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NATO

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NATO AND THE INTERNATIONAL RULE OF LAW

If we compare the International Rule of Law with that of its domestic conception, it could be said that NATO is similar to what would be considered an armed band in a state and that even the defensive pretext which attempts to justify its creation could not make it any more acceptable in a democracy than a group of self defence.

To place NATO within the framework of the International Rule of Law, we need first to recall what this concept means.

What is the International Rule of Law

It will never be said enough that even if all is done to reduce it to the functions of the United Nations, the International Rule of Law relies first on the UN Charter, which for the first time provided universal and obligatory rules for all, applied equally to all.

Until 1945, there were only bilateral or multilateral treaties between powers through alliances and coalitions to share the world through wars and peace treaties.

The UN Charter proclaims universal and egalitarian rules and creates the UN to guarantee their respect.

This rule of law is based on two axis

The first is peace : 1) the power of peoples to determine their own matters, without any foreign intervention, under the only duty of mutual respect. 2) the forbidding of the use or threat of force in international relations and their replacement by a duty of peaceful settlement of disputes.

Under article 2.4 « *All members 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 United Nations* »

The Charter recognises the right of self defence but only until the Security Council intervenes and never under the pretext of pre-emptive defence .

It is article 51 which provides that « N*othing in the present Charter shall impair the inherent right of individual and collective self defence if an attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Member in the exercise of this right of self defence shall be immediately reported to Security Council and shall not affect the authority and responsibility of the Security Council…»*

So, this article allows self defence (and individual or collective assistance) only when another is the victim of an aggression, and not for any supposition that he can be such a victim, as too many wars of aggression in the past were justified by using the pretext of being threatened by another.

The law so instituted is universal and must be implemented for the 193 countries making up the members of the General Assembly. This law must be the same for all the countries, under the principle of « equality between nations, big and small ».

The result is that force may be used only by the organ representing all the peoples, i.e. The Security Council. It is what is called the principle of collective security, because neither a state nor a group of states may confiscate it for their own use. And even the Security Council may use force only to maintain peace (prevent 2 countries from fighting), or restore peace (to protect a country that is a victim of aggression, and put an end to this aggression)

Lastly, the UN Charter foresees the possibility of creating regional organisations under article 52.1 ***: Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security… », but adding « provided that such agreements or agencies and their activities are consistent with the purposes and principles of the United Nations »*** **Article 52.2 <u>continues</u> : <<The M*embers of United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements by such regional agencies before referring them to the Security Council*>> and article 52.4 *:<<This Article in no way impairs the application of Articles 34 and 35* >> (which deal with the competencies of the Security Council for maintaining or restoring peace)**

The above recollections make it obvious that there are many reasons which suggest the illegality of NATO

From the very beginning there has been a double illegality in its composition and its orientation: 1st illegality : Through its very composition

<u>Against universalist and egalitarian unity, the division into into 2 camps</u>

From its inception, the Treaty has been against the spirit of the new legal world order, which is based on the right of peoples to self determination and thus without regard to the political or economic nature or their chosen system of governance.

Indeed, the Charter is based on the coherence of principles of universality and equality, which excludes discrimination based on how a people chooses to organise itself.

At the time of the Charter's inception, the world was shared between two antagonist systems. Consequently one of the main concerns of the Charter was to preserve a logic of peaceful relations between those nations, to avoid the tragedy a new armed confrontation between them would create. This explains the privileged competency of the Security Council and, within the same, the

requirement for at least one of the 5 permanent members to belong to the two systems, and finally the requirement for common agreement between members of the council before force can be used, thus ensuring that no one could obtain a majority in the General Assembly to use force against the other.

Yet a central characteristic of NATO is that it is not a group of countries from the same European region, but Western countries supporting their 3 permanent members against a supposed threat from the East. (while the « Warsaw Pact » gathering the armed forces of the same, was not yet created, and would only be later as an answer to NATO)

2nd illegality : Its composition is not at all regional

The Treaty itself seeks s the cover of the Charter by referring toArticle 51 and 52, but it is clear that this is nothing more than a vain precaution of language.

The Charter only allows for organisations of a regional character for the purpose of developing good neighbourly cooperation..

