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CONTENTS

Agenda item 51:	Page
Question of defining aggression: report of the Special Committee on the Question of Defining Aggression (continued)	119

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/Rev.1, A/C.6/L.336/Rev.1, A/C.6/L.337/Rev.1 and Add.1) (continued)

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

1. Mr. MOROZOV (Union of Soviet Socialist Republics) said that, although, as was generally recognized, considerable progress had been made at the current session, it was plain that much work remained to be done before an agreed definition of aggression could be worked out. The debate had shown that a number of points still required clarification and careful consideration. He could not, for example, agree with the Peruvian representative, who at the preceding meeting had minimized the difference between the USSR draft resolution (A/C.6/L.332/Rev.1) and the Iranian-Panamanian text (A/C.6/L.335/Rev.1). The Peruvian representative had compared elements of secondary importance; the fact remained that the Iranian-Panamanian text did not take into account the principle of the initial act or the important provisions contained in paragraphs 6 and 7 of the USSR draft resolution, and that as it stood it could be used as alleged justification by an aggressor. The Peruvian representative had also thought that the reference to "international conflict" in paragraph 1 of the USSR text was limitative. The objection seemed totally unfounded; it was only natural to describe aggression as a conflict between States, since only States could be guilty of aggression.

2. Although the Panamanian representative had made the encouraging remark that an agreed decision was possible, he too apparently still misunderstood the USSR draft, and he had failed to explain why he objected to paragraphs 6 and 7 of that text. In fact, while several representatives had expressed disapproval of those paragraphs, none had taken the trouble to criticize them in detail or to propose amendments to them, and it could certainly not be said that they had been shown to be unsuitable. Thus, the Netherlands representative's statement (417th meeting) that para-

graph 7 condemned the victim State to waiting patiently for its dire fate distorted the meaning of that provision, which permitted the State in question to take a number of measures to prepare itself for a possible attack, and prohibited it only from attacking first on the pretext that it was threatened with aggression.

3. The Netherlands representative had tentatively proposed a definition (410th meeting, paragraph 46) that exhibited the defects inherent in any general definition, and which the USSR delegation regarded as unsatisfactory. In the Special Committee (A/AC.66/SR.15, page 5) the Netherlands representative had said that the acts described in paragraph 1 (d) of the USSR draft need not constitute aggression but might be a demonstration in support of a claim to disputed territory. That was a conception of the legitimate use of force that was fully as dangerous as that representative's current argument that the threat of aggression should be regarded as aggression. The Netherlands representative had cited the Nürnberg and Tokyo trials in support of that particular argument. The precedents of the trials could not be used in support of a thesis contrary to all those trials stood for.

4. It was the Committee's duty to reject such dangerous and mistaken ideas. In his view, the best way to guard against the dangers of a general definition would be to adopt the basic principles and the method of the USSR draft resolution, but it was obvious that much painstaking work would be needed before delegations that agreed on the need for a definition were prepared to settle their remaining differences. He would therefore vote against the proposal for the establishment of a working group, as it could not achieve agreement in the space of a few days, and he would vote in favour of the draft resolution that proposed the appointment of a special committee (A/C.6/L.337/Rev.1), for such a committee, working with due care and deliberation, would have a better chance of success.

5. Mr. SAPENA PASTOR (Paraguay) hoped that his comments might assist those responsible for preparing a final draft definition of aggression.

6. The Byelorussian representative had suggested (411th meeting) that the Paraguayan draft resolution (A/C.6/L.334/Rev.1) failed to stress that "aggression" meant the first act in a conflict. While unable to comment on the possible implications of the corresponding terms used in the translations of his draft, he (Mr. Sapena Pastor) could affirm that the Spanish term "*provocar*" undoubtedly suggested the initial act. The term was frequently used in penal codes and its exact significance was left to the interpretation of the court. In a definition of aggression the interpretation would rest with the competent organ, which would decide which State had been guilty of such provocation in the light of all the circumstances.

