

GENERAL  
ASSEMBLY

## SEVENTH SESSION

## Official Records



## SIXTH COMMITTEE, 343rd

MEETING

Monday, 8 December 1952, at 10.45 a.m.

Headquarters, New York

## CONTENTS

## Page

Question of defining aggression: report by the Secretary-General (A/2162, A/2162/Add.1, A/2211) ( <i>continued</i> )	213
--	-----

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. EL-TANAMLI (Egypt) said that before stating his delegation's attitude to the various proposals before the Committee he would analyse the trends that had become apparent during the discussion and had found expression in draft resolutions or amendments.

2. A first group of delegations, which did not consider themselves bound by General Assembly resolution 599 (VI) or at any rate regarded it as of only very limited scope, would like the consideration of the technical problem of defining aggression to be postponed. That point of view was reflected in the amendment submitted by the French delegation (A/C.6/L.268 and Corr.1).

3. A second group of delegations thought that a definition of aggression should be adopted during the current session. It was with that end in view that the USSR had submitted a draft definition (A/C.6/L.264).

4. Finally, there was a third group of delegations, comprising the majority of the Committee, who, while favouring the adoption of a definition, thought that the study of the technical problem of drafting one should be referred to a special committee. That idea was given expression in the revised joint draft resolution (A/C.6/L.265/Rev.1), the Indonesian amendment (A/C.6/L.270) and the four-Power amendment (A/C.6/L.269/Rev.1).

5. The Egyptian delegation, which held that a definition of aggression would represent a valuable weapon for the sound operation of the system of collective security and a useful contribution to the institution of international justice, and which considered itself bound by General Assembly resolution 599 (VI), could not support the first point of view. Although it was among the second group of delegations, being

in favour of the immediate adoption of a definition, it was willing to bow to the will of the majority and to instruct a special committee to prepare a definition of aggression.

6. The French amendment (A/C.6/L.268) would have the effect of supplementing or even replacing the Secretary-General's report (A/2211) by a study of the problems raised by the adoption of a definition of aggression. The terms of reference which the French delegation proposed to give the committee were both vague and specific; the effect of the French amendment would be to direct the committee, specifically, to report on the studies it was to make—though not to attempt to establish a definition of aggression—solely on the assumption that the definition would be adopted by a General Assembly resolution. In that connexion, he pointed out that he interpreted the expression "report on" as meaning that the committee was to refrain from preparing one or more draft definitions, for the French amendment said that the committee was to study the problems raised by the adoption of a definition, not by the preparation of that definition. Nor did the French amendment specify whether the problems to be studied were the purely technical problems relating to the application of the definition within the general framework of the Charter and to its influence on the jurisdiction of United Nations organs, or whether it was intended to refer, rather, to the broader questions of the preventive effect of the definition, its usefulness for oppressed peoples and even the advisability of adopting a definition of aggression in the existing state of international relations.

7. He himself thought that it was those latter questions which the French delegation had in mind, for otherwise the French amendment would contribute nothing new either to the joint draft resolution or to the four-Power amendments. Such terms of reference would give rise to political controversies in the special committee, of the very type that the French representative had rightly condemned during the general discussion.

8. The Egyptian delegation would vote against the French amendment to the operative part of the re-

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

vised joint draft resolution (A/C.6/L.265/Rev.1). It would also vote against the French amendment to the preamble, for the amendment would destroy the logical harmony of the text in that it linked the question of defining aggression to the code of offences against the peace and security of mankind, which had not yet been drawn up, and with international criminal jurisdiction, which had not yet been instituted and the competence of which had yet to be determined. Those were important questions, but it would be unwise to ask the special committee to study them, since the question of the code was to be reconsidered at a later session of the General Assembly and that of international criminal jurisdiction had been referred to another special committee.

