



INTERNATIONAL COURT OF JUSTICE

OF THE

AMERICAN MODEL UNITED NATIONS

WRITTEN STATEMENT OF THE GOVERNMENT OF FINLAND

IN RESPONSE TO:

THE LEGALITY OF THE THREAT OR USE OF NUCLEAR WEAPONS

In response to the request of an advisory opinion by the International Court of Justice, regarding the World Health Assembly's question: "Is the threat or use of nuclear weapons in any circumstance permitted under international law?" We, the government of Finland state the following:

1. The International Court of Justice is deemed competent to issue an opinion on the case; and by the lack of existing guidelines constricting when the ICJ should decline a case, it is within the responsibility of the court to accept this request.

Chapter II, Article 36 (6) in the International Court of Justice, Statue of the Court goes on to say, "In the event of a dispute as to whether the court has jurisdiction, the matter shall be settled by the decision of the court." This leaves the only deciding factor of accepting or rejecting the request entirely in the hands of the court, making the ICJ entirely competent to attend to the issue.

At the same time Article 96 (1) of the Charter of the United Nations indicates, "The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question." So, again while the International Court of Justice is competent to issue an opinion, no where are there *guidelines* as to when the ICJ should use its discretion to decline.

2. There are no moral imperatives for the ICJ to deem there to be a threat of nuclear nations to complete all disarmament movements, but it is within the duty of the court to establish guidelines to prevent threats to the existing peace within the members of the UN.

A/RES/49/75 K page 8 E "Mindful also that the military doctrines regarding the threat of use of nuclear weapons remain unaltered, and that most agreed reductions do not entail destruction of the nuclear warheads or delivery vehicles." With this resolution already addressing and taking measures to alleviate the threat of nuclear use, the Government of

Finland does not believe it to be the intrinsic duty of the court to bypass this carefully drawn out measure, and urges the court to not respond to the given request. According to Chapter VII, Article 51 of the Charter of the United Nations “ Nothing in the present charter shall impair the inherent right of individual or collective self defense if an armed attack occurs against a Member of the United Nations...” Given this, the International Court of Justice *cannot* give a response to the WHO without taking away the fundamental right of self defense of its member states.

Simultaneously the preamble of the Charter of the United Nations so states, “We the peoples of the United Nations Determined... to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained...” so it is the responsibility of the ICJ to establish the so-called conditions that are necessary to maintain respect.

The Charter also gives reference to actions that need to be taken: Chapter I Article 1 (1) states, “The purpose of the United Nations are: to maintain international peace and security, and to that end: *to take effective collective measure for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and for the suppression of acts of aggression or other breaches of the peace,* and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace” (Italics added). In this respect it is the obligation of the UN to take action, and remove the risk of nuclear threats and/ or use.

Furthermore, it is reiterated in the preamble of the Non-Proliferation Treaty that, “States must 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, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the worlds human and economic resources.” The problem with using this specifically is that it doesn’t have the operative force of the articles. To add to this, it is stated directly in Article X, “Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country.” Thus, it seems to implicitly proclaim states have the ability to withdrawal from the treaty and therefore from the general provisions providing the expansion of peaceful and non tactical nuclear technology if its national sovereignty is jeopardized.

While the legality isn’t necessarily discussed in any major legislation, the option that the Committee on Disarmament pursues in many of its resolutions, including A/RES/34/83, A/RES/33/71, is one of nuclear reduction. However, with some nations currently not apart of the N.P.T. pursuing nuclear tests, it calls into question the retaliatory powers that treaties have. It is our opinion that there should be both an expansion of the law to include the illegality of the threat and/or use of force, as the stated purpose of the United Nations is the pursuit of peace between nations. However, in the real world, it doesn’t seem as though this would be accomplished. Foregoing South Africa and a few former Soviet countries, states do not see it in their best interest to dismantle nuclear programs.

Similarly, it is likely that they will try to fight any law which expressly prohibits their use. Thus, the smartest avenue to take is one of increase pressure to reduce stockpiles, which will not expend the court's political capital of a dismantling campaign.