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Chairman: Prince WAN WAITHAYAKON (Thailand).

In the absence of the Chairman, Mr. Lachs (Poland), Vice-Chairman, took the Chair.

Question of defining aggression: report by the Secretary-General (A/2162, A/2162/Add.1, A/2211) (*continued*)

[Item 54]*

1. Mrs. BASTID (France) noted that the Press release on the Committee's 336th meeting had reported at length the Iraqi representative's statement criticizing French policy in Tunisia and Morocco, without giving the French delegation's reply. She hoped that in future, in the interests of objectivity and fairness, the arguments of both sides would be given.
2. Mr. STAVROPOULOS (Secretary of the Committee) assured the French representative that the omission, while most regrettable, had been unintentional and due to the great pressure under which the Secretariat was working. The matter would be rectified promptly.
3. Mr. ROLING (Netherlands) said that his delegation had agreed to sponsor the joint draft resolution (A/C.6/L.265) although it maintained its previous reservations concerning General Assembly resolution 599 (VI) referred to therein. As pointed out at the sixth session, a decision concerning the possibility and desirability of a definition of aggression was possible only in the light of specific texts and with a full knowledge of all the facts. No such texts had been available at the time resolution 599 (VI) had been adopted. Nevertheless, the existence of that resolution was a fact which could not be denied, and he did not object to a mere reference to it in the joint draft resolution.
4. That draft would fill the existing gap by calling for a much-needed study of the many questions in connexion with the definition of aggression. Among those questions were: the meaning of aggression as referred to in the United Nations Charter, the Judgment of the Nürnberg Tribunal and the draft Code of Offences against the Peace and Security of Mankind; the purpose of the definition—whether it was to be used by political or judicial organs; the relationship

between aggression, self-defence and collective action by the United Nations; and the possible existence of other forms of aggression besides those mentioned in the Charter and in the draft Code.

5. Originally, aggression had meant "aggressive war". Through the years, the word "war" had come to be considered both too vague and too limited for an international instrument; in 1933 Clyde Eagleton, in a treatise entitled "The Attempt to Define War", had argued against the use of that word in international affairs. The authors of the United Nations Charter had taken the same view, and had mentioned war only once, in the preamble. Instead, they had referred to armed attack, threat to the peace, breaches of the peace and acts of aggression.

6. As regards armed aggression, the special committee might consider, in view of the recent development of deadly atomic weapons, whether the preparation of such weapons and the threat of their use constituted aggression and entitled the threatened State or the United Nations to take armed counter-action. There were also various acts of an ideological or economic nature which served the same purpose as armed aggression, and which might be classed as indirect aggression.

7. Lastly, the special committee might examine the question whether all types of aggression should be brought under the same heading and made subject to the same sanctions. It might be found advisable to provide for different measures for different acts, as was done in resolution 377 (V) on "Uniting for peace", which called for specific action in specific cases. It was questionable whether military action should be used in cases of ideological, economic and internal aggression. While the present trend was clearly in favour of sanctions against aggression, the United Nations must beware of extending the concept of aggression to the point of defeating its main purpose, which was to maintain peace.

8. Those and many other questions must be clarified before his delegation could take a stand on the question of defining aggression, and it therefore supported the establishment of a special committee to make a thorough study of the subject.

* Indicates the item number on the agenda of the General Assembly.

Mr. Wikborg, Rapporteur, took the chair temporarily to permit the Chairman to make a statement as the representative of his country.

9. Mr. LACHS (Poland) said that the question of defining aggression was the most important item on the Committee's agenda. Aggression had entered into both the practice and theory of international law and was closely linked with the issues of peace and war and the distinction between just and unjust wars. There were by now some forty international instruments containing the term "aggression", and many writers on international law had given consideration to the subject.

10. From a general point of view, definitions were an essential element in law, as old as legal rules themselves. That applied both to internal law, which was an instrument of the State, and to international law, which consisted of a set of rules regulating relations among States in their competition and co-operation. There were a multitude of definitions in international law, contained in numbers of treaties. It was upon the basis of agreed definitions that States prosecuted such offences as piracy, traffic in women and children, etc., while it was an incontestable fact that only upon agreed definition could States act in common or commit themselves to act or to refrain from acting, to assume positive or negative obligations, and to take preventive or repressive action to fulfil the purpose of the agreement in question.

11. It was therefore surprising that it should be contended that aggression could not be reduced to the framework of a definition, that it did not lend itself to definition and that it was impossible to enumerate its elements.

