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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)	113

**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 and Add.1) (continued)

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

1. Mr. TRIKUMDAS (India), speaking on a point of order, said that it seemed the right moment at which to settle two specific points. The general debate, which had been helped by a great deal of preparatory work, had been extremely thorough; all points of view had been expressed and were now known. To continue in the same strain would merely lead to repetition and to a useless prolongation of the debate. Therefore the Committee should determine, without further delay, what type of definition—general, mixed or purely enumerative—it preferred and then decide whether the definition should include cases of indirect, ideological and economic aggression. Those decisions would give a working group the terms of reference without which it could not arrive at any solution quickly.
2. The only alternative to the establishment of a working group would be to postpone consideration of the question until circumstances made it easier to arrive at agreement. It would be superfluous to re-establish a special committee, for every aspect of the problem had already been studied.
3. He urged that the Committee should be consulted on his suggestion immediately.
4. Mr. MOROZOV (Union of Soviet Socialist Republics) opposed the Indian proposal, which merely reiterated a suggestion rejected by the Committee at its previous meeting. In essence, the Indian representative was proposing that the Committee should immediately decide the questions under discussion, on which several speakers remained to be heard.
5. Moreover, a proposal, and particularly such an important proposal, could be put to the vote only if submitted in writing and after delegations had had time to study it and, if necessary, to suggest amendments.

6. If the questions asked by the Indian representative were put to the vote immediately—in defiance of the rules of procedure—so far from saving time, that proceeding would merely complicate the problem further and delay its solution.

7. The CHAIRMAN pointed out to the Indian representative that before a vote could be taken on his proposal it would have to be circulated in writing. Furthermore, it would seem preferable that all speakers still on the list should first speak.

8. Mr. TRIKUMDAS (India) said that he did not wish to start a long procedural discussion; he would not press for an immediate vote on his proposal, but he reserved the right to resubmit it later.

9. Mr. ALFARO (Panama) pointed out that his delegation did not regard the draft resolution it had submitted jointly with the Iranian delegation (A/C.6/L.335/Rev.1) as a perfect text *ne varietur*. It could be improved, and he would gladly consider any proposal to that effect.

10. The preamble of the joint draft resolution reiterated the fourth and fifth paragraphs of the preamble to General Assembly resolution 599 (VI). Those two paragraphs could be amplified, but their essential terms should introduce any definition.

11. The operative part was introduced by the words "Declares that". That term was more in keeping than any other with the idea of a definition. A definition would not be a legislative text nor would it create a new rule of international law. It would be a declaratory document, embodying guiding principles, like, for example, the Universal Declaration of Human Rights. Accordingly, it was not pertinent to argue that the definition would bind the Security Council and the General Assembly and would modify their powers.

12. Operative paragraph 1, which defined aggression as the use of armed force, should be read subject to the consideration that such use might be lawful in the cases referred to in Articles 42 and 51 of the Charter. The only form of definition that would be applicable in such a case was what had been called a definition by subtraction, which in effect said that everything not enumerated as lawful was unlawful. Indeed, that was the method used in the Charter.

13. Some speakers had said that that formula would not cover every possible case of armed attack. Others had tried to imagine cases, apart from those arising under the Charter, in which the use of armed force would not constitute aggression. The representative of Greece had spoken of the hypothetical case of armed intervention by a State to halt the extermination by another State of part of the former's population on racial, religious or other grounds. Such intervention would certainly conflict with the principles of the Charter. In such a case, the provisions of the Conven-

tion on the Prevention and Punishment of the Crime of Genocide would apply or else the competent organ should be asked to take enforcement measures.

14. The United Kingdom representative had referred to the occupation of Iceland by the Allied forces during the Second World War without the consent of that country's Government and had suggested that under the definition proposed by Iran and Panama that occupation would have constituted aggression of the same character as the aggressions committed by Hitler. The comparison was not valid because the circumstances, like the motives, had been completely different. It could be said that the occupation of Iceland had been merely the exercise of the right of self-defence.

