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Chairman: Prince WAN WAITHAYAKON (Thailand).

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

[Item 54]*

1. The CHAIRMAN invited further discussion on the draft resolutions and amendments before the Committee.

2. Mr. LACHS (Poland) noted that, after practically every delegation had participated in the general debate on the question of defining aggression, it was clear that no convincing case had been made out against a definition. Some delegations, vainly attempting to hide the dearth of other arguments, had gone so far as to describe the efforts to define aggression as propaganda. Yet the USSR proposal had stood the test of time and there were no valid grounds for opposing it. At a later stage some delegations had challenged the historical analysis presented by the USSR delegation and had submitted their own versions of history. It was nevertheless true that the experience of history confirmed the wisdom of the position of the USSR and proved that the policy of the USSR had materially contributed to the victory over fascism. The USSR definition was realistic and should be adopted at the current session.

3. A number of delegations which in principle favoured a definition of aggression as desirable, useful and possible, had in a joint draft resolution (A/C.6/L.265/Rev.1) proposed that a special committee should be established to give further study to the problem. It was significant that, although the opponents of a definition of aggression repeatedly affirmed their willingness to accept a compromise, they were doing their utmost to weaken that joint draft resolution. Terms of reference were being suggested to undermine the very purposes contemplated for the committee. A number of amendments, particularly the French amendment (A/C.6/L.268 and Corr.1), represented a step backward rather than forward. He noted that the effect of the French amendment would be to refer

to "the connexion between a definition of aggression and the maintenance of international peace and security", whereas General Assembly resolution 599 (VI) had already affirmed the desirability of a definition in the interests of international peace. That question had been settled and should not be re-opened. A further objection to the French amendment was that it attempted to divert attention from the essential functions of United Nations organs and to sidetrack the entire issue by establishing a link between the definition of aggression and an international criminal jurisdiction. It should be noted that advocates of a definition were concerned with the use of that definition as a directive to United Nations organs.

4. Obviously, no progress toward a definition could be made if a special committee was established under conditions which hampered its work and virtually ruled out success. For those reasons, the Polish delegation would oppose the French amendment and any similar amendments.

5. The proposal that the special committee should prepare a number of definitions of aggression represented a further attempt to weaken its terms of reference and to give the work proposed a nebulous character. The special committee should be instructed to prepare only one definition and all reference to confusing elements such as the notion of aggression should be studiously avoided.

6. The provision that the special committee should report to the ninth session of the General Assembly could only be interpreted as a deliberate manoeuvre to delay a final solution. The special committee would have ample time to complete its work before the next session and there was no reason why it should not report to the eighth session of the General Assembly.

7. The Polish delegation was submitting two amendments (A/C.6/L.272 and A/C.6/L.273) to the revised joint draft resolution (A/C.6/L.265/Rev.1) and to the revised joint amendments (A/C.6/L.269/Rev.1) respectively, embodying the points he had just explained.

8. He took exception to the attempt to introduce an element of fear into the discussions by statements that

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

certain proposals were dangerous because they were too similar to USSR proposals. Each proposal should be considered on its merits and dangerous and improper implications should be avoided.

9. Every effort should be made to facilitate the work of the special committee, if it was appointed, and to ensure that the majority of its members were in favour of a definition of aggression. A committee which failed to reflect the majority's inclination in favour of a definition would be pointless.

10. Mr. CASTANEDA (Mexico) said in reply to the representative of El Salvador, who had stated that the reference to "constituent elements" in the joint amendments (A/C.6/L.269/Rev.1) was redundant and unnecessary, that to some extent the criticism was justified, but that the reference was required to ensure a definition of the basic elements of aggression rather than a general definition. He also pointed out that the reference occurred in General Assembly resolution 599 (VI).

11. In response to other queries, he explained that the technique of definition contemplated in the revised joint amendment was very frequently used. It consisted of an abstract or synthetic definition which set forth the essential elements or characteristics and an enumeration which was more than a mere illustration. Any act which contained the basic elements or fulfilled the essential conditions embodied in the abstract definition of aggression would constitute aggression whether or not it was specifically listed in the enumeration which followed. Enumeration of typical cases was, however, valuable because it ensured a greater measure of automatic application of the definition in that the occurrence of any of the acts specifically enumerated would give rise to a strong presumption of aggression. It should, however, be remembered that the ultimate decision in all cases would rest with the Security Council or the General Assembly, and that the particular circumstances could be studied and investigated in all cases.