12. He had been interested to hear the arguments put forward by those who opposed a definition of aggression. The United Kingdom representative had alleged that the concept of aggression was inherently incapable of precise definition and that in the light of modern methods of warfare and modern techniques of aggression, a definition would have little real value and would in fact be dangerous. The Venezuelan representative had argued that any kind of definition would not fulfil its purpose but would be a strait jacket for the organs which were called upon to determine its existence. The Australian representative had said that aggression was not a static phenomenon but an art in constant development, and that any definition would hamper the rights of the victim and could only assist the aggressor. The Brazilian representative had dwelt on the alleged danger of any definition, adding that aggression was an enigma, while the United States representative had spoken of the lurking danger inherent in any such definition.

13. All those arguments, far from constituting a reply to the question, were an attempt to evade the issue. Moreover, there was nothing new in them; the same points had been put forward many years earlier and filled volumes of documents of the League of Nations and the London Conference for the Reduction and Limitation of Armaments held in 1933. The fight for the definition of aggression had always been linked with the struggle for peace and collective security, and had been one of the elements which should have helped in the maintenance of international peace. History showed that those opposed to a definition had been

those who were conducting a policy of preparation for aggression, or at least of condoning or justifying it.

14. Bismarck had been one of the early proponents of the argument that the problem of aggression could not be solved by a definition. During the present century it was significant that it had been the representatives of Germany and Japan who had been the most vociferous opponents of the 1933 USSR proposal for defining aggression.¹ Other States had also shown their dislike of the idea. The United Kingdom, for one, when signing the Briand-Kellogg Pact, had made a reservation to the effect that the acceptance of the Pact did not prejudice its freedom of action with regard to certain regions of the world, the welfare and integrity of which constituted a special and vital interest for its peace and safety: that meant, in reality, that the United Kingdom reserved the right to aggressive action in certain regions. Anxious to ensure the support of the United States, it had addressed a note to that State, recalling that the United States Government had compatible interests, any disregard of which by a foreign Power it had declared that it would regard as an unkindly act. The United Kingdom had obviously had in mind the Monroe Doctrine, which for many decades had constituted a political instrument of the United States; in fact, when the Briand-Kellogg Pact had come before the United States Senate, Senator Borah had stressed that it did not affect the rights of the United States arising from the Monroe Doctrine. Those reservations further weakened the already weak text of the Pact, excluding from its area of operation very large areas of the world.

15. In 1933, when the USSR definition of aggression had been the subject of discussion in the international arena, aggressors were already attacking peaceful countries: Japan had embarked upon its plan for the subjugation of China, and the United States, instead of taking a strong stand, had merely dispatched a formal note to both China and Japan, while the United Kingdom had done nothing at all.

16. Many speakers had referred to the events of the thirties. It would not therefore be out of place to recall that the founders of the League of Nations, after the failure of their policy of intervention against the USSR, had adopted a policy of complete isolation of the USSR and of directing future aggression towards the east. That policy had not succeeded and the course of history had compelled the League of Nations to invite the USSR to become a Member, after which the USSR had proved to be the most active supporter of peace. It had been the USSR which had called for action when Hitler had violated the disarmament clauses of the Treaty of Versailles, when Mussolini had attacked Ethiopia, when Hitler had remilitarized the Rhineland, when Austria had lost its independence and Czechoslovakia had been endangered.

17. Turning to the Second World War, he declared that up to the last moment before the actual outbreak of hostilities, the western Powers had tried to reach agreement with Hitler, at the expense of further victims. The USSR, on the other hand, had made every effort to avert the danger by declaring its readiness to

¹ See *League of Nations, Conference for the Reduction and Limitation of Armaments, Minutes of the General Commission, Series B*, vol. II, p. 237.

take common action, both political and military, to stop Nazi aggression; it had been the refusal of the other Powers to implement collective security which had precipitated the outbreak of the Second World War.

18. As the representative of Poland, he felt it his duty, in view of certain comments made during the course of the discussion, to give some explanation of the events of that time as far as Poland was concerned; a proper understanding of them required a knowledge of both the international situation then prevailing and the internal situation of the Polish State. The Polish Government of 1939, which had started its flirtation with Hitler much earlier, had adopted a hostile attitude towards the USSR—the only State which had been ready to help it. The treachery of the Polish Government towards its own people had contributed to the catastrophe that had befallen Poland in September 1939.