15. The important point to be remembered was that in applying the definition of aggression to a specific case the competent organ or organs would have the widest possible power of judging the case on its merits.

16. Some delegations opposed the reference to self-defence in the definition on the ground that the term had not been defined; but in that case, too, the competent organs would have to decide whether in the circumstances the right of self-defence was exercisable. If it was conceded, however, that that right was recognized by implication, the reference to it could be dropped from the text. Similarly, the Iranian and Panamanian delegations had not in their joint draft mentioned the idea of infringement of sovereignty, integrity, etc., because they considered that idea implicit therein and because express mention of it might give an aggressor a pretext for attempting to justify certain acts.

17. He would gladly accept the suggestion that the words "within the meaning of the Charter" be inserted after the word "Aggression" in paragraph 1 of the operative part.

18. Paragraph 2 of the operative part was, of course, a non-exhaustive list of examples, and he was willing to accept the United Kingdom representative's suggestion that the list should be expressly stated to be non-exhaustive (416th meeting).

19. The list reproduced in concise form the five elements of the Litvinov-Politis formula except for the declaration of war, which did not in itself constitute an act of aggression and might even be a consequence of aggression. Sub-paragraphs (a) and (b) were based on the texts of the Inter-American Treaty of Reciprocal Assistance, adopted at Rio de Janeiro. Sub-paragraph (c) added to the idea of blockade by sea forces that of blockade by land and air forces. Sub-paragraph (d) was an almost verbatim reproduction of article 2 (4) of the draft code of offences against the peace and security of mankind (A/2693, paragraph 54). The sub-paragraph was admittedly a trifle lengthy, and should perhaps be amended. If it were, the notion of "subversion", rightly proposed by the Chinese representative, could then be incorporated.

20. Some representatives had claimed that the joint Iranian and Panamanian draft resolution excluded the idea of the initial act in aggression. In his opinion that idea was necessarily implicit in his formula.

21. It was incorrect to state that the United Nations Conference on International Organization had rejected the idea of defining aggression. It had not had enough time to do so, and above all, as the report submitted by Mr. Paul-Boncour showed, it had felt that a satisfactory

definition in the form of an enumeration could not be worked out because, mainly owing to technical progress, any list would always be incomplete (A/2211, paragraph 116). The inclusion of a general definition disposed of those fears.

22. He considered that a working group should be appointed without delay to endeavour to co-ordinate the points on which agreement existed. The definition of aggression would clearly not abolish war, but its adoption would mark a definite step forward.

23. Mr. MAURTUA (Peru) wished to comment on some of the draft resolutions submitted to the Committee, beginning with that submitted by the USSR (A/C.6/L.332/Rev.1).

24. The Soviet formula was too narrow in some respects. Operative paragraph 1 covered only the case in which the States directly concerned were parties to an international conflict; but it was easy to imagine, for example, the surprise invasion of the territory of one State in the course of hostilities between two other States. According to the Soviet definition, that was apparently not an act of aggression.

25. Paragraph 1 (a) might actually operate in favour of the real aggressor. The question whether a declaration of war was a prerequisite for the existence of a state of war had been debated at length. The Ghent session of the Institute of International Law (1906) and the 1907 Hague Convention for the Pacific Settlement of International Disputes had recommended that States should not use armed force without first clearly warning their enemies. Since 1928, when war had been outlawed by the Briand-Kellogg Pact, such traditional ideas had become obsolete. States were no longer supposed to resort to armed force as an instrument of national policy, and the United Nations Charter had set up a legal system under which States did not have the right to take the law into their own hands. A declaration of war had only one useful purpose: if, contrary to their obligations, States used force, a declaration of war resulted in the application of measures to make the conflict more humane.

26. He then compared the provisions of the Soviet Union draft resolution with those of the draft resolution submitted by Iran and Panama (A/C.6/L.335/Rev.1).