9. The USSR draft resolution (A/C.6/L.264) had undeniable merits; it was clear and precise, serving both the cause of peace and that of the peoples which were victims of the interference of the great Powers in their affairs. Yet it did not altogether satisfy the views of the Egyptian delegation, which did not want the enumeration of the acts of aggression to be exhaustive but would like it to be supplemented by a comprehensive general definition. The Egyptian delegation would therefore abstain in the vote on the USSR draft resolution.

10. The Indonesian amendment (A/C.6/L.270), without in any way weakening the principles laid down once and for all in General Assembly resolution 599 (VI), reinforced the draft resolution with wisdom and balance. That amendment asserted a recognized principle that recommendations of the General Assembly adopted by the required majority retained all their legal force. It also confirmed a constant practice of the United Nations, which made every effort to serve the common cause and to place that cause above diverging ideas and opposing interests. The Egyptian delegation would therefore vote in favour of the Indonesian amendment.

11. The revised joint draft resolution (A/C.6/L.265/Rev.1) was the result of great efforts on the part of ten delegations, whom he congratulated upon their understanding and realism. Even so, however, his delegation, together with three others, had proposed certain amendments (A/C.6/L.269/Rev.1) to improve the draft.

12. In the first place, the four Powers had felt that the preamble, after referring to General Assembly resolution 599 (VI), should not mention the complexity of the question of defining aggression or the discussions which had preceded the adoption of the resolution in the International Law Commission and at the sixth session of the General Assembly. Such an allusion, which seemed to imply that those elements had escaped the notice of the Assembly, might weaken the force of resolution 599 (VI). The four Powers, convinced that such was not the intention of the sponsors of the joint draft resolution, were proposing that the second paragraph of the preamble should be deleted; the idea contained in the paragraph was reproduced in their other amendments, with an important difference due to the desire to give the committee the most specific terms of reference possible, so that the progress of its work might not be impeded by unnecessary discussions. The four Powers asked that the committee should be instructed to study the problems

raised by the adoption of a definition of aggression in the light of the definitions it had drafted. Their amendments stipulated, moreover, that at least one of the definitions the committee was to draw up should be prepared according to the so-called "combined" method, which the majority seemed to favour.

13. He added that, while appreciating the Turkish delegation's concern and realizing the value of consultations between the Chairman of the Sixth Committee and the President of the General Assembly, his delegation could not vote for the Turkish amendment (A/C.6/L.267), for the Chairman of the Sixth Committee was in possession of all the data to make a considered choice of the members of the special committee.

14. Mr. SALAMANCA FIGUEROA (Bolivia) was glad to note that the revised version of the four-Power amendments was more satisfactory than the original text. The amendments, taking up an idea already contained in the joint draft resolution, provided for the possibility of preparing more than one draft definition. Moreover, sub-paragraph (c) of the second amendment reproduced the terms of sub-paragraph 2 (b) of the operative part of the revised joint draft resolution.

15. In their third amendment, the four Powers urged that the question should be again taken up at the eighth session of the General Assembly, and not at the ninth, as proposed in the revised joint draft resolution. He agreed with the Netherlands delegation that the time was too short for Member States to make a proper study of the committee's report and to submit their comments on the subject. If, however, the third amendment gained a majority of votes, he would not object to it.

16. He shared the Egyptian delegation's views on the Turkish amendment; the Chairman of the Sixth Committee was quite capable of drawing up a satisfactory list of States to serve on the special committee.

17. Finally, his delegation was sorry it could not accept the French amendment to the operative part of the joint draft resolution, for that amendment restricted the committee's terms of reference to the study of certain problems and did not state that the committee was to carry out the essential task of drawing up one or more definitions. Moreover, the vague wording of the amendment might well make it impossible for the Committee to fulfil its task, for if it did not know the contents of the definition proposed for adoption it would not be aware of the problems to be raised. The French amendment to the preamble of the joint draft resolution was, however, suitable and acceptable.

18. The Indonesian amendment was likewise acceptable.

19. Mr. HERRERA BAEZ (Dominican Republic) reiterated the point of view he had expressed during the general debate; General Assembly resolution 599 (VI) represented a point of departure from which further progress could be made in arriving at a definition of aggression and accordingly he could not be party to any tendency to retreat from the doctrine laid down therein. His delegation had clearly expressed its attitude on the USSR draft resolution during the sixth session and its views remained unchanged.