19. With regard to the action of the USSR Government, the act of unifying the Ukrainian population of the Western Ukraine with the whole of the Ukrainian people, and the Byelorussian population of Western Byelorussia with the whole people of Byelorussia, had been acts of historical justice to which those nations had long aspired. The western Powers had themselves admitted that the great majority of the population of those areas consisted of Ukrainians and Byelorussians, and that recognition had found its expression in the so-called Curzon Line. The Polish people had always condemned the policy of extermination conducted by the government of that time; after the close of the Second World War, a new frontier had been drawn between Poland and the peoples of the USSR, which had become a frontier of peace and co-operation.

20. Turning to the theoretical side of international law, as reflected in the works of contemporary writers of that period, he said that it was significant that those who had been satisfied with the activities of the League of Nations and had supported the use of force against small and helpless nations had been those who had been hostile to any definition of aggression. For example, Sir John Fischer Williams, a well-known jurist of those days, had defended the way in which the Mukden incident had been resolved and had praised the blockade of Venezuela; he had had serious doubts of the wisdom of trying war criminals and had felt that the action against the USSR in the early years of its existence had not been warlike action. That line of argument had led him to adopt a negative attitude on the issue of defining aggression.

21. The theorists of Germany and Italy, whose governments had constituted the greatest danger to peace, had naturally been the most strongly opposed to the definition of aggression. The theories of the fascists, with their refusal to distinguish between good and evil, had led them not only to oppose a definition of aggression but to the negation of international law itself. Werner Best, an eminent Nazi jurist, writing on the basis of the racist conception of law, had stated that relations between States, hitherto described as international law, could not be regarded as law. Mussolini had declared that the principle of equality of States did not exist and had never existed in history.

22. On the other hand, there had been many who had advocated a definition of aggression. The 1933 definition had become part of positive international law

and had been embodied in a number of treaties. The definition had been strongly supported by the South American States and had become a part of the inter-American system, confirmed by several treaties concluded on the American continent. It had been welcomed by many writers in the field of international law, who had felt it to be of great constructive value and importance.

23. Now, twenty years later, the question was again under discussion, but although there had been changes among the opponents of the definition, the arguments against it were almost identical with those used in the 1930's. One reason advanced against the adoption of a definition was that technical progress, new methods of warfare and changes in international relations had created new conditions. Just as new inventions had not changed the essence of murder and the qualification of that crime in domestic law, international and technical developments had not changed the illegal character of aggression or the rights of States to independence and integrity. The United Nations Charter had, in fact, reaffirmed the rights of States, declaring that those rights were based on equality and self-determination, that Members of the United Nations were sovereign in their equality and that no one had the right to interfere on matters essentially within the domestic jurisdiction of any State. Each State had the right to protect itself from attack, whatever the nature of that attack. Any attack constituted aggression, and aggression, like genocide, could be defined.

24. It had been claimed at one time that war could not exist without a declaration of war. In the United States and United Kingdom, the courts, in principle, took cognizance of a state of war only upon official notification. Yet even in those two countries, there were many examples of courts concluding from facts which constituted acts of hostility that a state of war existed without any declaration.

25. It was essential for the proper administration of the law that the crimes it condemned should be defined. Having accepted certain principles arising from general international law and the Charter, the United Nations was well able to define the acts which constituted an attack upon a State. Aggressive war had been banned: while the Covenant of the League of Nations had not banned war, the United Nations Charter did so unequivocally. On the basis of a clear knowledge of what was to be defended, it should be possible now, even more than in the past, to define aggression. Even the United Kingdom and United States representatives had indirectly conceded that, for in their most recent statements they had merely suggested that the issue should be postponed.

26. A second argument which had been advanced was that a definition of aggression would be useless. The United States representative had claimed that it would invite circumvention by potential aggressors, while the United Kingdom representative had suggested that it would neither harm the aggressor nor deter him from aggression. It had been argued, furthermore, that a generally accepted definition of aggression in the 'thirties would not have prevented the outbreak of the Second World War, an allegation which had been fully dealt with by Mr. Vyshinsky in his speech to the Committee.

27. The Polish delegation had never claimed that a generally accepted definition of aggression would have prevented Axis aggression, but it did maintain that such a definition would have constituted a grave warning and deterrent. In its absence the aggressor had been able to represent his attacks against the independence of States as neither war nor aggression, but as punitive expeditions, police actions, etc.

28. As regards the desirability of a definition at the present time, he felt that the representatives of Afghanistan, Syria, Iran and Bolivia had taken the correct view and had dealt with the question adequately. As a result of the war preparations conducted under the aegis of the United States, the present international situation was extremely tense and the world was faced with grave dangers; yet many still claimed that a definition of aggression was not necessary.