27. Paragraph 2 (a) of the joint draft resolution was a fuller version of paragraph 1 (b) of the Soviet Union draft. Paragraph 2 (b) of the joint draft resolution, which virtually reproduced paragraph 1 (c) of the Soviet draft resolution, was the better of the two because it mentioned attack against the population as well as attack against the territory of a State. Paragraph 2 (c) of the joint draft resolution was similar to paragraph 1 (e) of the USSR text but it was fuller inasmuch as it did not mention naval blockade only.

28. With regard to the question of armed bands, paragraph 1 (f) of the Soviet text could probably be reconciled with paragraph 2 (d) of the joint draft resolution. The advantage of the latter was that it mentioned the organization by a State of armed bands for incursions into the territory of another State, but it had the disadvantage of being too ambitious and going too far. It termed toleration by a State of the organization of armed bands an act of aggression, even when those bands made no incursions into the territory of another State. The Soviet draft resolution seemed

more moderate, as it stipulated that the armed bands must have invaded foreign territory before it could be said that an act of aggression had occurred. However, there appeared to be some possibility of bringing the two texts into line. There were various precedents for that, such as the Litvinov-Politis formula, or the United States proposal (A/2211, paragraph 143) at the London International Conference on Military Trials of 1945.

29. Since, as the representative of Panama had said, the sponsors of the joint draft resolution were willing to accept amendments, it was to be hoped that the divergences between the Soviet text and the joint draft resolution could be removed. Actually, the only difficulties were those arising out of the divergences between paragraph 1 (a) and (d) of the Soviet draft resolution on one hand and paragraph 2 (a) of the joint draft resolution on the other.

30. The joint draft resolution provided an acceptable formula. The definition proposed had the advantage of being in line with the Charter provisions concerning self-defence and enforcement action decided upon by the competent organs, and it left the Security Council, the General Assembly and the regional bodies free to decide what acts should be treated as acts of aggression.

31. He would vote for the joint draft resolution if it was amended along the lines he had described.

32. He accepted in principle the Mexican proposal (415th meeting) for the establishment of a working group. In his opinion, the group's terms of reference should not be too narrow. As for its composition, the Chairman could designate the original members, though it should be understood that any other member of the Committee who so wished would be free to participate in its work.

33. Mr. WINKLER (Czechoslovakia) noted with satisfaction the endeavour of most delegations to arrive at a definition of aggression that would be clear and scientifically correct.

34. With reference first to the Paraguayan draft resolution (A/C.6/L.334/Rev.1), he noted that its operative paragraph 1 employed, besides the term "breach . . . of international peace and security", the new and vague term "disturbance of international peace and security", which was nowhere to be found in the Charter. The draft also failed to specify that the aggressor was the State that first used armed force. It was very unlikely that the word "provokes" in paragraph 1 covered the principle of the initial act.

35. It was a pity that, considered as a whole, the Paraguayan draft deliberately abandoned the terminology of the Charter and employed in the body of a definition expressions that themselves needed to be defined. The result was that the draft lacked clarity and proved that the abstract method was not conducive to a clear and precise definition, the kind of definition that would be satisfactory.

36. He then referred to the draft resolution submitted by Iran and Panama (A/C.6/L.335/Rev.1). The text was inadequate, particularly because, in attempting to produce an abstract definition, the authors had adopted a method that the Czechoslovak delegation considered mistaken. That procedure had sometimes forced them into inconsistencies. Thus, after referring in the first paragraph of the preamble to General As-

sembly resolution 599 (VI), which recommended that aggression should be defined by reference to the elements that constituted it, they gave in paragraph 1 of the operative part a general and very vague definition that was scarcely anything more than a paraphrase of Article 51 and other provisions of the Charter.