12. He agreed with the representative of Argentina that the reference in the joint amendment to "an enumeration of the circumstances which may not be invoked as justification for aggression" might be construed as restrictive. That objection could be met by the addition of the words "in particular" or "among others" to show that the list was not restrictive. He noted that point 4 of the Polish amendment (A/C.6/L.273) clarified that provision and allayed the doubts expressed by the representative of Argentina and others.

13. Mr. BARTOS (Yugoslavia) introduced an amendment (A/C.6/L.274) to add the word "non-exhaustive" in the joint amendment (A/C.6/L.269/Rev.1). He agreed that the enumeration would not only be illustrative but would serve as a directive to United Nations organs. It should be made quite clear that the enumeration was not to be construed as restrictive.

14. Mr. PETRZELKA (Czechoslovakia) referred to the statement of the Czechoslovak delegation in the general debate and stressed the excellence of the USSR definition, which clearly defined all known forms of

aggression. All other abstract definitions which had been proposed were weak and ineffectual.

15. His delegation accepted the Polish amendments (A/C.6/L.272 and A/C.6/L.273) but was unable to support the Turkish amendment (A/C.6/L.267) because it was the Chairman of the Sixth Committee, rather than the President of the General Assembly, who should designate the members of the Committee's subsidiary bodies.

16. It would be advisable to decide on the composition of the special committee at that stage, in view of the importance of ensuring that a majority favoured a definition of aggression in accordance with the position adopted by the majority in the Sixth Committee.

17. To facilitate the Chairman's task and to ensure the designation of a committee faithfully reflecting the views of the majority, the Czechoslovak delegation submitted an amendment (A/C.6/L.275) proposing the names of fifteen Member States to be represented on the special committee.

18. Mr. HSU (China) objected to the unfortunate Czechoslovak amendment (A/C.6/L.275) and urged the Committee to reject it.

19. Under the Czechoslovak amendment China was excluded from membership in the special committee, even though the Chinese delegation had actively participated in the discussion of the problem in the United Nations and even though no country had a better knowledge of both direct and indirect aggression in the past as well as in the present.

20. Moreover, the Czechoslovak proposal presented the further disadvantage of excluding one of the permanent members of the Security Council. He noted that, as a matter of principle, it was unwise to exclude any of the permanent members of the Security Council, the organ with primary responsibility for maintaining international peace and security; the excluded member would be placed in a very difficult position and the effective solution of the problem might thereby be impeded.

21. The membership of the committee as proposed by Czechoslovakia was not well balanced, because the overwhelming majority of its members favoured a definition of aggression. The Committee should be set up fairly and all shades of opinion should be represented in it, for in the final analysis the definition had to be acceptable to all Member States.

22. Finally, the Czechoslovak amendment should be rejected because it departed from the well-established principle that the Chairman of the Committee was entrusted with the task of designating members of working groups established by the Committee.

23. Mr. MAURTUA (Peru) expressed the view that the second French amendment (A/C.6/L.268 and Corr.1) would complicate the task of the special committee and was therefore undesirable. In his opinion the operative part of that amendment was defective, because it assumed that a definition of aggression would be adopted and because it called for study of all the implications of an action of which the various repercussions could not be ascertained.

24. The Peruvian delegation was prepared to support the Indonesian amendment (A/C.6/L.270), which stressed the constructive element of the development of international law.

25. The designation of the members of the special committee was a matter for the Sixth Committee's Chairman, who was best qualified to judge the proper balance necessary in its membership. He would therefore vote against both the Turkish amendment (A/C.6/L.267) and the Czechoslovak amendment (A/C.6/L.275).

26. He was unable to support the Polish amendments because experience had shown how difficult it was to work out an acceptable definition. It had become increasingly clear that a combined definition represented the best possible solution. In the circumstances it seemed preferable for the special committee to work out a series of definitions from which the United Nations could choose.