29. The Greek representative had endeavoured to link the issue with the problem of self-defence, in a vain effort to prove that law did not adequately protect the interests of States in that respect. The contrary, however, was true: self-defence was fully guaranteed both by the rules of international law and by the Charter, particularly in Article 51. But the North Atlantic Treaty completely distorted the term "self-defence", using it for purposes which had nothing in common with its proper meaning. It spoke, moreover, of "self-help", which amounted to a complete denial of the system of collective security established by the Charter and placed in the hands of the Security Council. The Treaty was, in fact, in flagrant contradiction with Article 51 of the Charter and was of an aggressive character. States conducting a peaceful policy had nothing to fear but everything to hope from a definition of aggression; thus the argument of the Greek representative could be turned against himself.

30. It had been said that a definition of aggression was inadvisable in view of the situation in Korea. All he would say to that was that it was common knowledge that the attack in that case had been made by the United States, making use of South Korea; the situation in Korea certainly called for a definition of aggression.

31. The representatives of France, Sweden and the Netherlands had stressed that a definition of aggression should not be placed within the framework of the collective security system but within that of the international penal code. The Polish delegation could not accept that view, seeing in it an attempt to transfer the whole issue to another field, placing the main accent on repression and by-passing the principles of collective security. It was within the collective security system that the organs called upon to apply the provisions of the Charter had the duty of determining the aggressor; thus a definition of aggression, which would assist those organs, would find its correct place within the collective security system. In each case, it should be clearly stated who was the aggressor and who the victim; thus a definition of aggression might prove to have a strong preventive effect in the system established by the Charter.

32. Turning to the character which the definition should have, he drew attention to the view expressed, both in the past and again during the present discussion, that the fact of refusing to submit to arbitration

should be taken to constitute aggression. Attempts in that direction in the League of Nations had failed completely. Such a criterion did not define aggression at all; the refusal to submit to arbitration could be based on a variety of reasons and it came within an entirely different field. Nor could aggression be defined by the simple statement that a State had violated international agreements. That was no definition, for it was not self-explanatory, referring as it did to another document and requiring a thorough examination of that document.

33. Thus, by a process of elimination, it would be seen that the objections to a detailed definition of aggression were unjustified. Such a definition had been submitted to the Committee in the USSR draft resolution (A/C.6/L.264). It enumerated, from the point of view of binding and actual law, the attacks which were directed against the independence and integrity of a State and which violated its essential rights and interfered by force in the sphere of its exclusive competence; furthermore, it gave a list of facts which could not be used as justification for an attack. It was well-known that such facts had frequently been used in the past as a pretext for attacking small, helpless nations, and were still instruments in the hands of some Powers. Although the definition was based upon the USSR 1933 proposal, it had stood the test of time and history and was as appropriate now as it had been then. The typical cases of aggression remained the same.

34. Summing up the advantages of a definition of aggression, Mr. Lachs pointed out that it would strengthen the system of collective security, would have a serious preventive effect and would serve as a directive for such international organs as might be called upon to determine which party was guilty of aggression. It would greatly reduce the risk of arbitrary and unjust decisions and would eliminate the possibility of any attempt to justify illegal acts *ex post facto*. It would have a serious value in the sphere of law and morality and would help the common man to distinguish between victim and aggressor, between a just and an unjust war.

35. The Polish delegation rejected those theories which were the expression of a policy of force and might, such as that expounded by Mr. George Kennan, former United States Ambassador to Moscow, who in one of his works had cynically claimed that to carry into the affairs of State the concepts of right and wrong and the assumption that State behaviour was a fit subject for moral judgment was a serious mistake. Professor Morgenthau of Chicago, another defender of imperialist power politics, had written that in politics moral rights and legal title were as nothing in the face of superior power, and that international relations were to be regarded in terms of power and not conceived in the absolute terms of peace, law and order versus aggression, crime and anarchy. Such theories led to a complete negation of law and international morality. The Polish delegation for its part supported the Marxist theory that the ordinary law of morality and justice which should define relations between private individuals should also be given binding force as the supreme law in the relations between nations.

36. Naturally, a definition of aggression would not of itself ensure peace, which also needed co-operation,

the carrying out of obligations assumed and the observance of the principle of equality and non-interference in the domestic affairs of States. Like every other act of condemnation, however, it would constitute a serious warning to those who might be tempted to commit aggression.