20. His delegation was one of the sponsors of the revised joint draft resolution (A/C.6/L.265/Rev.1), which, although attempting to reconcile the various trends which had developed during the debate, was nevertheless somewhat of a step forward as compared with resolution 599 (VI) inasmuch as it clearly indicated the General Assembly's decision to progress in the matter of defining aggression from the realm of abstract speculation to practical formulae.

21. Despite the fact that the Turkish amendment (A/C.6/L.267) did not propose an unusual procedure or raise the issue of confidence in the impartiality of the Chairman of the Sixth Committee, his delegation would vote for the procedure proposed in the joint draft resolution, which was the customary procedure.

22. Points 1 and 2 of the French amendments (A/C.6/L.268 and Corr.1) contained ideas which were already emphasized sufficiently in the joint text and, therefore, might be considered superfluous. On the other hand, point 3 of the French amendments was in contradiction to the joint text and betokened a backward step which was inadmissible. He would not vote for those amendments.

23. As far as the four-Power amendments were concerned, he would vote only for that part which he thought most useful and which really helped to improve the joint text, namely that part of point II which recommended a mixed or eclectic definition, for which he had already expressed his preference. But he could not accept sub-paragraph (a) (iii) of point II, which suggested the enumeration of the circumstances which might not be invoked as justification for aggression. In his opinion, in defining aggression the Committee was defining a crime for which there was no justification and it should therefore adhere to the principles of prudent legal policy, under which a penal code did not list motives which could justify the commission of a crime. It would be both dangerous and useless to include in a definition of aggression a list of the circumstances which would not justify aggression.

24. He would vote for the Indonesian amendment, which coincided with his own delegation's position of principle on the issue under debate.

25. Mr. BARTOS (Yugoslavia) noted that no definite agreement had been reached either on the methods of drafting a definition or on the contents of one. The Yugoslav delegation had joined with several others in submitting the joint draft resolution, which expressed the general idea of the need for further thorough study. The co-authors of the draft had not agreed on a common attitude to be adopted towards the various amendments. The ideas he was about to express, therefore, committed only his own delegation. The French amendments to the preamble to the joint draft resolution suggested that the text should be changed in such a way as to emphasize the connexion between, on the one hand, the question of defining aggression, and, on the other hand, the code of offences against the peace and security of mankind and the international criminal jurisdiction. The idea deserved consideration. The authors of the joint draft resolution, however, had preferred to avoid being too precise and had thought it better to let the special committee, if established, be responsible for defining the ideas. He would therefore vote against the first two points

of the French amendments. He would, on the other hand, vote for the Indonesian amendment.

26. So far as the operative part was concerned, the Turkish amendment related to form; its only defect was that it changed an established and proven tradition. He therefore reserved his attitude towards it. On the whole, he was inclined to support the four-Power amendments because they were largely in agreement with the intentions and general views his own delegation had had at the time when the joint draft resolution was prepared. There were, however, two considerations which prevented him from announcing immediately that he would vote for those amendments. At the 342nd meeting, the representative of Syria had, at his request, confirmed that the enumeration of cases of aggression referred to in sub-paragraph (ii) should be interpreted as a non-exhaustive enumeration. The revised text of the amendments, however, spoke of a "statement", without further qualification. The deletion of the word "non-exhaustive", which had existed in the original version, clearly showed that it was the intention to include an exhaustive enumeration in the definition.

