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**CONTENTS**

	<i>Page</i>
Agenda item 51:	
Question of defining aggression: report of the Special Committee on the Question of Defining Aggression (continued) .....	101

**Chairman: Mr. Francisco V. GARCIA AMADOR  
(Cuba).**

**AGENDA ITEM 51**

**Question of defining aggression: report of the Special Committee on the Question of Defining Aggression (A/2638, A/2689 and Corr.1 and Add.1, A/C.6/L.332/Rev.1, A/C.6/L.334/Rev.1, A/C.6/L.335, A/C.6/L.336/Rev.1) (continued)**

**CONSIDERATION OF DRAFT RESOLUTIONS AND PROPOSALS  
BEFORE THE COMMITTEE (continued)**

1. Mr. CHAUMONT (France) said that the time had come for the Committee to decide how to proceed. There were a number of possibilities. First, the Mexican representative had proposed setting up at once a working group to formulate a draft definition in the light of the preceding discussion and the texts proposed (415th meeting). Since, owing to political considerations, views were sharply divided on what should be the fundamental provisions of a definition, the Sixth Committee would be unable to give the working group the precise instructions without which that group could do no useful work. The Mexican representative had tried to overcome that difficulty by suggesting that the Committee should first settle five preliminary questions, but those questions had been before the Committee from the very start of the discussion and were still unanswered. Any attempt to deal with them separately would only result in a reopening of the general debate. For that reason, the Mexican proposal was not suitable.

2. Another proposal, made by the Syrian representative (415th meeting), was to set up a special committee to prepare a text for the tenth General Assembly session. Although that proposal was open to the same objections, it had one advantage, namely that it allowed for more time. It was possible, though by no means certain, that during the intervening period before the tenth session the political situation might become more propitious to the adoption of a definition, particularly if the disarmament issue was settled.

3. The third possibility was to vote on the various drafts. Yet, as he had pointed out at the 405th meeting, a definition would hardly carry much weight unless it had the support of the overwhelming majority of the Members of the General Assembly and was not opposed

by any of the permanent members of the Security Council. He doubted that any one of the proposed drafts would muster such support.

4. Since, as he had stated at that meeting, the adoption of a definition depended mainly on what was practically and politically possible, the Committee might decide to wait until the general situation became more favourable to the adoption of a definition. In that case, there were again various possibilities: the Committee could postpone the issue until the disarmament question had been settled; it could ask the Disarmament Commission, on which the five permanent members of the Security Council were represented, to work out a text; or the question might be placed on the agenda of the conference on Charter review, if one was called. Lastly, any Government would be free to re-submit the item for inclusion in the General Assembly's agenda at any future session.

5. Without expressing any views on the relative merits of the various courses open to the Committee, he wished to point out that the Committee had to make up its mind in the light of the progress of its work and of the likelihood that the five permanent members of the Security Council would support any definition adopted.

6. Mr. CASTAÑEDA (Mexico) said that his suggestion was based on the assumption that there was more agreement than disagreement on the basic features of the definition. True, political questions were involved, but the Committee should make one more effort, by appointing a working group, to arrive at a text acceptable to the great majority of Members, including the permanent members of the Security Council. Precisely in view of the political issues involved, a working group would be better able to agree on a text, and its text would be more readily acceptable than that submitted by any one delegation. At any rate, the working group should be able to determine in a few days whether or not it could agree on a text. In the meantime, the Committee could proceed with its other business. If the working group's endeavours were unsuccessful, some other procedure, such as that proposed by Syria, could be adopted.

7. The Committee's decisions on the five preliminary questions he had mentioned at the preceding meeting—and three of them were answered in the various proposals submitted—would give guidance to the working group, and it would be clearly understood that they would not in any way prejudice the positions delegations might subsequently take on the subject.

8. Lastly, while the working group—like any other drafting committee—should be composed of the authors of the various drafts, other representatives would be free to attend its meeting and to express their views.

9. Mr. MAURTUA (Peru) said that while the Mexican proposal had some merit, it should only be used as a last resort. Instead of voting on the five

preliminary questions—which would only result in a reopening of the general debate—the Committee should proceed to examine the proposed drafts.