37. The Polish delegation offered its full support to the initiative and proposal of the USSR delegation, which it was convinced would be a contribution to the cause of peace.

Mr. Lachs (Poland), Chairman, resumed the chair.

38. Mr. HSU (China) presented a series of observations on the important report of the Secretary-General (A/2211) submitted in accordance with General Assembly resolution 599 (VI). As that document would be consulted during all future discussions of a definition of aggression, the Committee might wish to do more than merely express its appreciation to the Secretary-General for his report.

39. He was unable to understand why paragraphs 479-483 of the report, dealing with combined definitions and listing several of the proponents of that idea, failed to mention the Chinese delegation, which had explained the advantages of that form of definition before any of the other parties mentioned, and which had offered a formula precisely on that basis for discussion by the Committee. He felt it essential to point out that omission in order to clarify the situation and correct any wrong impression concerning the position of the Chinese delegation at the sixth session of the General Assembly.

40. He further wished to indicate an omission which had occurred in the section of the report setting out what constituted indirect aggression (paragraphs 434-437). That section mentioned the Chinese delegation's suggestion that "planting of fifth columnists in a victim State" represented a type of indirect aggression but omitted another suggestion that "promoting subversion against its political and social order" was also a type of indirect aggression.² The authors of the report might have considered that promotion of subversion was not aggression but, in fairness to the Chinese delegation, they should at least have explained their position. Despite that omission from the report, he was gratified that at the current session a number of delegations had expressed views regarding the promotion of subversion which concurred with the position taken up by the Chinese delegation at the preceding session.

41. He wished to present a general comment concerning paragraphs 441-448, which constituted sub-section VII-2 entitled "Economic Aggression", placed on a par with two other sub-sections, "Indirect Aggression" and "Rejection of Peaceful Procedures". He wondered whether the authors of the report had considered the problem with sufficient care. Aggression was either direct or indirect, and economic aggression or any other type of aggression should not be discussed without reference to that classification. Measures of economic pressure, for example, would seem to constitute indirect aggression, if not adopted in pursuance of a decision or recommendation of a competent organ

of the United Nations or undertaken as reprisal in the event the United Nations was paralysed. Such measures might be termed economic aggression, provided that the meaning of that term was clear and generally accepted. If, however, economic aggression were regarded as a type of aggression on a par with indirect aggression, legitimate acts which inflicted unintentional and incidental hardships upon others might logically be regarded as aggression when obviously it was unnecessary to class them as such. Thus, the attempt of the authors of the report to consider economic aggression as a concept independent of indirect aggression did not contribute to understanding or clear thinking.

42. Paragraphs 380-406 under section VI, "Action to Prevent Aggression", provided a further illustration in point. Opinions that such action did not constitute aggression were presented in sub-section 1 and the contrary opinions in sub-section 2. The report, however, went further and presented the opposite opinion as such in sub-section 2 (a) and the opinion that responsibility for action to prevent aggression rested with international organs in sub-section 2 (b). Surely, the authors did not consider the opinion that action to prevent aggression was not aggression as a negation of the opinion that such action lay with international organizations. The question had been under discussion since the very inception of international organizations which challenged the right of individual action. It seemed self-evident that no preventive action was legitimate except when taken in self-defence. It was absurd to consider a discussion of such preventive action without reference to the legal situation prevailing at present. The drafters of the report might possibly have regarded the eminent opinions expressed in section 1 as erroneous and might have refused to admit that action to prevent aggression could have a place in a world organized under the United Nations.

43. Action to prevent aggression might take the form of either self-defence or preventive war. The latter variety naturally could not be accepted under the United Nations or any international organization. The right of self-defence was recognized by Article 51 of the Charter, but the question of whether that right permitted forestalling armed attack in case of an immediate danger allowing no time for United Nations intervention still required clarification. A negative reply would be tantamount to compelling potential victims of aggression to sacrifice their security on the altar of a pedantic notion. Fortunately such did not seem to be the intention of Article 51.

44. In any case a report submitted as a discussion of the question of defining aggression could not appropriately take sides on such highly controversial questions. He wished, however, to note that on the whole the report constituted a valuable piece of work which fully merited the tributes paid to it by various members of the Committee.

45. Mr. ROBINSON (Israel) associated himself with those delegations which had expressed appreciation of the comprehensive account of official attempts to define aggression contained in the report of the Secretary-General (A/2211). Unfortunately the Secretary-General had not been requested to analyse the vast literature on the subject, although such an analysis would have been a helpful supplement.