27. The Peruvian delegation, one of the sponsors of the compromise joint draft resolution (A/C.6/L.265/Rev.1) had had some misgivings about the reference to the notion of aggression in the original text of that draft. Accordingly, he would support the third Polish amendment (A/C.6/L.272) to the revised joint draft resolution.

28. Mr. MOROZOV (Union of Soviet Socialist Republics) said that his delegation firmly believed that, as recognized in General Assembly resolution 599 (VI), a definition of aggression was possible and desirable for the maintenance of international peace and security. Accordingly, it had submitted a concrete proposal for such a definition (A/C.6/L.264). Apart from a few representatives, whose attempts to prevent further work on the question had been thwarted, the overwhelming majority of the Committee had also expressed itself in favour of a definition. Many members of that majority had, however, said that they would desire to continue the drafting of a definition of aggression in a special committee. Although it continued to feel that a definition could have been adopted at the present session, the USSR delegation deferred to the wishes of those representatives, and was prepared to support the joint draft resolution (A/C.6/L.265/Rev.1) subject to certain amendments, having in mind that the Soviet draft on a definition of aggression would be considered by the special committee.

29. He could not, however, accept the amendments to the joint draft resolution submitted by France, Yugoslavia and Turkey, which were but another attempt to obstruct work on the definition. He agreed with the criticism that the French amendment would handicap the special committee. The same was true of the Turkish amendment (A/C.6/L.267), which would leave it to the President of the General Assembly to appoint the members of the special committee in consultation with the Chairman of the Sixth Committee. While all points of view should be represented, the majority of the special committee's members should be selected from among countries which favoured a definition of aggression, if that body's work was to conform to the wishes of the majority in the Sixth Committee. It was, of course, true that any shortcomings in the special committee's work might later

be rectified by the Sixth Committee, but only at the cost of much additional time and effort.

30. Hence, the composition of the special committee should be determined by the Sixth Committee itself, and he would vote in favour of the Czechoslovak amendment to that effect (A/C.6/L.275) and against the Turkish amendment (A/C.6/L.267).

31. He would also vote in favour of the Polish amendments (A/C.6/L.273) to the four-Power amendments (A/C.6/L.269/Rev.1) for the reasons stated by the Polish representative and because they made the special committee's terms of reference much clearer.

32. He further supported the Indonesian amendment (A/C.6/L.270), subject to the deletion of the word "generally", which was vague and might later give rise to controversy.

33. While he accepted point I of the joint amendment (A/C.6/L.269/Rev.1) for the reasons indicated by its authors, he failed to see the purpose of subparagraphs (b) and (c) as set forth in point II of that amendment. Obviously a concession to the opponents of a definition, the paragraphs reopened questions which had been settled in General Assembly resolution 599 (VI) and, in the case of subparagraph (b) (ii), discussed and generally agreed on at the present session. He would therefore vote against those paragraphs, but he supported point III of the amendment, for the reasons stated by other representatives.

34. He opposed the Yugoslav amendment (A/C.6/L.274) to restore the words "non-exhaustive enumeration", which had been dropped in the revised version of the four-Power amendments (A/C.6/L.269/Rev.1) in deference to objections. While prepared to consider any additions to the list of acts of aggression, he could not agree to the list being considered non-exhaustive.

35. Summing up, he expressed the hope that all representatives would join him in voting for the revised joint draft resolution (A/C.6/L.265/Rev.1) as amended by Poland (A/C.6/L.272), Indonesia (A/C.6/L.270)—with the slight change he had suggested—and Czechoslovakia (A/C.6/L.275). If the Polish amendment to that draft was rejected, he would support instead the four-Power amendments (A/C.6/L.269/Rev.1) as amended by Poland (A/C.6/L.273). Thus amended, the draft resolution would give clear instructions to the special committee on the definition it was to work out for the eighth session. There was no need to ask the committee in advance to work out several alternative drafts, when the first draft it prepared might prove satisfactory.

36. Mr. ROBERTS (Union of South Africa) noted that both the opponents and the supporters of a definition had shown a remarkable spirit of compromise. The subject being controversial and complicated, the special committee's work should not be prejudged in any way. He therefore could not accept the Polish amendment (A/C.6/L.273), which, *inter alia*, instructed the special committee to draft but one definition. The number of drafts to be prepared, as well as the necessary time for such preparation, had best be determined by the special committee. If its work was finished by the eighth session of the General Assembly, so much the better, but the special committee should be able to take longer if necessary.