10. He pointed out that the word “authorities” was improperly used in operative paragraph 2 (*d*) of the joint Iranian and Panamanian draft (A/C.6/L.335).

11. Mr. SECADES (Cuba) recalling that his delegation’s views on the definition of aggression had been stated at the 403rd meeting, said his objections to the USSR proposal (A/C.6/L.332/Rev.1) were threefold. First, the proposal did not include a general and composite definition of the essential features of aggression that might be used to determine acts of aggression other than those contained in the enumeration. Secondly, it recognized only the Security Council as the competent organ to deal with aggression, whereas under resolution 377 A (V) the General Assembly was also competent in cases where the Council was unable to act. Thirdly, paragraph 6 of the USSR proposal, by stating that certain considerations could not be advanced to justify aggression, gave the impression that other considerations not listed constituted justification. Yet Article 2 (4) of the Charter contained a sweeping condemnation of the use of force, though the provision was of course subject to exception in cases of self-defence or action in pursuance of a decision by a United Nations organ.

12. Although the Paraguayan draft resolution (A/C.6/L.334/Rev.1) was preferable to the USSR text in that it provided for a mixed definition, it had certain shortcomings. Its description of armed aggression was very vague. To say that aggression was the provocation of a breach or disturbance of international peace was not enough, as there might be cases of aggression that would not necessarily have that effect. Furthermore, the Charter regarded breaches or disturbances of the peace as distinct from, and less serious than, aggression. Lastly, paragraph 2 of the proposal implied that the General Assembly was not competent to deal with cases of aggression.

13. The Chinese proposal (A/C.6/L.336/Rev.1) widened the concept of aggression far beyond the use of force and included some activities that were, properly speaking, threats to or breaches of the peace that should really be covered in the code of offences against the peace and security of mankind. Nevertheless, if the General Assembly decided that a definition of aggression should cover acts other than the use of force, his delegation would support the Chinese proposal, which was consistent with the position taken by the Organization of American States.

14. The mixed definition in the joint draft resolution submitted by Iran and Panama (A/C.6/L.335) gave the clearest and best description of aggression by contrasting it with self-defence and collective security. It did not single out the Security Council as the only organ competent to consider cases of aggression, and it contained a good non-exhaustive list of typical cases of aggression. His delegation would vote for the joint draft on the understanding that the adoption of that definition would not rule out the possibility of the definition being extended in the future to cover some of the other forms of aggression mentioned in the course of debate.

15. In conclusion, he supported the Mexican representative’s suggestion, which would facilitate the Com-

mittee’s work. While the working group would be preparing a draft, the Committee should proceed with the other items on its agenda.

16. Mr. ABDO (Yemen) said that, although some delegations did not want the question of defining aggression to be resolved, the majority wanted a definition to be found, but could not agree on what would be the best text.

17. He was in favour of appointing a working group of, say, fifteen members; a draft supported by fifteen delegations would have a better chance of general acceptance than one sponsored by only one or two delegations. The issue was too important for the Committee to allow it to die out.

18. Sir Gerald FITZMAURICE (United Kingdom) wished to point out certain defects in the USSR draft resolution (A/C.6/L.332/Rev.1) that had not been sufficiently brought out in the course of the debate. The entire definition, and in particular its paragraph 1, hinged on the meaning of the word “first”. That word concealed great dangers; not only would it be extremely difficult in many cases to determine which State had first committed one of the acts held to constitute aggression, but in some circumstances such an act—for example, a declaration of war—need not necessarily constitute aggression even if it had chronologically preceded armed attack. While listing acts that were not necessarily acts of aggression, the USSR definition omitted others that were. Thus, if a State threatened another State with attack unless its troops were freely admitted into the other State’s territory, and its troops were so admitted without a shot being fired, the first State would not have committed aggression within the meaning of the USSR definition. Yet similar cases had been known to occur.

19. Paragraphs 2 and 4 of the USSR definition were not acceptable, as dealing with forms of aggression other than direct aggression. Paragraph 6 had been supported by some representatives; but he thought it illogical to list several excuses that did not justify aggression when the basic assumption was that nothing justified it. Some of the items on that list were dangerous; it was conceivable that a State might wish to take some entirely legitimate measures if a neighbouring State were in the throes of revolution or civil war, or to prevent the occurrence of frontier incidents; yet it might be claimed, under paragraph 6, sub-paragraphs A (*d*) and B (*j*), that such a State was guilty of aggression.