² See *Official Records of the General Assembly, Sixth Session, Sixth Committee, 278th meeting, paras. 49-50.*

46. Progress was being made both from the procedural and the substantive points of view. Never before had there been so acute a realization of the tremendous difficulties involved in a satisfactory definition of aggression and its implications for the effective operation of the organs of the United Nations, for the maintenance of peace and for the progressive development of international penal law. A second gain was the almost general conviction that, due to present tension in international relations, a satisfactory solution of the problem of defining aggression would be even more difficult now than at some later date when the situation was less tense. The argument that the existence of the present tension should be an element in accelerating procedures for the drafting of a definition had not met with any appreciable measure of approval. The moral value and the legal importance of any definition which might be adopted depended on the degree of unanimity which the definition might command. It was quite clear that any definition which might emerge from the Committee's deliberations would not command general agreement, but would provide an additional demonstration of the fact that attempts at achieving definitions and precision were likely to reveal differences and divisions.

47. Three substantive gains were worthy of comment. Implicitly and explicitly, practically every member of the Committee had stressed that a definition of aggression was not a panacea for the evils of the contemporary world or for the dangers threatening large or small States. There was a general realization that such a definition would constitute only one of the numerous factors influencing political and military developments.

48. A second and equally important advance was the realization that even the most perfect definition could not be automatically applied. The Security Council or the General Assembly, as the case might be, must reserve full freedom of appreciation and action.

49. Thirdly, no one now advocated a definition of aggression similar to that contained in Article 10 of the Geneva Protocol for the Pacific Settlement of International Disputes,³ based on a list of acts constituting a presumption of aggression which could be refuted only by unanimous decision of the Council of the League of Nations.

50. Despite substantial progress, the goal was still remote. Progress would be accelerated if two of the arguments in favour of a definition of aggression were dropped: the historical argument and the analogy with national criminal law.

51. The oft-repeated statement that no definition of aggression had been adopted at the San Francisco Conference because of lack of time was refuted by the report of Mr. Paul-Boncour⁴ explicitly stating that a definition of aggression "went beyond the possibilities of this Conference and the purpose of the Charter". In that connexion it was significant that not a single fact had been advanced in support of the contention that the Security Council or the General Assembly were

in any way hampered in their efforts to maintain peace and security by the lack of a definition of aggression. That, however, did not necessarily imply that such a definition might not be useful in the future.

52. The analogy with national law was erroneous, particularly in so far as it referred to a definition to be applied by political organs. In the first place, the purpose of the definition of a crime in a national criminal code was to mete out justice to the criminal. The primary objective of action by United Nations organs was to maintain peace and security. Moreover, in applying any article of a particular part of a criminal code, a judge might refer to the general part of that code dealing with such matters as imputability, reasons excluding responsibility, extenuating circumstances, legitimate defence, complicity, etc. Either all those problems must find a solution in a definition of aggression or, before defining aggression as a particular crime, the necessary elements of a criminal code must somewhere be defined and codified. Moreover, it was noteworthy that the Charter was full of undefined notions such as human rights, fundamental freedoms, Non-Self-Governing Territories, etc. In international law basic concepts such as war, peace and neutrality had never been absolutely defined. In fact rigid definitions were impossible in the international sphere. Even if there was a criminal code, the committing authority was not automatically bound to prosecute even in national law. In the great majority of countries prosecution remained a matter of discretion and not of obligation.

53. The problem of a definition of aggression had three essential aspects; legal political, and technical.

54. A legal problem was one for which a solution could be found in the sources of positive law or for which the solution was linked with established positive law. No universal source of law existed for a definition of aggression. On the other hand, no definition of aggression could be undertaken in the United Nations without consideration of its implications for the law of the Charter, which contained a number of references to aggression. If the Charter had received a final drafting by lawyers, the reference in Article 1 to "acts of aggression or other breaches of the peace" might have been interpreted to signify that an act of aggression was one of the manifestations of a breach of the peace, an expression which might then require definition. Even admitting the looseness of the language of the Charter, a definition of aggression ignoring other forms of "threat or use of force" or "threat to the peace" might cause difficulties of application and might produce a situation where acts unlawful under the Charter would be identified as "breaches of the peace" or "threats to the peace" in order to avoid the necessity of applying and interpreting the definition of aggression. The danger was obvious and steps would have to be taken to ensure that a definition of aggression would not result in the disappearance of that term from international usage.