Yet NATO is regional neither in it jurisdiction nor in its composition

Firstly, unless its centre were to be in St Pierre et Miquelon, an Ocean is not a region. . It is even less so when the presence of the United States pushes its perimeter to the eastern shores of the pacific. Moreover, since it inception, NATO has included Italy, a country without a shore on the Atlantic, and through the membership of France has spread to the Maghreb, and most recently sought to increase its presence in eastern Europe.

3rd illegality : Infringement on the right of self determination of peoples

We have already noted the care taken by the authors of the Treaty to refer to the Charter.

It is remarkable however, that in its reference to the principles of the Charter, there is no reference to the right of peoples to self determination without foreign intervention.

Too much credence has been given to the notion that NATO was a response to the Warsaw Pact, the latter actually being established in 1955 in response to the former which was created in 1949. Furthermore, the Treaty's principle target is internal not external. It is a solidarity of states against the risk of their regimes being changed by their own people.

One should not forget that in February 1948 the Czechs made a revolution and passed into the socialist camp in rejection of the 'Marshall Plan'. The cre-

ation of NATOin 1949 was an attempt to prevent this happening again elsewhere.

This is clearly highlighted in Article 4, which statesthat « *The Parties will consult together whenever, in the opinion of any of them. the territorial integrity, political independence or security of one of the parties will be threatened* »

Therefore if there is a threat against one of the parties, the consultation will not be within the Security Council but between the members of NATO, and not if one of the members claims they are being threatened, but if any party thinks anyone is threatened and not solely on the basis of territorial integrity but also political independence.

The text is seemingly only repeating that of the Charter's, but in order to reversethe meaning : in the Charter the text emphasises that each people is the only master of its choices, even to its own change. In the treaty, it is any change which will be presumed to be an attack against political independence.

And this is the very meaning of Article 2 of the Treaty, which commits the parties to: <<*strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promotingconditions of stability… they will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them* » Clearly this is to forbid any social uprising and guarantee the principles of liberalism and the market economy.

Yet we have seen that one of the basic principles of the Charter is the right of peoples to be the only masters of their affairs and therefore of their choice of system of ruling and economic management.

Even the UN is forbidden from interfering, as provided in Article 2.7 of the Charter : « *Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of a state…* »

NATO, however, is built on the basis of ideological trickery, evidenced by the fact that , 4 years prior to the establishment of NATO, it attempted to bypass the forbidding of intervention in domestic matters of a state and of force in international relations except to provide assistance to a country which is a victim of an aggression. . At the conference of the Organisation of American States in Caracas, the United States, promoted the adoption of a resolution under which a political change in a country could be qualified as « an internal aggression by international communism », and used it at once to militarily intervene in Guatemala and overthrow the government of Arbenz who had nationalised the US company « United Fruit ».

It should also be remembered that if NATO had already an elder sister with the Organisation of American States, it was also given a twin sister with the South East Asia Treaty Organisation (SEATO), the two organisations complementing each other to secure the whole globe under US leadership.

When we consider that the dominating role of the USA does not only appear in the leadership of NATO, but also in the fact applications are received and registered in Washington, it is clear that the creation of this organisation is a part of a global US strategy, these so-called regional organisations being achieved by a network of military basis of which Okinawa, Diego-Suarez and Guantanamo are only the most well known and also by the equally well known « green belt » by which the US strategy encircled the Soviet Union with an islamic « wall » lead by Bin Laden.

It is clear that it is a double attack on the right of peoples to self determination, particularly pertinent at the time of the Transatlantic treaty and therefore a challenge to articles 2.4 and 51 oft the Charter.

4th (and main) Illegality: Contempt for the principle of collective security

We saw supra that the Charter forbids any state or group of states from assuming the power of police, such power belonging exclusively to the organs of collective security and so abolishing the potential military confrontations cultivated by the former system of alliances and coalitions.

We also saw that regional organisations provided by the Charter are not foreseen as possible military alliances since they must be in compliance with these principles.

So such coalitions and alliances are necessarily inconsistent with the interdiction of use or threat of force and with the exclusive privilege of international universal and egalitarian organs of collective security, and are therefore no more legitimate than armed militias infringing the rules which exclusively permit police that are officially and legally organised. .

