. Bangladesh was of the view that it had become more necessary than ever to address those problems in a positive way by elaborating norms concerning the principle of non-use of force in international relations, which was the corner-stone of the United Nations. Bangladesh welcomed the work done in the Special Committee with regard to that principle, and believed that there was a need to elaborate related norms on, for example, the principle of peaceful settlement of disputes, which complemented it.

34. The use of force for any reason other than self-defence was a self-defeating exercise. History had shown that power alone could not protect selfish interests and was an obstacle to the achievement of the the universal goal of preserving amity and co-operation for the benefit of all.

35. His delegation welcomed the suggestion that specific cases should be studied to identify their causes. However, it was first necessary to decide whether the results of the Special Committee's work should be embodied in a declaration or a treaty. The principle of non-use of force was already a part of jus cogens under international law. What was needed was a concrete formulation, elaboration and codification of that norm in order to clarify its legal application in international relations. Furthermore, the document should list the aspects of peaceful settlement of disputes logically arising from the principle of non-use of force in international relations.

36. He urged all the Members of the United Nations to avoid divisive debate and to strive to find areas of agreement in order to strengthen the international commitment to the principle of non-use of force and further its application in inter-State relations.

37. Mr. DANESH-YAZDI (Islamic Republic of Iran) said that it was deeply disappointing to hear that, after nine years of extensive debates and consultations, the work of the Special Committee was still bogged down owing to the obstinacy of a few States. Without wishing to blame any country for the deadlock within the Special Committee, he urged the countries concerned to adopt a realistic and positive approach by joining the overwhelming majority of countries, which felt that an instrument - whether a world treaty or a declaration - on the non-use of force in international relations was urgently needed, especially in the present situation where an increasing number of bilateral and regional conflicts had already endangered world peace and stability. The General Assembly at its current session should devote some time to studying the various dimensions of the principle of non-use of force in international relations and should seriously consider adopting a resolution making the necessary recommendations to prevent the continuation of aggression.

38. His delegation felt that the time was ripe for the opponents of a world treaty or declaration to show flexibility. No agreement could be reached without the co-operation and good faith of all parties. The proponents of a treaty had already demonstrated their desire and readiness for a meaningful solution. To obstruct the drafting of a treaty or declaration aimed at guaranteeing world peace and security could not be justified, whatever the motives.

(Mr. Danesh-Yazdi, Islamic
Republic of Iran)

39. The Special Committee's mandate should be extended for a limited period, within which the drafting of the declaration should be speedily completed. The Special Committee should not be used as a forum for political confrontation as in the past; were that to happen again, the present stalemate would certainly continue.

40. The success of any instrument in terms of the implementation of its provisions depended upon its general and universal adoption. A consensus among all States therefore remained the main prerequisite if fruitful results were to be achieved. The value and authority of the declaration in question should be such as to ensure its observance by the international community as a whole.

41. Mr. JATIVA (Ecuador) said that, throughout its life as a Republic, Ecuador had been a scrupulous defender of the principle of non-use of force in international relations. Its consistent position had been the non-recognition ab initio of territorial acquisitions obtained through the use of force, and it maintained equally strongly that all international disputes could and should be settled through peaceful means. In the Special Committee, it had always stressed the need to strengthen the available United Nations machinery to prevent the use or threat of force. It had also advocated stipulating in any document on the non-use of force, in particular in the legal instrument to be elaborated by the Special Committee, the obligation to settle disputes exclusively by peaceful means, in keeping with the Manila Declaration on the Peaceful Settlement of International Disputes.

42. His delegation noted with concern, however, that the Special Committee had again been unable to produce concrete results at its 1986 session. In view of the success of the recently held Stockholm Conference on Confidence- and Security-building Measures and Disarmament in Europe and the statement issued by the Eighth Conference of Heads of State or Government of Non-Aligned Countries concerning the elaboration of a universal declaration on the non-use of force in international relations, it was a favourable time for promoting the work of the Special Committee. In that context, Ecuador particularly welcomed Iraq's proposal, which would require mutual concessions from all delegations concerned. The proposal deserved thorough study because it recommended a series of measures which could effectively reactivate the work of the Special Committee and lay down the bases for consensus.

Rights of reply

43. Miss SEETOH (Singapore), speaking in exercise of the right of reply, said that Singapore, as Chairman of the Standing Committee of the Association of South-East Asian Nations (ASEAN) wished to draw attention to a statement circulated among the members of the Sixth Committee by the delegation of Viet Nam at the previous meeting, in which Viet Nam referred to its proposal to conclude, with China and the States members of ASEAN treaties of non-aggression and peaceful coexistence. Although she was encouraged by that statement, she feared that Viet Nam's neighbours would judge it by its deeds as well as by its words. Regrettably, despite seven General Assembly resolutions calling upon it to withdraw its forces from Cambodia, Viet Nam continued to occupy that country. The South-East Asian

(Miss Seetoh, Singapore)

countries had therefore not responded enthusiastically to Viet Nam's proposals. If Viet Nam was truly committed to bringing about peace in South-East Asia, it should withdraw its troops and conclude a treaty of non-aggression with the Coalition Government of Democratic Kampuchea, the legal Government of Cambodia.

44. Mr. BUI XUAN NHAT (Viet Nam) said that the Coalition Government of Democratic Kampuchea, with which Singapore wanted Viet Nam to negotiate, was a monstrous and bizarre creature responsible for the death of half of the Kampuchean population. If Viet Nam withdrew its troops immediately, as Singapore had requested, the genocidal Pol Pot clique would return. Viet Nam was seeking a solution through dialogue, offering to withdraw its troops in return for the elimination of the Pol Pot clique.

45. Mr. HENG VONG (Democratic Kampuchea) said that the delegation of Viet Nam had gone beyond the limits of decency and was proliferating lies. He wondered whether Viet Nam, as the aggressor, was entitled to propose a non-aggression treaty. Only a small team of puppets had asked for the presence of Vietnamese troops in Kampuchea. He reserved the right to speak further on the matter at a later stage.

46. Miss SEETOH (Singapore) said she wished to clarify that she had not asked for the "immediate" withdrawal of Vietnamese troops from Cambodia, as Viet Nam had claimed.

The meeting rose at 4.55 p.m.