7. The Byelorussian representative had also criticized the Paraguayan draft on the grounds that it did not bar economic or political pretexts in purported justification of aggression, or the plea of preventive war. It was true that the Paraguayan proposal contained no provision analogous to paragraph 6 of the USSR draft resolution (A/C.6/L.332/Rev.1). That, however, was due to differences in ideological approach. The authors of the Paraguayan proposal considered that an offence could never be justified. An enumeration of considerations that could never serve as justification for aggression tended to imply that in certain circumstances aggression might be justified. The Paraguayan delegation could entertain no such suggestion. He would willingly concede, however, that the Soviet provision was a highly commendable academic effort.

8. The third point made by the Byelorussian representative, namely the similarity between the words "breach" and "disturbance" was indeed constructive; the second of those two words should be deleted. Aggression was the most serious breach of the peace and the text would be clearer without the word "disturbance". The Byelorussian representative had, however, also suggested that the Paraguayan text was so worded that it implied that proof of intent was necessary for the purpose of establishing the guilt of the aggressor. The question whether a particular act constituted aggression would always have to be decided on the facts of the case. A definition could not provide for all eventualities, and the term "employment of armed force" was adequately clear. The interpretation of the expression could safely be left to the competent organs.

9. The Israel representative had stated (412th meeting) that the Paraguayan draft did not attempt to provide a definition, but established certain criteria for condemning States as aggressors. That had been the intention of the Paraguayan delegation, as an academic definition would, in itself, serve little purpose. Possibly the Israel representative, with his exceptional knowledge of terminology, might succeed in so adapting the text that it became both a definition and a practical statement. The Israel representative's second criticism was that the Paraguayan draft insisted excessively on "States", although it was frequently difficult to establish what constituted a State and whether a conflict was international or civil. That, however, was a question of fact to be determined by the competent organs. Inter-American treaties had at times dealt with the concept of statehood, but such an elaboration would be out of place in a General Assembly resolution. The Israel representative's third point was that the general declaration in paragraph 1 was incongruously followed by the enumeration in paragraph 2. The Paraguayan delegation believed that paragraph 1 covered all possible forms of armed aggression. The two examples in paragraph 2 had been listed because, although they did not constitute armed aggression, they were so serious that they should be placed on the same footing as armed aggression. The Paraguayan proposal was not a mixed definition; its sponsors believed that paragraph 1 was fully exhaustive as a definition of armed aggression and that no purpose would be served by an additional list. Lastly, he would reassure the Israel representative that the reservation at the beginning of operative paragraph 2 referred to the declaration as a whole.

10. The Ecuadorian representative had suggested (414th meeting) that the Paraguayan draft tended to distort the full significance of Article 39 of the Charter in not giving the necessary latitude to the competent organs. There had been no intention to distort Article 39, but the Paraguayan text deliberately did not name any of the competent organs because its authors believed that any reference to the attributes of those organs might raise questions even more delicate than the definition itself.

11. In answering the criticisms of the delegation of the Byelorussian SSR, he had dealt with most of the points raised by the Polish representative (415th meeting). The chronological sequence was not in doubt in the Spanish text, the term "disturbance" would be deleted, and an enumeration of inadmissible pretexts for aggression seemed unnecessary. The Paraguayan delegation would stress, however, that it would not oppose the inclusion of paragraph 6 of the USSR draft (A/C.6/L.332/Rev.1). As to the Polish representative's statement that the Paraguayan draft confined itself to the concept of armed attack although Latin-American States had been the first to insist on the notion of indirect aggression, the Paraguayan delegation had already stated that it was advisable to begin with the concept on which there was the widest measure of agreement. A definition confined to armed attack would not preclude any subsequent amplification.

12. The Mexican representative had suggested (415th meeting) that an aggressor might claim that he was using armed force for the benefit of, rather than against, the people of another State. However, as had been said before, aggression could never be justified. As to the complaint that the meaning of the words "sovereignty and political independence" was not clear, the expression had been used in the Inter-American Treaty of Reciprocal Assistance, signed at Rio de Janeiro in 1947, and a consistent policy in the use of such expressions was advisable.

13. The Cuban representative had stated (416th meeting) that the Paraguayan proposal used excessively vague expressions. It was true that the draft spoke of "international peace and security". However, the maintenance of international peace and security was one of the purposes of the Charter and a specific function of its organs. The words could consequently hardly be termed vague unless the purposes of the United Nations were also regarded as vague. There again, the precise meaning of the terms would have to be interpreted by the competent organs. How serious was a breach of the peace that resulted from any act was a question to be determined on the facts of the case.