20. The draft resolution submitted by Iran and Panama (A/C.6/L.335) did not, in its general part, cover all possible cases in which the use of armed force was permissible; it would be preferable to prohibit the use of armed force by one State against another “for any purpose inconsistent with the Charter of the United Nations”. Operative paragraph 2, as it stood, seemed to suggest that the acts listed in it would constitute aggression in all circumstances; if the intention was to permit them where legitimate self-defence and collective security measures were concerned, it would be better to replace the opening phrase by the words “Subject to the exceptions mentioned in the preceding paragraph”. In any case, in determining whether a specific act was an act of aggression, the competent organ would have to decide whether the act was covered by the general formula; consequently the illustrative

examples were of doubtful value. Moreover, while the acts described in operative paragraph 2 (d) were illegal, they constituted merely illegal acts, not aggression proper and should not be included. Lastly, the draft resolution made no attempt to safeguard the rights of the Security Council and the General Assembly in judging each case on its merits to determine whether it fell under the heading of aggression.

21. While the preamble of the Chinese draft resolution (A/C.6/L.336/Rev.1) was to be commended, the list of illustrative examples given was subject to the same criticism as all such lists. Aggression was defined as "the unlawful use of force", the "lawful" use of force being limited to self-defence—itself undefined, so that the definition was ambiguous—and to action in pursuance of recommendations of competent United Nations organs. Yet other cases were conceivable in which the use of force would be lawful, or at any rate would not constitute aggression.

22. The Paraguayan draft resolution (A/C.6/L.334/Rev.1) made no exception even for self-defence or collective security measures, so that under it presumably all use of armed force constituted aggression. The Paraguayan definition of aggression specifically included the use of armed force against the armed forces of another State, although such action could easily be taken in self-defence; the reference to "sovereignty" in that context was unclear; and the passage dealing with Non-Self-Governing Territories might preclude action by the Administering Powers to maintain law and order and even to provide for the defence of such Territories.

23. For those reasons, and for the reasons he had given in the general debate, he was unable to vote for any of the proposals before the Committee and he could only hope that the General Assembly would come to the conclusion that the time was not yet ripe for the adoption of a definition of aggression.

24. While he was not yet certain of his position on the procedural motions before the Committee, he feared that the establishment of a working group would consume much precious time without leading to the desired result.

25. Mr. SAPENA PASTOR (Paraguay) urged the Committee to suspend its discussion of the draft resolutions before it and to settle the question of procedure first.

26. He did not think the proposal to establish a working group was wise, as the Committee would have to spend another two or three weeks in discussing the draft resolutions before it could give the working group adequate instructions. Voting on the draft resolutions in the Committee might result in none of them being accepted. That would give the impression that the Committee was unwilling or unable to define aggression, whereas in fact most delegations were anxious for a definition.

27. For those reasons, and because at least two of the permanent members of the Security Council were not at the moment prepared to accept any definition, he supported the Syrian representative's proposal (415th meeting) that a special committee, sitting between sessions of the General Assembly, should draw up a definition and should report to the tenth session.

28. He hoped the Syrian representative would agree that that committee should be instructed to prepare a

definition of armed aggression only, without prejudice to other forms of aggression being defined subsequently.

29. Mr. TARAZI (Syria) said that, although some progress towards evolving a generally acceptable definition of aggression had obviously been made since the General Assembly's sixth session, it was equally obvious that much work remained to be done before a large majority could agree on a text. That work could best be performed by a special committee meeting between sessions, as he had suggested at the previous meeting. The delegations of Lebanon and Yemen had associated themselves with that suggestion, which would be put forward as a formal proposal.<sup>1</sup>

30. He did not think that the proposed special committee should be instructed to define armed aggression only. Rather, it should take into account all the drafts put forward and all the ideas expressed in the general debate.

31. He hoped the Committee would agree to the procedural proposal submitted by Lebanon, Syria and Yemen in a disinterested spirit and in the desire to make sure that the work already done on the definition would not have been in vain.

