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## SIXTH COMMITTEE, 331st

## MEETING

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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. Mr. VYSHINSKY (Union of Soviet Socialist Republics) said that the question of defining aggression was closely connected with the question of collective security, which in turn was related to the problem of disarmament.

2. The Special Committee of Arbitration and Security set up in 1927 by the Preparatory Commission for the Disarmament Conference had tried for two years to work out a definition of aggression. Its efforts had ended in failure in view of the obstacles placed in its way by the western Powers. Other attempts to define aggression had suffered the same fate. At the Disarmament Conference in 1933, the USSR delegation had pointed out that all the organs which had dealt with the question had been caught in a vicious circle and its members had made no attempt to break it. The reason for that situation obviously had been that the western Powers had considered all measures from the point of view of whether they could be used as a tool of aggression against the Soviet Union. For example, instead of resisting German aggression, and accepting the USSR proposal of 1936 for a collective security agreement, the United States, the United Kingdom and France had supported, and given a free hand to, Nazi Germany in the hope that it would turn on the Soviet Union. Encouraged by that support, Germany had engaged in an ever-increasing rearmament and remilitarization programme with the help of United States dollars. The western Powers, in the meantime, had tried to conceal their true aims by pious professions of pacifism and by ineffectual agreements similar to the Pact of Paris (Briand-Kellogg Pact) of 1928.

3. Ostensibly condemning and renouncing recourse to war as an instrument of national policy, the Briand-Kellogg Pact had been inadequate for its purposes and actually been designed to isolate the Soviet Union,

as that country had pointed out at the time. In spite of the many shortcomings of the Pact, including the United Kingdom's reservations thereto—obviously designed to transform the Pact into an instrument of imperialist policy—and the absence of a number of important prohibitions, the Soviet Union had agreed to sign it, believing that it would place governments under certain moral obligations and provide another opportunity of raising the question of disarmament with the western Powers.

4. In order to facilitate implementation of that Pact, the USSR had submitted to the General Commission of the Disarmament Conference of 1933 a proposal for the definition of aggression. In submitting its proposal, the USSR had been fully aware of the objections which might be raised concerning the impossibility of arriving at an absolute and all-inclusive definition, and the difficulty of determining which side had committed the first act of aggression. Although it had effectively disposed of all those arguments at the time, and explained that it did not claim to offer an absolute definition and that, in fact, absolute definition was impossible, the very same objections were still being raised in 1952. The Soviet proposal, aimed at a definition which could not be abused and which would offer equal protection to strong and weak countries alike, would have been a useful contribution to the settlement of international conflicts if applied objectively and in good faith.

5. Having signed the Briand-Kellogg Pact, and rejected the USSR proposal under various pretexts, the western Powers had not hesitated to conclude agreements with aggressor nations. Thus in 1933 the United Kingdom and France had signed in Rome an Agreement of Understanding and Co-operation with Germany and Italy. The Pact had been a blow to the efforts of the peace-loving countries to build up a collective front against the aggressors. The situation was easier to understand if it was remembered that the capitalist countries had suffered an acute economic crisis between 1929 and 1932, which had led to the outbreak of conflict in the Far East which the Briand-Kellogg Pact had been unable to prevent.

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

6. The League of Nations in the meantime had confined itself to adopting ambiguous resolutions, which had served only to encourage Japanese aggression in the Far East and other aggression elsewhere. The United States had supported the findings of the Lyton Commission, appointed by the Council of the League of Nations to study the causes and nature of the Sino-Japanese dispute, recognizing the special rights and interests of Japan in Manchuria. The situation between China and Japan had been recognized as a *de facto* war. The United States and the United Kingdom had not raised a finger to settle the Sino-Japanese dispute, which had been nothing less than Japanese imperialist aggression against China. They had later supported Hitler when he had engaged in open aggression, boasting that he would liberate the world from bolshevism.

7. While the threat of fascist aggression had loomed ever larger, the capitalist countries had been characterized by growing chauvinism and war preparations, oppression of the working class and internal terror. The preparations for a new imperialist war had been resorted to as a remedy for the economic situation although, as Stalin had said, war offered no real solution.