14. The United Kingdom representative had stated (416th meeting) that the Paraguayan draft made no exception even for self-defence or collective security measures. Self-defence however, was never the act of inciting a conflict. The United Kingdom representative's complaint about vague terms had already been answered. As to the assertion that the passage dealing with Non-Self-Governing Territories might even preclude action by the Administering Powers to maintain law and order, it could be assumed that the competent organ would exercise judicial discretion.

15. The Netherlands representative had insisted (417th meeting) that the Paraguayan draft used terms alien to the Charter. That was perhaps true, but the terminology of the Charter was not mandatory. The

Netherlands representative himself, in suggesting that threats might justify anticipatory self-defence, might have departed from the Charter provisions to an even greater extent. The terminological points raised by the Czechoslovak representative (418th meeting) had already been clarified. The other matters, relating to the gravity of the breach in question, should be left to the appreciation of the parties to the dispute and of the competent organs.

16. In conclusion, the Paraguayan delegation considered that its draft resolution was a substantial contribution to the debate on the definition of aggression. Its paragraph 1 endeavoured to enumerate all the constituent elements of aggression. Those were the author, the victim, the method and the effects, with due stress on the principle of the initial act. Any further enumeration of elements was unnecessary. Paragraph 2 of the draft, while recognizing the functions of the competent organs, invited the General Assembly to recommend that the two other hostile acts mentioned should be placed on the same footing as armed aggression. In that connexion, the armed bands referred to in that paragraph covered a wider scope than similar terms used in the other proposals before the Committee. By "armed bands" the Paraguayan draft did not mean only marauders or intruders organized for operations on a State's territory. Armed bands might also be organized for operations at sea or in the air. The final paragraph of the Paraguayan draft made it possible in certain circumstances for a State to escape being prematurely branded as an aggressor. Thus, a State that was impotent to suppress the activities of armed bands in its territory, or was justified in not proceeding against such bands because such action might be directed against its own armed forces or nationals, could escape liability if it reported the matter forthwith and offered to assist the United Nations.

17. With reference to procedure, he said that a working group was unlikely to succeed and, even if it arrived at some compromise text, the permanent members of the Security Council were not yet in agreement as to the possibility and desirability of adopting a definition. It was quite possible, however, that if a sufficient interval was allowed before discussion on the matter was resumed, the international climate might become more conducive to the adoption of a definition. For those reasons, the Paraguayan delegation would support the joint draft resolution concerning the setting up of a special committee (A/C.6/L.337/Rev.1).

18. Mr. OLANO (Argentina) said that in view of the position taken by his Government on the question of defining aggression, as explained in document A/2689/Add.1, he could not support any of the definitions proposed. He would, however, vote in favour of setting up a special committee, as proposed by the three Arab delegations (A/C.6/L.337/Rev.1).

19. Mr. PRATT DE MARIA (Uruguay) associated himself with the Argentine representative's remarks.

20. Mr. MAURTUA (Peru) said that he had not wished to disparage the merits of the USSR proposal (A/C.6/L.332/Rev.1) in any way. As he had said before, the Committee should start with that part of the definition on which agreement could be reached, that was to say, the provisions concerning the use of force. The concepts of other forms of aggression were obviously not ripe for definition.

21. Paragraph 5 of the USSR proposal, in recognizing the competence of the Security Council to determine cases of aggression, stated the obvious; moreover, it should be borne in mind that, under resolution 377 A (V), the General Assembly, too, had competence in the matter. For that reason, he would prefer a general reference to the organs concerned.

22. He also could not accept paragraph 6 of the USSR proposal, for the reasons given by other representatives. On the subject of paragraph 7, he agreed with the Netherlands representative that, in some cases of threat of aggression, the use of force might be justified.

23. In view of the persisting disagreement, it would be better to proceed cautiously and to let a working group prepare a compromise text that would take account of the various views held.

24. Mr. ALFARO (Panama) said that, as certain points were not controversial, a working group should be set up to formulate at the current session a new draft definition incorporating those points. If the working group was unable to agree on a text, the Committee could then adopt the proposal of the three Arab delegations (A/C.6/L.337/Rev.1).