37. As regards the composition of the special committee, the question was too difficult and too controversial to be decided either by the Chairman of the Sixth Committee or by the Sixth Committee itself, as proposed in the Czechoslovak amendment (A/C.6/L.275). He therefore favoured the idea contained in the Turkish amendment (A/C.6/L.267) of leaving that question to be decided by the President of the General Assembly in consultation with the Chairman of the Sixth Committee. In that way, a fair representation of all points of view would be ensured. The special committee should have complete latitude in working out a definition, having regard, of course, to the views expressed in the Sixth Committee. If the Sixth Committee were to decide in advance what kind of definition it wanted, there was no need to refer the question to the special committee for further study.

38. Miss RUSAD (Indonesia), in reply to the USSR representative's remark, noted that the word "generally" in her amendment (A/C.6/L.270) should not give rise to controversy. It merely meant that the definition should be such as to prove acceptable to the General Assembly.

39. Mrs. BASTID (France) was pleased to note the conciliatory spirit of the authors of the four-Power amendments (A/C.6/L.269/Rev.1). Nevertheless, she could not accept point I of those amendments, which called for the deletion of the second paragraph of the preamble to the joint draft resolution (A/C.6/L.265/Rev.1), for without that paragraph the draft would lack the customary introduction to the decision which followed. Such an introduction was very useful, particularly to anyone who had not followed the Sixth Committee's proceedings.

40. Point II of the four-Power amendments, relating to the operative part, did not make clear precisely what the special committee was expected to do, whether it was to draw up a restrictive enumeration or a general definition with a non-exhaustive enumeration.

41. Nor could she accept the proposal, contained in point III of the four-Power amendment, that the special committee's report should be submitted at the eighth, rather than the ninth, session of the General Assembly. The question was an important and difficult one, requiring careful study in the light of written observations of governments, and for that the proposed time limit was too short.

42. With regard to the Polish amendments (A/C.6/L.273), she pointed out that their adoption would in effect nullify the attempt at compromise made by Colombia, Egypt, Mexico and Syria. The effect of the Polish amendments would be to specify in advance that the special committee would have to prepare a definition along the lines of that submitted by the USSR delegation, which had not received the support of the majority in the Sixth Committee. Point 4 of the Polish amendments was not very clear in meaning: she wondered whether it was intended to refer to all types of aggression or to exclude indirect aggression. In any event, she felt that the inclusion of such a phrase would only serve to complicate the special committee's work. She could not accept the other Polish amendments (A/C.6/L.272) to the revised joint draft resolution (A/C.6/L.265/Rev.1) because they demanded a report by

the eighth session of the Assembly and restricted the terms of reference of the special committee too much by specifying that it should prepare only a single definition.

43. She supported the Yugoslav amendment (A/C.6/L.274) to the revised four-Power amendments (A/C.6/L.269/Rev.1).

44. She could not, however, accept the Czechoslovak amendment (A/C.6/L.275), because she felt it should be left to the Chairman, possibly in consultation with the President of the Assembly, to decide on the composition of the proposed special committee. In addition, the composition proposed in the Czechoslovak amendment did not appear to be sufficiently representative: for example, it included three out of the five States which had favoured the immediate adoption of the USSR draft resolution and all four sponsors of the amendments (A/C.6/L.269/Rev.1) to the revised joint draft resolution (A/C.6/L.265/Rev.1) but only two of the ten authors of the draft resolution itself.

45. In conclusion, she emphasized that her delegation was in principle in favour of a definition of aggression. It was certainly not refusing to participate in the attempt to define aggression, and its amendments (A/C.6/L.268 and Corr.1) were perfectly clear and logical. If the special committee's terms of reference were too strict, it would waste a great deal of its valuable time in attempting to interpret them. The French Government believed that the problem should be considered as a whole in the light of Assembly resolution 599 (VI), and that was the purpose of her delegation's amendments.

46. Mr. VALLAT (United Kingdom) agreed with much of what had been said by the representative of the Union of South Africa. If a special committee was to be established, everything must be done to see that its membership was satisfactory and that its work was not impeded by unduly rigid terms of reference. In practice, it would probably prove impossible for the special committee to produce only one definition, because it would then be unable to reflect adequately the views expressed in the Sixth Committee.