27. In other words, any acts not included in the list would not be acts of aggression. There was thus a danger of establishing a screen behind which a possible aggressor could take refuge. That drafting was potentially dangerous, and the Yugoslav delegation could not assume responsibility for supporting it. It would accept the amendment only if its authors inserted the word "non-exhaustive" in their text. Furthermore, the idea of an enumeration of the circumstances which could not be invoked as justification for aggression raised a question of principle. Was any aggression justified? Aggression was in all cases prohibited by the Charter. To accept an enumeration of circumstances which could not be invoked would imply that there were cases in which aggression might be justified. That was a retrogression from the provisions of the Charter. Perhaps also the text would be more in accordance with the intentions of its authors if it were presented in a form which stated that no circumstances could justify aggression, even those included in the enumeration which followed. As it stood, however, sub-paragraph (iii) expressed a principle which he could not accept. The Yugoslav delegation, therefore, would be able to vote for point II of the four-Power amendments only if it received satisfactory explanations on the questions he had raised. It would abstain from voting on the French amendment to the operative part, for that amendment did not seem to be opposed to the basic idea of the original proposal.

28. He felt the matter should be included in the agenda of the eighth session. It might, however, be impossible within a few months to make the exhaustive study which was necessary, to communicate the results of it to governments and to receive their observations. If so, it would be better to fix the date for the ninth session rather than to set no date at all.

29. Mr. SALAMANCA FIGUEROA (Bolivia) said that he was afraid his previous speech might have given the impression that he supported sub-paragraph II (a) (iii) of the four-Power amendments. Such an impression would be mistaken. He supported the ideas that had just been expressed by Mr. Herrera Baez

and Mr. Bartos. As it stood, the sub-paragraph was unacceptable.

30. Mr. FERRER VIEYRA (Argentina) said that, like the representative of Bolivia, he shared the point of view expressed by the representatives of the Dominican Republic and Yugoslavia. As it stood, sub-paragraph II (iii) of the four-Power amendments was unacceptable and dangerous. It implied that there were circumstances which justified aggression, whereas in fact no circumstances could justify aggression. Perhaps the text could be made acceptable merely by changing its drafting.

31. Mr. PEREZ PEROZO (Venezuela) recalled that his delegation considered that a definition of aggression was at present inadvisable, owing to the complexity of the problem and the state of international relations. However, it was not opposed to further study for the purpose of defining aggression, and, should the world situation alter, it might even be persuaded to change its attitude.

32. Since the majority of the Committee seemed inclined to favour continued study of the question, he preferred to refrain from commenting on the USSR draft resolution (A/C.6/L.264). He would not vote against the revised joint draft resolution (A/C.6/L.265/Rev.1) if some points of the French amendments (A/C.6/L.268) were accepted. A combination of those texts seemed to provide a compromise solution between the divergent trends which had emerged during the discussion. By contrast, the four-Power amendments (A/C.6/L.269/Rev.1) did not seem likely to produce that result. To include the question in the agenda for the eighth session of the General Assembly was particularly inadvisable, because governments would not have time for a thorough study of the results of the special committee's work.

33. The representative of Syria had said that the second paragraph of the preamble to the joint draft resolution might discourage the members of the special committee, and the representative of Colombia had stated that the paragraph revealed in advance a certain lack of confidence in their ability. Yet the complexity of the problem was an undeniable fact and the paragraph in question showed the Committee's confidence in the members of the special committee. He would therefore vote for that paragraph.

34. He would also support the Turkish amendment (A/C.6/L.267), which would facilitate a better geographical distribution of the members of the special committee as well as their distribution according to the various legal systems. The appointment of the members of the committee by secret ballot would involve unnecessary delay, and would not have the merits presented by the Turkish proposal, whilst the Chairman of the Committee, if made responsible for appointing the members, might be placed in an embarrassing situation.

35. He would not oppose the Indonesian amendment (A/C.6/L.270). Lastly, he suggested that the resolution to be adopted by the Committee should include a clause requesting the special committee to take into account the opinions expressed during the debate in the Committee and also the Committee's report to the General Assembly.

36. Mr. TABIBI (Afghanistan) recalled that his delegation was one of the authors of the revised joint draft resolution (A/C.6/L.265/Rev.1). He would support the four-Power amendment (A/C.6/L.269/Rev.1), which was in keeping with the spirit of the joint draft, and, in particular, he considered that the inclusion of the item in the agenda for the eighth session of the General Assembly was not a dangerous provision, for if too few governments had commented on the special committee's report, the matter could still be referred to the ninth session.