55. The second legal problem was that of the nature of such definition. Leaving aside the draft Code of Offences against the Peace and Security of Mankind, should it be by way of amending the Charter, of a multilateral convention, of concurrent resolutions of the General Assembly and the Security Council, or of a resolution of the General Assembly alone? The prob-

³ See *League of Nations, C.606, M.211. 1924. IX, Protocol for the Pacific Settlement of International Disputes*, adopted by the Fifth Assembly of the League of Nations on October 2nd, 1924.

⁴ See *Documents of the United Nations Conference on International Organization*, San Francisco, 1945, vol. XII, Commission III, p. 505.

lem had been forcefully presented by the Belgian representative, to whose conclusions no adequate refutation had so far been submitted. Those who believed that a General Assembly resolution, being to some extent binding upon other organs of the United Nations and particularly the Security Council, was the only proper method of defining aggression, should not fail to consider the fate of resolutions of the General Assembly submitted to the Security Council and their general value as outlined in document A/2170, paragraph 119, annex I, section XII of the outline of the repertoire, which the Committee had recently approved (320th meeting).

56. A third legal problem was the scope of aggression, whether it should be only military or also economic and ideological. Even a definition of armed attack was difficult and its elements required clarification. Any definition must be correlated with an interpretation of "breaches of the peace", "peace" and "force". The dilemma lay between a definition containing or implying everything regarded as unpleasant by anyone and a definition consonant with the structure and economy of the Charter.

57. A final legal problem was the relationship between aggression and provocation. While none of the reasons which might lead to aggression cited in the USSR proposal (A/C.6/L.264) should be allowed to justify aggression, a declaration of impunity for certain acts with no provision for remedy was hardly conducive to peace. The conclusion to be drawn was that, in connexion with provocation, methods must be devised not involving the use of force. The scope and implications of the inherent right of self-defence must not be overlooked.

58. As regards the political aspects, Mr. Robinson noted that any definition of aggression must serve the purpose of deterring the aggressor, and failing that, of accelerating help to the victim of aggression, and facilitating the work of the United Nations organs entrusted with responsibilities in that connexion.

59. Referring to the problem of the importance of a definition of aggression for world opinion, he stated that any definition intended to mobilize world opinion against a potential aggressor must be drafted in non-technical, easily understandable language. Moreover, the mobilization of world public opinion depended on the free availability of information.

60. In the technical field, a method must be chosen, either deductive, inductive or combined; substantive only or substantive in combination with additional powers of United Nations organs; exhaustive or not exhaustive. Another problem was to determine the need for definition of the constituent elements of a definition of aggression and how far the chain of definitions could safely go. Finally, methods must be found to keep a definition abreast of new methods of warfare and new techniques of aggression.

61. The delegation of Israel was in agreement with many other delegations which considered it premature to embark at the present juncture on the technical task of defining aggression. Further studies were necessary.

62. As regards the ten-Power draft resolution (A/C.6/L.265), while reserving his delegation's final position he wished to make the following comments.

63. Sub-paragraph (a) of the preamble lent itself to misunderstanding and created the impression that there were three different elements which must somehow be connected. Sub-paragraph (b) raised the question of the proper interpretation of the words "constitutional jurisdiction". As regards the jurisdiction of United Nations organs, the Committee might be well advised to co-ordinate its findings with those of sections VIII and IX of the outline of the repertoire in document A/2170. Sub-paragraph (c) did not make sense as it stood and probably referred to other aspects of aggression in addition to those cited in the two preceding sub-paragraphs.

64. In the operative part, the wording of sub-paragraph 2 (a) seemed to pre-judge the method of establishing a definition of aggression, leaving no discretion to the special committee for the consideration of other methods. He wondered whether it was the intention of the sponsors that only one draft definition should be prepared in connexion with sub-paragraph 2 (b), or whether alternative drafts might be contemplated. Furthermore, the use in that paragraph of the expression "concept of aggression" would cause great difficulty. Finally there seemed to be some inconsistency between sub-paragraph (a) of the preamble and sub-paragraph 2 (b) of the operative part, because the former included a reference to international criminal law while the operative part implied that the purpose of drafting a definition was solely to provide guidance for the competent organs of the United Nations. It would be well to ascertain whether that discrepancy represented an oversight or an intentional restriction of the terms of reference of the proposed special committee.

65. Mr. GREEN (United States of America), in answer to a question by Mr. MOLINO (Panama), explained that document A/C.6/L.266 was not a proposal, but merely notification of a proposal to be submitted by his delegation at a future time. The heading should read "Motion to be submitted by the United States of America".