47. The proposals made by the representatives of Poland, the USSR and Czechoslovakia had to be regarded as a whole. The Polish amendments (A/C.6/L.273) would in effect direct the special committee to prepare a definition along the lines of the USSR draft resolution (A/C.6/L.264). The USSR representative for his part had announced his intention of voting against sub-paragraphs (b) and (c) under point II of the four-Power amendments (A/C.6/L.269/Rev.1), which meant that the special committee would have nothing to do but study the USSR draft resolution and produce a similar definition. Finally, there was the Czechoslovak proposal (A/C.6/L.275), which related to the composition of the special committee and about which enough had already been said by other representatives.

48. With regard to the four-Power amendments (A/C.6/L.269/Rev.1), he pointed out that sub-paragraphs (a) (ii) and (iii) in its point II sounded as though there were to be an exhaustive statement of the cases of aggression and an exhaustive enumeration of the circumstances which could not be invoked as justifica-

tion for aggression. Consequently there seemed to be little left to be covered in the "synthetic definition of aggression" mentioned in sub-paragraph (a) (i). In fact, when analysed, the proposal seemed remarkably similar to that contained in the USSR draft resolution. The study of the definition of aggression required great care, and it would be extremely unwise to restrict the special committee's terms of reference to the preparation of a definition along the lines laid down in the USSR draft resolution (A/C.6/L.264). To mention only one dangerous point, a strict interpretation of sub-paragraph 1 (a) of the USSR definition would have led to the conclusion that the United Kingdom had been guilty of aggression in 1939.

49. Mr. LACHS (Poland) said that the adoption of the French amendments (A/C.6/L.268 and Corr.1) would prejudice the issue and unduly complicate the special committee's task. The French representative did not seem to appreciate the fact that the proposal to establish a special committee was the result of a compromise, and the French delegation had not attempted to make any concessions whatever.

50. As for the United Kingdom representative's remark that under the USSR definition his country might have been held guilty of aggression in 1939, Mr. Vyshinsky had already dealt thoroughly with that point and had proved the fears to be groundless. His delegation had no wish to restrict the special committee's terms of reference; it simply wished to submit certain elements of a definition to which the committee could make any additions it deemed necessary. He agreed with the Mexican representative's suggestion for the insertion of the words "in particular" in the four-Power amendments (A/C.6/L.269/Rev.1).

51. Mr. MOROZOV (Union of Soviet Socialist Republics) repeated the reply given by Mr. Vyshinsky to the United Kingdom representative at the 341st meeting, and remarked that the opponents of a definition, finding it impossible to prevent the establishment of a special committee, were doing everything in their

power to obstruct such a committee's work and to prevent it from submitting a concrete definition. For example, the United Kingdom representative had referred to the composition of the special committee and he would doubtless wish the opponents of a definition to have a majority in that committee. Such a composition would not, however, reflect the views expressed in the Sixth Committee. The complete objectivity of the Czechoslovak proposal (A/C.6/L.275) was apparent from the fact that under it even the most extreme views expressed in the Sixth Committee were to be represented in the special committee.

52. Mrs. SAMPSON (United States of America) said that, in view of the complexity of the problem, the special committee should have the widest possible latitude in considering what text, if any, should be submitted to the Sixth Committee. She could not accept the revised four-Power amendments (A/C.6/L.269/Rev.1) because they would prejudice the decision in the special committee. She was opposed to the Yugoslav amendment (A/C.6/L.274) to those amendments for the same reason. She was also opposed to the Polish amendments (A/C.6/L.272) because their effect would be to instruct the committee to prepare a definition along the lines of that submitted by the USSR delegation. Finally, she was opposed to the Czechoslovak proposal (A/C.6/L.275) because it gave four-fifths of the seats in the special committee to representatives of States which supported the idea of a definition. It also had the further disadvantage of excluding China, one of the permanent members of the Security Council, from membership in the special committee. On the question of the composition of the special committee, she preferred the Turkish proposal (A/C.6/L.267).

53. The CHAIRMAN announced that the discussion was closed and that the voting would start at the following meeting.

The meeting rose at 6.10 p.m.