Here again, there is reference, for appearance sake, in Article 5 of the Treaty, to the notion that the organisation is strictly defensive :… <<*an armed attack against one or more of them will be considered an attack against alland consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking*

forthwith…such action as it deems necessary, including the use of armed force… >>

But we saw supra that preemptive defence is forbidden. A treaty of mutual military assistance between states of a same region for any future possible aggression, even from states external of the region, is preemptive and is not covered by article 52 of the Charter.

Therefore NATO is an insolent challenge to all the above and was created in total rupture with the principles of the International Rule of Law.

If nevertheless we were to accept, despite it being wrong, that the pretext of the treaty was a defence against a supposed threat from socialist countries, the colapse of the same and of the Warsaw pact should have led to the dissolution of NATO by removing its raison d'être.

Yet, it not only survives but the reasons for its illegality increases by obvious infringement even of its own supposed intentions and content of the Treaty.

<u>NATO today accumulates graver illegalities</u>

Regarding regionalism, the limits of the Atlantic Ocean are now not only stretched to the Elbe and the Adriatic sea, but exended to Romania and possibly soon to Ukraine.

Even if limited to European states however, NATO would remain illegal by its aims and its military character.
And indeed it was rapidly checked.

Yugoslavia had never perpetrated any aggression against any state member of NATO, neither had Afghanistan, which moreover, cannot be considered to be included in its regional competence unless it is assumed that climate change is responsible for raising the level of the Atlantic ocean to the point of shifting its shores east of Afghanistan.

The same was true of the intervention in Libya, indeed allowed by the UN, only showing how today, under the authority of financial global powers, the states within the UN lead the Organisation into becoming their instrument of military rule upon the peoples instead of the instrument of peaceful cooperation of sovereign peoples, infringing the rules and principles for which the Organisation was made to ensure the respect of.

More than ever NATO acts openly, insolently, carrying out the purpose for which it was created : an organ of military police (and of armed intervention) under its own criteria of opportunity and legitimacy, a military hand of domina-

tion of the G 20 over the world as global policeman of liberalism ; It is exactly what militias and groups of self defence are!

<u>The strengthening of this deviance bv perversion of the OSCE</u>

What was and should again become the OSCE

The OSCE (Organisation for Security and Co-Operation in Europe) was born in a spirit of opposition to NATO. It was in 1975 a product of the « Final Act » of the Helsinki conference. It was later shelved as obsolete under the pretext that it had been signed at the time of the 2 blocs.

Yet, the Act, made of 3 « baskets » into which the conference was shared (Human rights, Mutual security, Economic cooperation) was signed by all the governments in Europe and when reading it again it appears that its contents did not lose any of its pertinence in providing a contemporary alternative example.

While in the area of human rights it provided exchanges of expertiseand mutual monitoring visits, the chapter on economic cooperation was organised under the principle of mutual consideration and respect of differences between those systems favouring a private and those favouring a public economy.

As regards mutual security, it was based on the prospect of disarmament guaranteed by confidence building measures such as mutual inspections.

Indeed, it was only a beginning and it is not enough that a text be written because it would still require implementation. But the intention and program were moving in the right direction and the OSCE was part of the instruments for their implementation. In particular, it was to assume the function which the UN Charter provides regional organisations, of offering a place for consultation and the negotiated solution of disputes.

After the collapse of the Eastern European system, we would assume, alas a little naively, that a major obstacle to the implementation of OSCE would have been removed and instead become a welcome instrument.

Yet only 8 years were enough to reverse the OSCE into a tool at the service of the policeman!

<u>What has become of the OSCE</u>

It was in 1999 (year of aggression against Yugoslavia), that OSCE met in Istanbul to adopt a new Charter reversing its mission, making it primarily an instrument against the right of peoples to self determination, and to not only police states but police the domestic policy given to the states by their people.

It is first provided under the title « Our Common Challenges » that <<the threats to our security can stem from conflicts within states as well as from conflicts between states.>>

Intervention in domestic affairs becomes such a priority that the "Istanbul Charter" devotes most its new provisions to it.