8. The United Kingdom representative had failed to mention those facts in his statement at the 329th meeting of the Sixth Committee on 19 November when he had referred to German, Italian and Japanese aggression in support of his thesis that definition of aggression could not deter aggression and might merely make matters worse for its victims. It was perfectly true that no international agreement could prevent the commission of a crime if the governments which were parties to it failed to carry out their obligation to apply the agreement. In the case of Italian aggression against Ethiopia, the United Kingdom and France, in answer to Ethiopia's appeal, had confined themselves to adopting totally ineffective sanctions against the aggressor. The USSR alone had supported Ethiopia and had stated that it could not accept any action by the League or by individual States which would tend to destroy Ethiopia's independence or equal rights with other States as a member of the League.

9. The representative of Venezuela, in arguing against the proposal to define aggression, had said that a definition would be impossible at the moment and that the Security Council, guided by its common sense, should be able to judge each case on its merits. It might be recalled, in that connexion, that in 1923 the League's Special Committee of the Temporary Mixed Commission had rejected the idea of defining aggression on the grounds that under the conditions of modern warfare it was impossible to decide even in theory what constituted an act of aggression. The Assembly of the League of Nations had then confined itself to stating, in a draft treaty of mutual assistance, that aggressive war was an international crime. The real task, that of defining the symptoms of aggression, had been left undone. Further, in providing that a war should not be considered as an act of aggression if waged by a State which was party to a dispute and which had accepted the recommendation of the Council, the verdict of the Permanent Court of International Justice or an arbitral award against a country which had not accepted it—which

meant that war was not aggressive if it had not been declared as such by one of the above decisions—the draft treaty had left the decision to the majority. Such decisions were not, however, infallible, and a majority might be obtained by unscrupulous deals.

10. In 1933 Mr. Eden, speaking in the General Commission on the USSR proposal for the definition of aggression, had said that the question of defining aggression was one of legal science. Quite the contrary: it was eminently a political and practical question.

11. Speaking against the proposal at the Disarmament Conference later that year, Mr. Eden had said that it was too simple and inflexible, and that the scheme would be adequate for simple cases of aggression, for which such definition would be unnecessary, but that it would be of doubtful value, if not harmful, in more serious and complicated cases. That view had been based on the entirely erroneous impression that the decisive test to be applied under the proposal was which party to a dispute was the first to commit a certain act.

12. The United Kingdom representative had stated during discussion of the question of aggression in the Disarmament Conference of 1933 that in periods of international tension, when troops were massed on both sides of a frontier and when a clash might take place at any moment, the question which of the two armies first crossed the frontier was of comparatively secondary importance, since the question which of the two States was in fact the aggressor had to be answered by reference to preceding events, which in many instances might even be decisive in determining the aggressor. But the definition proposed by the Soviet Union had in no way implied that earlier events should be disregarded in determining which party had committed aggression. Under Article 39 of the United Nations Charter it had become the function of the Security Council to determine the existence of an act of aggression and to make recommendations with a view to maintaining or restoring international peace and security. When the USSR draft resolution (A/C.6/L.264) stated that the State which first committed any of the acts specified in the resolution should be regarded as the aggressor in an international conflict, it did not mean that examination of the question must necessarily be confined to the establishment of that fact alone.

13. Yet the United Kingdom representative in the Sixth Committee continued to uphold the same position in 1952 as in 1933, contending, without backing his argument by sound reasons, that a definition of aggression would have little value and might even be dangerous, and that the time was not ripe for a definition of aggression. The truth was that aggression was an attack, and the methods and the technique employed had no bearing whatever on the task of defining aggression.

14. The United Kingdom representative had spared no effort in disparaging any attempt to define aggression; according to him the question was full of pitfalls and dangers and the Committee had no moral right to recommend that the Assembly should adopt a definition of aggression. He had said that his Government was convinced, on the basis of its long ex-

perience in successful resistance to aggression, that a definition would not halt an aggressor and could only hamper the victim of aggression.

15. The history of the United Kingdom in the period preceding the Second World War revealed no resistance to aggression on the part of United Kingdom ruling circles. It showed precisely the opposite, in view, particularly, of the pact concluded by Chamberlain and Daladier with Hitler and Mussolini in 1938, which served to encourage the aggressive designs of German and Italian fascism, and the Non-Aggression Pact concluded, in 1934, by Hitler with pre-war Poland, with the assistance of the United Kingdom, which marked an important stage in the preparation of German aggression. On the basis of experience, it would therefore be vain to expect any sympathy for the cause of defining aggression from the representative of the United Kingdom.