32. Mr. ADAMIYAT (Iran) said that the draft resolution submitted jointly by the delegations of Iran and Panama (A/C.6/L.335) was based on the authors' conclusions that the majority were agreed on the following points: that a definition of aggression was possible and desirable; that a mixed definition was most practical; that armed attack, that most dangerous form of aggression, should alone be defined at the present stage; that the use of armed force was the central element of aggression; and that the use of armed force was prohibited by the Charter except in self-defence or in pursuance of decisions of competent United Nations organs. Those five points were clearly expressed in the joint draft resolution. The definition contained in it was of the mixed type; great care had been taken to avoid ambiguity and to leave no loopholes. Under the draft's provisions the recourse to armed force in self-defence was justified only in the case of armed attack, that stipulation being consistent with Article 51 of the Charter; recourse to force in other cases was excluded in recognition of the justice of the oft-advanced argument that widening the concept of self-defence would in fact open the door to aggression. Indeed, when the purpose of those who had drafted Article 51 of the Charter was taken into account, it became manifestly clear that a measure taken in the exercise of the right of self-defence, as mentioned in that article, was not justified by a mere threat to the peace.

33. The joint draft resolution had been prepared in response to the delegations that had urged the Committee to approach the definition of aggression in a liberal spirit, to concentrate on the most important points and to try to produce a text capable of enlisting wide support. He appealed to members to study the draft resolution objectively, and to make such constructive suggestions or amendments as they deemed necessary.

34. In reply to the Mexican representative, who had suggested at the previous meeting that a reference to

<sup>1</sup> The proposal subsequently appeared as document A/C.6/L.337.

political independence and territorial integrity should be inserted in the joint draft resolution, he said that the insertion would introduce a subjective element. The effect of the act, rather than the intention of the aggressor, should be the decisive factor in determining aggression; not only was it difficult, even impossible, in many cases to decide what the attacker's intention was, but the attacker could always claim that it had not been his intention to impair the political independence or the territorial integrity of a State, and that he had consequently not committed an act of aggression. Nevertheless, if the majority supported the insertion of such a reference, he would not oppose it, on condition that the final words of Article 2 (4) of the Charter, "or in any other manner inconsistent with the purposes of the United Nations", were also added.

35. He accepted the Mexican representative's suggestion that a sentence should be added in the Iranian-Panamanian definition to the effect that aggression could not be justified by political, strategic, economic or social considerations. Such an addition, reproducing the idea contained in paragraph 6 of the USSR draft resolution, would not be illogical, as the United Kingdom representative had implied; it would be a reaffirmation by the United Nations of its prohibition of the unlawful use of force.

36. He supported the establishment of a working group.

37. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he was grateful to the Iranian representative for his support of the substance of paragraph 6 of the Soviet draft resolution (A/C.6/L.332/Rev.1).

38. He agreed with the United Kingdom representative's comment that the text of the joint draft resolution of Iran and Panama (A/C.6/L.335) included provisions that, although connected with aggression, did not refer to the intrinsic quality of aggression. The fault of the text lay in its abstract formulation. There was no point in drafting a general provision that required supplementary statements, as was the case with paragraph 1. The fact that the draft resolution declared that everything was aggression that was not self-defence complicated the matter further and was a source of ambiguity.

39. By contrast, the USSR draft resolution (A/C.6/L.332/Rev.1) avoided any abstract approach. Its provisions concerning armed attack merely restated the accepted principles of international law. The text had the merit of being both analytical and synthetical.

40. The introductory phrase in operative paragraph 2 of the joint draft resolution (A/C.6/L.335) was vague and confusing, and the list that followed would inevitably lead to difficulties. There was no indication of the circumstances in which any of those acts would be regarded as acts of aggression. It was difficult to understand why some delegations had expressed their preference for the enumeration in the joint draft resolution as against the list in paragraph 1 of the Soviet resolution. Operative paragraph 2 (d) of the joint text included, besides acts of aggression, certain other acts that might amount only to threats. The resemblance between that provision and operative paragraph 1 (f) in the USSR text was only superficial. The USSR wording could certainly not be said to refer to mere threats; it clearly stated that aggression oc-

curred only when invasion of another State by armed bands took place, as paragraph 1 (f) states.