37. Aware of the shortcomings of their method, the sponsors of the joint draft had added to their general definition a list of four acts, which they had apparently chosen at random since their list did not include, for example, a declaration of war, which was nevertheless very generally considered to be a typical act of aggression. The list was therefore without practical value, it was not justified scientifically, and the definition was neither precise nor coherent.

38. Like the definition proposed by Paraguay, the joint draft made no reference to the fundamental criterion of the initial act. Yet any definition had to be based on that criterion; it was an essential element, the only means of preventing measures of self-defence from being regarded as acts of aggression.

39. He stressed the importance of the provision in the joint draft relating to "such international bodies as may be called upon to determine the aggressor". Under the Charter, the Security Council was the only organ whose right and duty it was to determine the aggressor; it was for the Council alone to take steps to maintain or restore peace. To attribute to any other organ the power to determine the aggressor was to violate the fundamental provisions of the Charter, particularly the principle of the unanimity of the permanent members, and to bypass the Security Council.

40. The shortcomings of the joint draft resolution were so serious and it would be so difficult to apply that the Security Council would be prevented from taking rapid action in a crisis; and the aggressor State could continue his criminal activities while the discussions were proceeding.

41. The Czechoslovak delegation was convinced that a definition of aggression would be of the greatest importance and would serve to strengthen confidence among nations and promote collective security. It was therefore in favour of the definition proposed by the USSR (A/C.6/L.332/Rev.1), which provided guarantees of effectiveness and respected the provisions of the Charter.

42. Paragraphs 1, 6, and 7 of the Soviet proposal enumerated all the elements constituting an act of aggression. The definition of armed aggression (paragraph 1) was not an invention but was based on the facts of experience. The use of armed force by one State against another was the common characteristic of all the acts that that definition enumerated. Thus, the Soviet draft excluded the case of civil war and revolt. By confining the definition to international conflicts, it applied the fundamental principle of non-interference in the internal affairs of other States.

43. The Soviet definition gave prominence to the principle that the State that first resorted to armed force was to be declared the aggressor. That criterion of the initial act, which was generally recognized in international law, was decisive. It was the only objective factor that made it possible to distinguish acts of aggression from acts of self-defence.

44. To prevent a State from committing, under the pretext of self-defence, acts that really were acts of

aggression, the Soviet Union definition enumerated (paragraph 6) the considerations that could not be pleaded as justifying aggression. That part of the definition, based as it was on the recent developments of international law and practice, was exceptionally important. While the Charter recognized the right of self-defence (Article 51), it did so only in the case of an armed attack. In all other cases, the State affected was to use the peaceful means for the settlement of disputes mentioned in Article 33; to accept any other hypothesis would be to lessen the chances of maintaining peace in the world and introduce anarchy into international relations. Paragraph 6 of the Soviet Union's draft resolution was fully consistent with the principles of international law, and in particular with such principles of modern international law as peaceful co-existence and co-operation among nations.

45. The Soviet draft took into account the comments of several delegations that had said that the enumeration of the elements constituting aggression could not be exhaustive. Paragraph 5 empowered the Security Council to declare certain acts other than those mentioned in paragraph 1 to be acts of aggression.

46. Paragraph 7 was important, for it specified the scope and the nature of the measures of retaliation that a threatened State might adopt. That provision was an effective means of preventing the aggressor from using an alleged threat of force in order to start a war. Paragraph 7 was fully compatible with the Charter. It would, however, be contrary to the provisions of the Charter to confuse the threat of aggression with actual aggression. Such a confusion might serve as a pretext for preventive war.