16. The United States representative was nearer the truth when he expressed doubt whether there had been sufficient experience of the application of rules concerning aggression. Nevertheless, the United States representative had categorically declared that the United States was also opposed to the definition of aggression as an unsuitable undertaking.

17. One of the mentors of the United States and United Kingdom representatives was the well-known British statesman, Lord Cecil, a member of the Cabinet of Lloyd George from 1916 to 1918, and one of the organizers of the League of Nations. Lord Cecil had headed the Special Committee of the Temporary Mixed Commission, which, in its report on the question of the definition of a case of aggression, had rejected the idea of any definition of aggression, pointing out that governments could only judge by an impression.

18. Though insisting that it was impossible to define aggression even in theory, Lord Cecil, however, had concerned himself with aggression in practice; in December 1917, he had concluded a secret convention with France dividing Russia into spheres of influence and supporting the reactionary bands of the counter-revolutionary general, Alekseev. Sir Austen Chamberlain had said that a definition of aggression might serve as a trap for the innocent and a protection for the guilty.

19. It was not a matter of chance that representatives of member countries of the aggressive North Atlantic Pact were resolutely opposing any definition of aggression and attempting to provide a theoretical basis for their attitude.

20. The United States representative had abstained from a detailed explanation of his position on the question of defining aggression and had said that the United States still questioned the wisdom of attempting to continue work on a definition of aggression at the current session. It was obvious that the United States did not consider it possible to support any definition not covering all possible cases of aggression, and proposed that the Sixth Committee should confine itself to the text of Article 39 of the Charter, according to which the Security Council determined the existence of any threat to the peace, breach of the peace, or act of aggression. In the opinion of the United States representative, none of those three con-

cepts could be accurately and comprehensively defined, and hence no attempt should be made to define the concept of aggression in greater detail than would be possible in the case of the concepts of "threat to the peace" or "breach of the peace".

21. It was apposite to recall that the United States had held a different view in 1945. According to the United States representative's frank statement, the reason for the change in attitude was the state of international relations, which had convinced the United States that a definition of aggression had become not only undesirable but even dangerous. The crux of the whole question was therefore the international situation, which in turn was the product of the aggressive policy of the United States.

22. Despite that frank admission, official United States representatives nevertheless behaved as if they were ready to continue the preparatory work for the definition of aggression, although they were doubtful of its success. In so doing, they sought to conceal their opposition to that work under a variety of pretexts, too transparent to deceive anyone. One such pretext was the assertion that the concept of aggression by its very nature was not susceptible of precise definition and that, in any attempt to define it, it was necessary to resort to terms which themselves required definition.

23. In order to refute the arguments advanced by the representatives of the United States, the United Kingdom and other countries on that subject, Mr. Vyshinsky pointed to the definition of aggression put forward by the Soviet delegation on 6 February 1933, a number of conventions concluded by the Soviet Union on the basis of the principles of that definition in July 1933 and other conventions such as the 1947 Inter-American Treaty of Reciprocal Assistance.

24. The critics of the draft definition of aggression proposed by the Soviet delegation had said that according to that definition—under which, the State which first committed an attack was declared to be the aggressor—the United Kingdom would have been held the aggressor in 1914, since Germany had invaded not the United Kingdom, but Belgium. Others had pointed to a similar situation in the case of France and the United Kingdom, which had notified the League of Nations that they were in a state of war with Germany in 1939. Such absurd assumptions were the result of direct distortion of the meaning and text of the Soviet Union's proposal. At the Nürnberg trials, Sir Hartley Shawcross had provided an answer to wild fabrications of that sort when, on 4 December 1945, at a meeting of the principal prosecutors appearing before the International Military Tribunal, he said that at the beginning of the Second World War, when the United Kingdom and France informed the League of Nations that they were in a state of war with Germany as from 3 December 1939, they thereby declared that Germany, having committed an act of aggression against Poland, had violated the obligations it had assumed not only towards Poland but also towards the other Powers which had signed the Pact of Paris. A violation of that Pact with respect to one of the signatories was also a violation with respect to the remaining signatories, which were fully entitled to regard it as such.

25. In the attempt to challenge the value of a definition of aggression by every means available, it had been alleged that there was a natural concept of aggression inherent in man and not susceptible of legal definition.