It begins by putting in its goals <<to create teams of rapid assistance and cooperation>> to << respond rapidly to requests for assistance and implementation of important civil operations on the ground>> and to be quite clear, adds <<to Expand our ability to carry out police related activities in order to assist in maintaining the primacy of law>>.

Perhaps the supporters of the so-called « right of intervention » in cases of heavy human rights abuses will applaud, even while experience shows that it is an excellent pretext for other motivations of intervention.

But the notion of « prevalence of law » is more widely extended.

The « Charter » of Istanbul states that <<we must develop confidence between individuals within the state>> (i.e. « social peace »)

But above all, affirming its mission of guardian of economic liberalism, it specifies that <<we will react more *vigorously (....) by encouraging the market* economy». Admittedly, it is softened by making reference to <<paying due attention to economic and social rights>>, but if we keep in mind that this was written in 1999, we will understand the signal being sent to the countries of Eastern Europe: <<We applaud the process of unprecedented economic transformation taking place in many participating States. We encourage these states to continue this process.>>

It is time to note that the first affirmation of the Charter of Istanbul is to <<strengthen the cooperation between OSCE and other international organisations and institutions>> and recall that when NATO launched its aggression against Yugoslavia it did not do so under the pretext of Human Rights until after Yugoslavia refused to sign the draft Rambouillet agreement, where a secret clause provided an obligation to privatise the national economy.

It is why, in an international conference of lawyers, while it was noted that the OSCE had in fact abandoned the Final Act of Helsinki, a diplomat taking part in the leadership of the OSCE answered by emphasising that the organisation had worked to lead former socialist countries to reverse to the market economy, whilst another added that <<the OSCE is the soft method and NATO the hard method>>.

The loop is completed when we see that the Charter of Istanbul completes the OSCE's role of civilian quartermaster of NATO and its geographic extension out of any regional criteria by declaring <<We reaffirm that the security of the neighbouring areas, especially in the Mediterranean region and in areas directly adjacent to participating states, such as those of Central Asia, is of growing importance for OSCE. We are aware that the instability of the areas creates problems that directly affect the security and prosperity of OSCE states>>

It is why NATO is considered competent in Afghanistan !!!!

CONCLUSION

NATO is therefore neither a regional organisation, nor a common defence organisation within the meaning of the UN Charter.

It is increasingly emerging as a military organisation belonging to a global system working to replace the system provided by Chapter VII of the Charter, with a mission of global policing far in excess of maintaining or restoring peace.

(*The following 2 paragraphs were omitted from your translation, I include them incase you choose to include them in your final draft)*

Moreover, its leaders no longer hide from themselves: at the Lisbon summit in November 2010, this so-called global vocation was officially proclaimed, in defiance of all the principles of collective international security based on the three inseparable components of universality, pluralism and equality which, under the Charter of the United Nations, constitute the basis of contemporary international law, derived from the lessons learned by the universal consciousness of the warlike tragedies of the first half of the 20th century.

This is perfectly in line with the will of the financial powers that govern the world, to substitute the instrument of consultation of the peoples that the UN should be, with the instrument of authority that the G 20 strives to be, of which NATO becomes the armed wing, the global police instrument on and against peoples.

Because it drags us into costly military spending that we have no control over and leads us into adventures which can result in the loss of our people and international image for causes which are not ours, many are reluctant to consent to NATO. Many resign themselves to it however thinking that we are legally obliged to do so. It is therefore necessary to show them that not only are we not obliged to consent, but that we are obliged to withdraw from NATO and to fight against its existence.

It is all the more necessary to make it known that the law is a struggle and that the texts have value only under this struggle. To oppose integration into NATO and fight against its existence is a fight to impose the respect of the International Rule of Law

When the Preamble of the UN Charter proclaims « We Peoples of the United Nations have decided to unite our efforts. Consequently our governments have signed the present Charter », this gives to the action of the Peoples a new dimension of citizenship, which, at the global level takes on the notion of popular sovereignty which legitimates the action of the peoples, based on the principles of the international rule of law.

So it is the duty of each people to impose on its respective government their withdrawal from NATO and to urge for its dissolution.

Monique et Roland WEYL