66. Mr. WIKBORG (Norway) said that his delegation had regretfully come to the conclusion that in the present international situation, the question of defining aggression could not be solved in a generally satisfactory, acceptable and effective manner in conformity with the Charter.

67. A general enumeration of acts of aggression was, of course, possible. In order to be complete, however, such a list would have to be extremely long, covering all the new and constantly changing forms of aggression. As a result it might include a number of acts which did not have the serious quality of a threat to the peace which the Charter considered to be the very essence of aggression, and might be misused for propaganda purposes. Even the International Law Commission, which had been guided solely by juridical considerations, had proved unable to arrive at a workable definition. Further, whereas words no longer seemed to convey the same meaning to peoples of different countries, no definition could be effective unless it was interpreted everywhere in the same way.

68. Even if all the difficulties could be overcome, however, and a definition worked out, the question still

remained whether it would be effective. Past non-aggression agreements containing definitions of aggression had not been able to prevent aggression, not because of their drafting, but because of the lack of goodwill of the States concerned.

69. Before a definition could be applied in a given case, the facts must be ascertained. Everyone knew how difficult it was for parties to a conflict to agree on what the facts of a case had been. Only an independent and objective body could ascertain the facts properly, but countries were often unwilling to submit to such impartial inquiry.

70. There was also the question raised by the representative of Greece, namely, whether the General Assembly could accept a definition comprising indirect aggression without encroaching upon the Charter.

71. No definition, however well drawn-up, would relieve the present international tension. Nor would such a definition help the Security Council or the General Assembly in dealing with acts of aggression in the future. A general formulation would add nothing to what was already contained in Article 2, paragraph 4, of the Charter, while a restrictive one might only give rise to further difficulties.

72. It was true that a definition might exert a moral force through its effect on public opinion, and everything should be done to strengthen world opinion in favour of the peaceful settlement of international disputes. Nevertheless, in view of the clarity of the Secretariat's report, and the work still to be done on the question of aggression by the International Law Commission in connexion with the draft Code of Offences against the Peace and Security of Mankind and the international penal code, there was no need for a special committee on the question at the present time.

73. Consequently, his delegation would support the United States proposal to postpone the question for the time being.

74. In conclusion, he pointed out, with reference to the Polish representative's remarks, that since the system of security, which had raised such high hopes among nations, especially the smaller ones, had not worked, those countries had had to resort to regional security arrangements in accordance with Article 51 of the Charter.

75. Mr. SUAREZ (Chile) paid a tribute to the Secretariat for its clear and full report on the question.

76. His delegation maintained the position it had held at the sixth session of the General Assembly. As

it had pointed out at the time⁵ Chile, together with the other countries of the Western Hemisphere, attached great importance to the definition of aggression which formed an essential element of the collective security system of the Charter. Many of the preceding speakers had stressed the political arguments against definition; the legal arguments in favour of definition were equally important, and he could not accept any proposal to discontinue work on the problem.

77. The representatives of Latin-American countries had been accused of carrying the analogy between the Organization of American States and the United Nations too far. While realizing the differences between the two organizations, he would continue to hope that the United Nations could achieve the same harmony and solidarity as existed in the Organization of American States.

78. The draft Code of Offences against the Peace and Security of Mankind, on which his Government had submitted its comments in conformity with General Assembly resolution 599 (VI), constituted only one step towards a definition of aggression. The USSR proposal for a definition was not acceptable because it was too restrictive, listing only some instances of aggression and not others, and because it did not make it clear that the acts listed did not constitute aggression if executed in pursuance of a United Nations decision.

79. In view of the complexity of the problem and the limited time available to the Sixth Committee, it would be preferable to entrust such definition to a smaller, expert body.

80. His delegation, therefore, together with nine others, had submitted a compromise draft resolution (A/C.6/L.265) which provided for the establishment of a special committee to study the many questions arising in connexion with the definition of aggression. He hoped that the committee, if appointed, would take into account the various views expressed in the Sixth Committee, in particular to the effect that the definition should be neither too general nor too detailed and restrictive. A compromise between those two extremes, such as the one used by the Organization of American States, which gave the principal forms of aggression, would be best. In addition to armed aggression, the committee should take into consideration indirect and economic aggression.

The meeting rose at 5.55 p.m.

⁵ See *Official Records of the General Assembly, Sixth Session, Sixth Committee*, 281st meeting.