47. A working group would not be very useful at the current stage of the discussion, because it was very doubtful whether such a group could draw up an acceptable draft definition before the end of the session. According to the Mexican proposal, the working group would be instructed to prepare a mixed definition, in other words an abstract formula followed by examples of acts of aggression. It would also be instructed to include in its definition only paragraph 6 of the Soviet draft resolution and to mention that the definition was to serve the competent organs for the purpose of determining the aggressor. Paragraph 6 of the Soviet draft could not be separated from its context, for the draft formed a balanced and indivisible whole. Nor could the concrete terms of paragraph 1 be replaced by an abstract general formula; and the omission of paragraph 7 could only spoil the structure of the draft as a whole. Although the majority of the members of the Committee had spoken in favour of an effective and scientifically and politically correct definition, they had not yet been able to agree on the form of the definition. The Committee had been dealing with the matter for four weeks without reaching any result; it was therefore very doubtful whether a working group could succeed, in the very short time at its disposal, in reconciling the different views. Even if it could do so before the end of the session, the Committee could in any case not complete its consideration of the matter without sacrificing the other items on its agenda.

48. For those reasons his delegation would vote against the Mexican proposal.

49. In conclusion, he referred to the allegation, made by some representatives that, in 1939, the Czechoslovak

Government had invited the Hitlerite forces to invade Czechoslovakia after an ultimatum had been received from Hitler. His delegation had already pointed out that the ultimatum had been delivered after some Czechoslovak cities had already been occupied by Nazi troops. Hitler's aggression against Czechoslovakia had been committed in 1938, and all that followed had been but a continuation of aggression.

50. Mr. NINCIC (Yugoslavia) said that on several vital points views were less divided than formerly. There had been a substantial increase in the number of members in favour of a definition. Some delegations, originally opposed to the definition, seemed to have changed their opinion, while others, although still partly unconvinced, seemed prepared to support the favourable opinion of the majority. There was also a noticeable trend towards a mixed definition. Most members apparently wanted, at least for the time being, to limit the definition to aggression in the sense of the Charter, in other words to the use of armed force, and to leave aside other forms such as indirect, ideological and economic aggression. In addition, the majority did not seem prepared to extend the idea of aggression to "threats of the use of force".

51. On many important questions, however, opinions were still divided. It was extremely doubtful whether a sufficient majority would agree on any one of the definitions before the Committee. To vote on the draft resolutions as they stood would not only compromise the chances of an early and satisfactory decision but would also give a completely false impression of the progress achieved during the session. The gap separating the different views had to be narrowed still further before a text of any political value could be prepared. It was not certain that the Committee could do that in the short time remaining, and he therefore supported the draft resolution of Lebanon, Syria and Yemen (A/C.6/L.337). The special committee proposed in that draft would only continue the Committee's work.

52. He wished to make some short preliminary observations on the various draft resolutions before the Committee.

53. The Soviet Union draft (A/C.6/L.332/Rev.1) contained some useful points but still suffered from certain defects. The definition that it proposed was still an enumerative one, although it no longer claimed to be so strictly exhaustive. In so far as it was a mixed definition, it was not acceptable to the majority, for the draft did not give any general definition of aggression. Furthermore, the decisive test that it applied was that of the initial act, whereas it was often hard to say which was the initial act. It would be sufficient to introduce the idea of self-defence into the general part of the definition. The Soviet draft resolution referred neither to individual nor collective self-defence nor to action pursuant to a decision or recommendation by a United Nations body. It also continued to mention economic and ideological aggression. He noted, however, that the USSR representative did not apparently feel very strongly about that part of his text.

54. There were two serious defects in the Paraguayan draft resolution (A/C.6/L.334/Rev.1). It was not really a mixed definition, and, as some representatives had emphasized, the wording of the two operative paragraphs was ambiguous.

55. The joint draft resolution of Iran and Panama (A/C.6/L.335/Rev.1) was that which most accurately reflected the general feeling of the Committee, but certain points would have to be clarified. For example, the general part should mention territorial integrity and the political independence, the advantage of the change being that it would facilitate the interpretation of the cases listed in the enumerative part. It would also be useful for the purposes of the "exercise of the inherent right of individual or collective self-defence" to mention Article 51 of the Charter specifically. The expression "international bodies" in paragraph 2 was ambiguous. As in paragraph 1, the reference was obviously to the competent United Nations organs, and preferably the same terminology should be used. Lastly, sub-paragraph (d) apparently went beyond the scope of the general definition as it implied the possibility that a threat of the use of force would be considered aggression; that remark applied, however, only to the form and not to the substance of the sub-paragraph.