26. At the sixth session of the General Assembly the Greek representative had pointed out that judges pronounced their verdicts on the basis of the facts of the case, deciding, for example, whether or not an attack had taken place, irrespective of what the many criminal codes they had studied said about aggression. That analogy was most unfortunate since, although judges necessarily pronounced their verdicts on the basis of the facts of a given case, they also acted on the basis and within the framework of the law both in respect of the description of the crime and in respect of the punishment laid down for the commission of that crime. It was therefore quite ridiculous to state that judges decided cases intuitively.

27. In order to establish the shortcomings of the USSR definition, the critics pointed out that there must be at least two elements for a definition of aggression—an objective element and a subjective element. They admitted that the objective element or criterion for the definition of aggression was a direct, indirect or concealed act of force committed by a State before any such act had been committed by the other party. The word "before" meant that such an act was committed *first*, precisely as was stated in the draft definition submitted by the Soviet Union.

28. It was, of course, impossible for any definition to list every case of direct, indirect or concealed acts of force, just as it was impossible for any criminal code to list all the possible cases of murder, offences against the person and so forth. It was, however, sufficient to indicate the most widespread, typical and important cases. A definition which was otherwise satisfactory should not be rejected merely because it did not contain an exhaustive list of all the possible cases of aggression.

29. It should be remembered that any *a priori* scientific definition would necessarily be less precise and less valuable than a definition based on experience.

30. The subjective criterion of aggression, the so-called *animus aggressionis*, was determined by a number of facts, by the nature of all the activities of the attacking party preceding the attack.

31. The right of a State to self-defence in case of a real attack was indisputable. In the event of the mobilization or concentration by another State of considerable armed forces near its frontier, the State threatened by such action should have the right to resort to diplomatic or other means of securing the peaceful settlement of international disputes. It was also entitled meanwhile to adopt whatever other similar military measures might be necessary, short of crossing the frontier. In case of a conflict in which neither party was actually guilty of aggression but in which one party acted in what it presumed was self-defence, the decision and settlement should be left to a competent international body. In the case of two States bent on resolving their disagreements by means of war, it was untenable to accept armed conflict as a legal means of settling disputes.

32. In connexion with a similar question, United States Secretary of State Henry Stimson had said in 1932 that the Powers which signed the Briand-Kellogg Pact had renounced war among the nations, thus making war virtually illegal. Hence, when two nations embarked upon an armed conflict, either one or both were criminal parties, violators of the law established by the treaty.

33. In a statement made on 27 March 1947 the Chief United States Prosecutor at the Nürnberg trial had also referred to the international obligations assumed by a number of States to abstain from war as an instrument of policy. Consequently, those treaties destroyed the historic and juridical bases of the doctrine of neutrality, which previously required absolute impartiality in aggressive wars.

34. It followed that a State undertaking a war in violation of its obligations was not entitled to equal treatment from other States and obtained no rights in consequence of its illegal acts.

35. What he had said applied also to the so-called criticism—which was nothing less than a gross distortion of the facts in the guise of criticism—of the USSR draft resolution on the question of defining aggression. Those who objected to such clear and precise formulae to define aggression as were contained in the USSR draft resolution went so far as to preach the strange doctrine that in view of the lack of any incontrovertible criterion for the definition of aggression, the opinions of governments should be based merely on the impressions created by the evidence. That was what they called the "natural notion of aggression", which, they alleged, could and must be interpreted differently at different times and in different circumstances. In other words, all the objective criteria which might serve as a basis for defining aggression and the aggressor were to be dependent upon the individual opinion or arbitrary decision of each government.

36. Such a theory was naturally very convenient for the governments which followed an aggressive policy, for it enabled them to obtain so "flexible" a definition of aggression as to undermine the very basis of any definition of aggression and thus to nullify the international concept of aggression, which might serve as a restraining factor and as a basis for action against a real aggressor.

37. The tone had been set by the United States. Since the reversal of its foreign policy from co-operation to cold war, the United States had been anxious not to bridle the aggressor or destroy the aggressive plans of the warmongers, but to sweep aside any obstacles to the unleashing of the new world war which it was organizing in co-operation with a number of supporting countries.