37. The French amendment (A/C.6/L.268) was too general, and he would therefore abstain from voting on it. He would support the Indonesian amendment (A/C.6/L.270) but would vote against the Turkish amendment (A/C.6/L.267).

38. Mr. RECHENDORFF (Denmark) recalled that, in the opinion of his delegation, the definitions of aggression proposed in the past had not been satisfactory and that the preparation of a definition was inadvisable at the moment. Yet his delegation would not oppose the establishment of a special committee to meet at Headquarters in 1953 to continue the study of the question. It would, however, be premature to require the committee to produce its report for the eighth session of the General Assembly. The Sixth Committee had spent considerable time on that problem at the sixth and seventh sessions, and some time should elapse before the problem was placed on the Assembly's agenda again.

39. The Danish delegation would vote against the USSR draft resolution (A/C.6/L.264). It would vote for the Turkish amendment (A/C.6/L.267), against the Indonesian amendment (A/C.6/L.270) and for the French amendments (A/C.6/L.268). The Danish delegation would vote against the four-Power amendments (A/C.6/L.269/Rev.1) because it preferred the text of the revised joint draft resolution (A/C.6/L.265/Rev.1). It reserved the right to abstain from voting on the joint draft resolution if the four-Power amendments was adopted.

40. Mr. SERRANO GARCIA (El Salvador) announced that his delegation would vote against the first point of the four-Power amendments (A/C.6/L.269/Rev.1). With regard to the second point, he considered that the words "definitions of aggression by reference to its constituent elements" contained a redundancy, for any definition referred to the constituent elements of the subject to be defined. Also, subparagraph (a) (iii) seemed dangerous, as the representative of the Dominican Republic had pointed out. On the other hand, he would vote for the other provisions of the second point of the four-Power amendments. He would vote against the third point, because the special committee's report would have to be given careful study.

41. His delegation would abstain from voting on the first point of the French amendment (A/C.6/L.268) to the preamble of the joint draft resolution, and it would vote against the other points of the French amendments. It would support the Turkish amendment (A/C.6/L.267) and the Indonesian amendment (A/C.6/L.270), and would vote against the USSR draft resolution (A/C.6/L.264).

42. Mr. HSU (China) said his delegation would vote for the revised joint draft resolution (A/C.6/L.265/Rev.1), which at least had the merit of making a useful contribution to the study of aggression. He congratulated the delegation of the United States of America on its conciliatory gesture in withdrawing its motion to adjourn the discussion (A/C.6/L.266/Rev.1).

43. The Chinese delegation would vote against the USSR draft resolution (A/C.6/L.264), for the definition it contained was twenty years behind the times and would have been better suited to the League of Nations period. In modern times, a definition of aggression should determine whether aggression should be regarded as a crime against the integrity and independence of a State, or as an offence against the peace and security of mankind which was capable of affecting the integrity and independence of a State; whether force was a necessary element of aggression, and, if so, whether indirect aggression did not constitute aggression just as much as direct aggression; and lastly, what steps a State might take in reply to

the various kinds of aggression in cases when the United Nations was functioning normally or in cases when it was unable to act, and what scope could be allowed for self-defense, reprisals and preventive war.

44. Mr. TUNCEL (Turkey) said the amendment presented by his delegation (A/C.6/L.267) was in no way inconsistent with the practice followed by the Main Committees of the General Assembly. He considered that if the practice of leaving the appointment of the members of special committees to the chairmen of Main Committees were regarded as established, the rule in that respect should not be too strict; exceptions should be permissible to allow for special circumstances. His delegation's amendment provided that the President of the General Assembly should consult the Chairman of the Sixth Committee; and he felt that by means of the amendment more attention could be given to considerations of co-ordination and geographical distribution.

The meeting rose at 12.45 p.m.