41. It was similarly incomprehensible why the joint draft resolution had not provided for the contingencies referred to in operative paragraph 1 (d) of the Soviet text. No convincing argument against the Soviet provision had been advanced. The same applied, moreover, to paragraph 7 of the USSR draft, yet, there again, the joint proposal contained no analogous statement. Even more surprising was the fact that the joint draft resolution did not list declaration of war as an act of aggression.

42. The most distressing feature of the joint draft, however, was that it failed to bar considerations of a political, strategic or economic nature as pretexts for aggression. That fact alone rendered the Soviet text the preferable of the two. In addition, however, the clarity of the USSR definition, both in its concept of aggression and in its constituent elements, made any serious comparison impossible. For those reasons, the USSR delegation would oppose the joint draft resolution.

43. The same comments were equally applicable to the Paraguayan draft resolution (A/C.6/L.334/Rev.1), but he would not elaborate on that document since its sponsor had asked the Committee to desist from critical comment for the time being.

44. In his criticisms of the USSR draft resolution, the United Kingdom representative had repeated many of his familiar arguments. He had again voiced misgivings about the word "first" in the introductory sentence of paragraph 1 on the grounds that it might at times be difficult to determine which State had first committed an act. But criticizing the provision merely because a question of fact might be difficult to ascertain was equivalent to saying that a penal law should not be enacted because it might be difficult to convict the offender. The difficulties of enforcing a legal provision did not render it any less necessary. The meaning of the term in its context was beyond doubt, its inclusion was indispensable, and the charges of ambiguity were groundless. Without such an important criterion as the commission by one State of actions first against another State, the definition would lose most of its value.

45. The United Kingdom representative had also suggested that under certain circumstances a State might be considered guilty of aggression, under the USSR definition, if it tried to prevent frontier incidents. There again, however, the question was one of pure fact. The purpose of the definition was to provide guiding principles and not instructions for criminal investigation. That kind of argument used in assailing a statement of the recognized rules of international law amounted to merely an attempt to confuse the issue.

46. The Mexican representative had commented favourably on the value of the USSR draft resolution and had also supported some of its specific provisions. He had not, however, been quite consistent in some of his statements. After having implied that operative paragraph 1 of the USSR text was, in principle, sound, he had said that its inclusion might prejudice the clarity of the definition as a whole. A definition had to be homogeneous and not a conglomeration of conflicting concepts. For that reason, paragraph 1 of the USSR text could not be interfered with. It was impossible to construe it as meaning that a State assisting

a victim of aggression might itself be considered an aggressor.

47. Many former opponents of a definition had come to agree that one was desirable. Most delegations also agreed that armed attack, although the key to aggression, was not its only possible manifestation. The inclusion of threats of aggression within the definition was now widely opposed. All those facts represented substantial progress. It was consequently a cause for regret that even the most fervent supporters of a definition were not in full agreement on the principles. A long period of consideration might yet be required before all the problems were settled.

48. The USSR delegation reserved its right to speak again on the various procedural suggestions and proposals, and it would support the proposal most likely to allow sufficient time for further study and for efforts to reconcile differences of view.

49. Mr. SAPENA PASTOR (Paraguay) said that the USSR representative had made a slight error in suggesting that the sponsors of the Paraguayan draft resolution (A/C.6/L.334/Rev.1) had asked that the proposal should not be commented upon. Any care-

ful analysis of the text was always welcome. The Paraguayan delegation believed only that at the moment the procedural question was the most urgent.

50. Mr. ALFARO (Panama), replying to the Peruvian representative, said that the inclusion of the word "authorities" in paragraph 2 (d) of the joint draft resolution (A/C.6/L.335) was due to an oversight. The same error was to be found in article 2 (4) of the draft code of offences against the peace and security of mankind (A/2693, para. 54).

51. He felt that the English text of the joint draft resolution might be improved if the second word of operative paragraph 1 read "is". Similarly, the word "constitue" of that paragraph in the French text might be changed to "est". The French version could also be improved by some modification of the word "impre-scriptable" in the same paragraph, to make the wording conform with Article 51 of the Charter.<sup>2</sup>

The meeting rose at 6 p.m.

<sup>2</sup>The draft resolution, as amended, was issued later as document A/C.6/L.335/Rev.1.