38. It was no accident that the position of the United States and United Kingdom representatives showed a desire to prevent the adoption of a definition of aggression which could really play a serious role in combating so dangerous an international crime; such a position was directly connected with the operation of the basic economic law of modern capitalism. As was stated in Stalin's recent *Economic Problems of Socialism in the USSR*, the principal features and requirements of that law were to secure maximum

capitalist profits by the exploitation of the peoples of other countries, especially the under-developed countries, to wage wars and to militarize the national economy. Monopolistic capitalism was preparing for new wars, so as to obtain maximum profits and to dominate the world economically and hence politically.

39. The special characteristics of monopolistic capitalism determined the characteristics of the international policy corresponding to it, which resolved itself into a struggle by the great Powers to bring about the economic and political partition of the world. A special feature of that policy, as expressed in existing alliances, was the desire to oppress others and to seize new territories, colonies and markets. That in turn led to ever sharper competition among the capitalist countries. In the period between the First and Second World Wars, for example, the struggle between the capitalist countries to secure markets and the desire to destroy their competitors were stronger than the conflict between capitalism and socialism. In the capitalist world, alliances, whether in the form of one imperialist coalition against another, such as the countries of the Entente against the countries of the Triple Alliance, or in the form of a universal alliance of all the imperialistic Powers, represented no more than breathing spaces between wars.

40. The foregoing would suffice to reveal the origin of the positions taken up by the representatives of the countries of the aggressive Atlantic bloc, which were unanimously opposing the definition of aggression, although with slight differences caused by the special characteristics of their economic, financial and political situation. If the United Nations were to adopt such a definition, it might prove an obstacle to the execution of their aggressive plans, in that it would give the true champions of peace a new weapon to combat the unleashing of a new world war.

41. The sonorous phrases of the imperialist Powers on the subject of peace and the need to avert the threat of a new world war would deceive no one. The history of wars, and especially of those of the last century, showed the true causes and objectives of wars between capitalist States, the eagerness of certain States to unleash wars and their frequent lack of interest in settling the problems which gave rise to disputes between the ruling circles in those States.

42. In his *Traité de droit international public*, Professor Fauchille provided several examples showing the real causes of various wars as against the pretexts for which they were declared. The real motive was invariably the desire for expansion of territory or markets or both.

43. Referring, by way of illustration, to the specific case of Cuba, he quoted sources showing that the war for Cuba had been an economic war. Although the Americans had begun with a policy of freedom in all things, including trade, and tolerance for other creeds, races and States, they had ended by adopting severe protective tariffs, ever-increasing hostility towards Catholics and a resolutely aggressive attitude towards other races and States.

44. Similarly, the reason for the annexation of Hawaii and the Philippines had been the desire to own the coffee and sugar those countries produced. Thus the conquest of markets and the quest for tropical crops

were the real reasons for the policy of colonial expansion which was called imperialism. Such colonies had also provided splendid strategic points for securing markets in Asia.

45. In 1935 the Italian attack on and occupation of Abyssinia had occurred, followed in 1936 by German and Italian military intervention in Spain, Germany consolidating its position in northern Spain and Spanish Morocco and Italy in southern Spain and the Balearic Islands. In 1937, after the seizure of Manchuria, Japan had invaded northern and central China, capturing Peking, Tientsin and Shanghai. In 1938 Nazi Germany had annexed Austria and later that year the Sudetenland. In 1938 Japan had seized Canton and, early in 1939, the island of Hainan.

46. All those aggressive steps, against which the League of Nations had been powerless to act, showed that the leaders of the League of Nations had failed in their duty to prevent aggression, just as the countries of the North Atlantic bloc, which constituted a dominant nucleus in the United Nations, were failing in their duty by refusing to stop the aggressive war in Korea.

47. The question of the definition of aggression, which should be a guiding principle in the Security Council's work of combating possible aggression, was an urgent and important problem. The disagreements between the capitalist States which created the threat of war had not only not disappeared but had become more acute, particularly between the principal capitalist Powers—the United States and the United Kingdom—which were openly competing for markets and raw materials, especially such strategic raw materials as rubber, non-ferrous and rare metals, and petroleum. There were also disagreements between the United States and Japan, the United States and Italy, and the United States and western Germany. There was every reason to believe that such conflicts in the capitalist camp would become still more acute.

48. The war conducted by the United States imperialists against the Korean people, which had been proceeding for more than two and one-half years and was increasing the militarization of the economies of the capitalist countries, and the development of the national liberation struggle in the colonial and dependent countries showed more clearly still the decay of the colonial system of imperialism and, at the same time, the emergence of fresh conflicts.