56. He reserved the right to explain his delegation's position more fully if the Committee decided to study the draft resolutions in detail.

57. Mr. AYCINENA SALAZAR (Guatemala) said that, in order not to prolong the discussion, he would confine his remarks to the question of procedure. He thought that the proposal for the establishment of a working group was a last effort to solve the problem of defining aggression; but, as he had said in the general debate, his delegation was sceptical of the value of that solution. The differences of view, so great in the Committee, would make agreement in the working group impossible. However, as the establishment of the group would not cost the Committee any time, his delegation would support the proposal, for no efforts should be spared.

58. He had commented on the joint draft resolution of Lebanon, Syria and Yemen (A/C.6/L.337) during the general debate. He had said, among other things, that it had been impossible to draw up a definition because views were so deeply divided; that the Sixth Committee, as a legal organ, should rise above the political aspects of the problem and reconcile the opposing views; that he would not be so optimistic as to expect that the ideal formula being sought would eliminate war; that to be effective a definition would require the support of the great Powers including the permanent members of the Security Council; and, lastly, that the effectiveness of a definition was also contingent on a considerable reduction in armaments. He had, however, felt that progress in international law would be made.

59. He referred to the disinterested efforts of conciliation made by his own and other Latin-American delegations. In his opinion, if the working group failed, no new special committee should be set up. That did not mean that the Committee should treat as null and void the General Assembly's decision that a definition was possible and desirable, but it should be realistic.

Many important problems would have to be solved before aggression could be satisfactorily defined, and some delegations, including those of the Netherlands, Iraq, Pakistan and Norway, had indicated that in more favourable circumstances they would not object to a definition. If, however, the countries that had adopted a conciliatory attitude in their draft resolutions had hopes of accomplishing something, the Guatemalan delegation would not oppose the establishment of a special committee and would abstain from voting on the proposal.

60. He was confident that in the near future more propitious conditions — for example, after a reduction of armaments, or during or after revision of the Charter — would greatly facilitate the solution of the problem.

61. Mr. TARAZI (Syria) said that, after four weeks of debate, views in the Committee were still deeply divided. For that reason, the delegations of Lebanon, Syria and Yemen had submitted a joint draft resolution (A/C.6/L.337) in which they proposed the establishment of a special committee to continue the study of the question, having regard to the ideas expressed at the present session. The Committee should first of all vote on that draft resolution, which raised a preliminary question.

62. As some members preferred the special committee not to submit its report until the General Assembly's eleventh session, the sponsors of the joint draft resolution had agreed to replace the word "tenth" by "eleventh" in the operative part.¹

63. There were merits in each of the various draft resolutions before the Committee. Among others, paragraph 6 of the Soviet draft resolution was of special importance. The Committee, however, appeared disinclined to accept any of the texts submitted.

64. Some representatives had proposed that a working group should be set up, but the sponsors of the draft resolutions, who would of necessity be members of that group, would be no more ready to agree than they were in the Sixth Committee, and hence the group was unlikely to succeed.

65. The joint proposal of Lebanon, Syria and Yemen, on the other hand, was constructive. The problem of defining aggression was generally recognized as being important. But a definition not regarded as acceptable by the majority of States, including the permanent members of the Security Council, would be of purely academic value, as he had emphasized in the sixth session in 1952. He hoped that the international situation would continue to improve, a trend that would facilitate the special committee's work. He urged the members of the Committee to support that proposal so that the efforts made to define aggression should not have been made in vain.

The meeting rose at 6 p.m.

¹ The draft resolution, thus amended, appeared later as document A/C.6/L.337/Rev.1.