25. Mr. WIKBORG (Norway) stated that in view of the recent debate in the Committee it was very doubtful that a working group would be able to achieve results at the present session. He would therefore vote against the proposal for a working group and in favour of setting up a special committee that should draft one text confined to the use of force as covered in the Charter and possible alternative or additional texts covering other forms of aggression.

26. U HTUN TIN (Burma) said that in his delegation's view a definition of aggression was desirable and possible, even though prevailing differences of opinion on the type of definition to be adopted and its scope made the task difficult. His delegation was in favour of a mixed definition, and considered that such a definition would be valuable in preventing, rather than helping to determine, acts of aggression.

27. He reserved the right to comment on specific draft definitions at a more appropriate time.

28. So far as procedure was concerned, he said that, in view of the difficulty of reaching agreement at the current session, he would support the joint Arab proposal (A/C.6/L.337/Rev.1).

29. Mr. ESKELUND (Denmark) said that he would vote against setting up a working group inasmuch as the debate had shown that it was neither possible nor indeed desirable to draft a definition at the current session.

30. Mr. PEREZ PEROZO (Venezuela) said, with reference to the two procedural proposals before the Committee, that he was opposed to the formation of a working group because it was plain from the statements of many delegations favouring the adoption of a definition that the obstacles in the way of an agreed text could not be removed in a few brief meetings.

31. The special committee proposed in the joint draft resolution of Lebanon, Syria and Yemen (A/C.6/L.337/Rev.1) would in all probability merely repeat the debates that had taken place in the Special Committee in 1953 and in the Sixth Committee, without

achieving any more positive results. Certainly its best chance of success would lie in basing its discussions on such progress as might be made in the interim in the negotiations on disarmament, and he therefore felt that, as the special committee would not report to the General Assembly until 1956, it should also meet in that year. Although his delegation was still pessimistic regarding the chances that a definition of aggression would be adopted, it would not stand in the way of delegations that thought otherwise; it would therefore not oppose the proposal for a special committee if a large majority favoured it.

32. Mr. CHAUMONT (France) supported the Venezuelan representative's suggestion that the special committee should meet in 1956.

33. Mr. TARAZI (Syria) announced that, accordingly, at the end of the list of countries to be inserted in paragraph 1 of the Arab proposal (A/C.6/L.337/Rev.1) the following words should be added: "... which will meet at the United Nations Headquarters in 1956".

34. Mr. HEGDE (India) said that, in conformity with his delegation's views in the matter, he would prefer all work on the question to be postponed until a more propitious time. The proposal for a working group was useless since it was obvious that the difficulties were too great to be overcome in a few days. In order not to obstruct constructive efforts with a view to arriving at a definition, he would support the Arab representatives' proposal (A/C.6/L.337/Rev.1). It should be borne in mind, however, that unless the proposed special committee was given precise instructions by the General Assembly, it would experience the same difficulties as those which had beset its predecessor.

35. Mr. GALLEGOS (Ecuador) said that, in spite of the difficulty of the undertaking, continued efforts should be made to define aggression. As stated at the 414th meeting, his delegation supported the Iranian and Panamanian draft definition (A/C.6/L.335/Rev.1). In the circumstances, however, it would be more advisable to set up a special committee to formulate a generally acceptable text, and he would vote in favour of the proposal to that effect (A/C.6/L.337/Rev.1).

36. Mr. AYCINENA SALAZAR (Guatemala) asked the Chair to explain the terms of reference that the Committee would give to the working group, and in particular to state the time-limit assigned to that group in order to avoid loss of time in the Committee's work.

37. The CHAIRMAN invited the Committee to vote on the two procedural proposals before it. The first was an oral proposal to the effect that a working group, composed of countries that had submitted formal and informal proposals for a definition, should be appointed to draft, in the light of the views expressed, a generally acceptable text within the next few days. The second proposal, as contained in document A/C.6/L.337/Rev.1 was that a special committee should be established. Even if the first proposal was adopted, the second proposal would stand and could be adopted later, if appropriate.

38. The Chairman put to the vote the proposal to appoint a working group.

The proposal was rejected by 22 votes to 17, with 9 abstentions.

39. The CHAIRMAN stated that the vote on the second procedural proposal would be taken at the following meeting.

The meeting rose at 1.15 p.m.