49. In his recent report, Mr. Malenkov, the Deputy President of the Council of Ministers in the USSR, describing the international situation, had noted the penetration of the colonies and spheres of influence of such colonial Powers as the United Kingdom, France and Belgium by the United States imperialists, who were gaining a foothold for themselves, inspiring plots against their British and French "allies", using the territories of colonial and dependent countries as military bases, and intensifying the preparations for the next world war. In the circumstances they naturally did not favour such measures as the reduction of armaments and armed forces, the prohibition of atomic weapons, the discontinuance of the use of inhuman bacterial weapons and the establishment of a precise definition of aggression binding on all States. The leaders of the Atlantic bloc found such measures highly

dangerous and tried to conceal their opposition beneath a mass of arguments and artificial formulae.

50. In spite of the opposition which had been shown to the attempts to establish a serious definition of aggression which the appropriate organs of the United Nations might use in combating aggression, the General Assembly at its sixth session had rightly recognized that although the existence of the crime of aggression could be inferred from the circumstances peculiar to each individual case, it was nevertheless possible and desirable, with a view to ensuring international peace and security and to developing international criminal law, to define aggression by reference to the elements which constituted it. The General Assembly had also declared that it would be of definite advantage if directives were formulated for the future guidance of such international bodies as might be called upon to determine the aggressor. On the basis of those considerations, the General Assembly had decided to place the question of defining aggression on the agenda of its seventh session.

51. The definition of aggression proposed by the USSR in its draft resolution (A/C.6/L.264) reproduced, essentially, that drafted in 1933 by the Committee on Security Questions during the Disarmament Conference on the basis of the USSR proposal of 6 February 1933. There could be no contesting the great historic significance of that document, since it had served as a basis for a number of other international agreements on the question. The report of that Committee had stated that the definition represented the basis of the whole system of security envisaged by the Disarmament Conference, which assumed that there would be an end to doubt and controversy concerning whether States resorting to force had or had not committed aggression. Such a definition would have its value even in the absence of any intervention by international organs; it would strengthen the authority of the prohibition against resort to force, by enabling public opinion and other States to determine with greater conviction whether or not that prohibition had been observed. The report had stated, further, that whenever international organs were called upon to determine which was the attacker in a dispute, the existence of a precise definition of the concept which those organs would have to apply would make it much easier to determine the aggressor and there would be less danger of the possibility that, without giving the impression of violating the applicable rule, they might endeavour for some political reason to conceal or justify the aggressor. The Committee also emphasized the importance of defining aggression on the basis of an enumeration of its constituent elements.

52. The position taken by the General Assembly at its sixth session was confirmed by reference to history, which showed that the aggressor always posed as the party acting on the defensive, or tried to justify its attack by reference to violations of its rights or interests by the other party or by the emergence of a situation allegedly threatening its security. The criminal organizers of aggressive wars always asserted that they were acting solely in self-defence. For example, the judgment of the Tokyo Tribunal noted that Araki, one of the leaders of Japanese militarism, when calling for the preparation of aggressive war, had asserted that it was merely a question of national self-defence, of

creating order out of chaos and of establishing an ideal world in East Asia. Araki had considered that national defence was not limited to the defence of Japan itself but included the defence of the "Kodo" programme of conquering other countries and converting them into the so-called "co-prosperity area". Further evidence of that was provided by the notorious Tanaka memorandum—a secret report on foreign policy questions submitted to the Japanese Emperor by the Prime Minister General Tanaka, in 1927, calling for war with the USSR and the United States on the pretext of the inevitability of such a war in Japan's vital interests.

53. The judgment of the Nürnberg Tribunal established the fact that, as one argument in justification of the armed occupation of foreign territories, the Nazis had advanced the thesis of the defence of Germany and the need to guarantee Germany's so-called *Lebensraum*.

54. Many more examples could be cited, but the foregoing would suffice to confirm the correctness of the proposals contained in the definition of aggression again submitted for the Assembly's consideration in the USSR draft resolution.

55. The preamble of the USSR draft resolution A/C.6/L.264 spoke of the necessity of formulating directives for such international organs as might be called upon to determine which party was guilty of aggression. That idea was in keeping with that expressed in the preamble of General Assembly resolution 599 (VI).

56. A factor of great importance in determining aggression was recognition of the principle that any State which on any pretext and for any reason took the initiative in opening hostilities must be declared the aggressor, with all the resulting consequences. The acts which constituted that initiative were enumerated in paragraph 1.

57. To sum up, the USSR delegation had reached the following conclusions. In the first place, it was quite possible to define aggression, as was proved by the experience of the past, when the USSR had provided a definition of aggression which had found expression in eleven international agreements concluded by the USSR with a number of countries between 3 and 5 July 1938, as also in a number of other international agreements.

58. Secondly, a definition of aggression was desirable. The conventions containing the above-mentioned definition formed the basis of friendly relations between the USSR and other States and had opened the way to peaceful co-operation among them.

59. Thirdly, the definition of aggression was essential, since it would constitute a guiding principle in the consideration by the competent international organ of the question of armed conflicts arising between States. It could be a guiding principle for the Security Council in applying Article 39 and other articles of Chapter VII of the Charter.

60. Fourthly, the definition of aggression was essential and desirable in the alarming international situation, for it was one of the major means of assisting the struggle against aggression and the aggressor and against unjust and expansionist war directed towards the conquest and enslavement of other countries and peoples.

61. The USSR delegation therefore urged all delegations to support its draft resolution, which would serve the vital interests of all peace-loving nations and the interests of maintaining and strengthening peace and removing the threat of a new world war.

62. Mr. NISOT (Belgium), after congratulating the Secretariat upon its excellent report, set forth his delegation's position.

63. The Belgian delegation was among those that realized how very difficult it would be to define aggression in such a way as to cover adequately every conceivable contingency. It doubted whether the most perfect definition could deter any State that had decided to commit aggression. It was inclined to think that more often than not a definition would hamper both the efforts of those who were endeavouring to assist the victim of aggression and the efforts of the victim to exercise its natural right of self-defence. The Belgian delegation therefore shared the views, as also the reasons, of those delegations which considered that in the circumstances any attempt to define aggression would be useless, ineffective and inopportune.

64. Were such a definition feasible and desired, there would still remain the question how such a definition could be embodied in the machinery of the United Nations. Competence in the matter of maintaining international peace and security was vested in two United Nations organs: the General Assembly and the Security Council. Now, a definition of aggression, by reason of its repercussions on the whole functioning of collective security, would constitute a general interpretation of the Charter. Such a definition, established by the General Assembly, would not be binding either on it or on the Security Council, even as a definition established by the Security Council would not be binding either on the Council or on the Assembly. Neither organ was empowered to infringe the right conferred on each by the Charter to determine the existence of an aggression in the light of the facts of each case. That right to determine cases of aggression in the light of the facts was an essential feature of the machinery of the Charter; the exercise of that right could not be prejudged by a general definition, whether established by

the Security Council or by the General Assembly. Nor could such a definition be invoked against Member States. A State planning aggression would hardly have to think about the definition, since it would not be binding on it. It was significant that at the San Francisco Conference a Belgian amendment the effect of which would have been to make the General Assembly the supreme authority for construing the Charter had failed to gain acceptance.

65. The question then arose how, under the Charter, an interpretation of the Charter could be given which would be authoritative and constitute a precedent. As pointed out at San Francisco, that could be done under Article 108, which laid down the procedure for amending the Charter. But it would be idle to attempt to work out a definition of aggression by that procedure, for it required ratification by two-thirds of the Member States, including all the permanent members of the Security Council.

66. The only other procedures for establishing a definition of aggression was by special treaty. There had admittedly been examples of States concluding treaties for the purpose of modifying or specifying the powers of an organ set up by a collective convention binding on more States, such as the Covenant of the League of Nations and the United Nations Charter. But it was by no means settled what was the exact scope of such special treaties, in particular, how far they affected third parties to the collective convention. What was clear in the particular case he was dealing with was that the result obtained through the operation of Article 108 could not be produced by a treaty that had not been accepted by at least all the States whose concurrence was required under that Article. The treaty method would therefore be as illusory as recourse to the procedure of Article 108.

67. The legal aspects of the matter provided, therefore, a further argument in support of the position of the delegations which, like the Belgian delegation, considered that, in the circumstances, it would be advisable to postpone any attempt to establish a definition of aggression.

The meeting rose at 12.55 p.m.