

GENERAL  
ASSEMBLY

TWELFTH SESSION

Official Records

SIXTH COMMITTEE 532nd  
MEETINGWednesday, 13 November 1957,  
at 3.20 p.m.

NEW YORK

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Chairman: Mr. Santiago PEREZ PEREZ (Venezuela).

Tribute to the memory of Mr. Zapotocky, President of the Republic of Czechoslovakia

1. The CHAIRMAN, on behalf of the members of the Committee, offered his condolences to the Czechoslovak delegation on the occasion of the death of Mr. Zapotocky, President of the Republic of Czechoslovakia.

2. Mr. KLUSAK (Czechoslovakia) thanked the Chairman and the members of the Committee.

## AGENDA ITEM 54

Question of defining aggression: report of the Special Committee (A/3574; A/C.6/L.399, A/C.6/L.401, A/C.6/L.402, A/C.6/L.403 and Corr.1, A/C.6/L.404, A/C.6/L.406) (continued)

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

3. Mr. ROLING (Netherlands) thought that the time had come to draw conclusions from the general debate. The majority of the delegations were in favour of defining aggression; they realized that the question was one of peace and war and wanted a definition of the notion of armed aggression, as was clear from the sub-amendment submitted by the three Powers (A/C.6/L.406). They were not all moved by the same motives. Some wanted a catalogue of events not justifying the use of force, a sort of codification of historical wrongs which they had suffered in the past, and they were not greatly concerned about the danger of omissions in such a codification which might cause embarrassment to the Security Council. Others were anxious more than anything else to prohibit preventive war, in order to keep the cold war from degenerating into a third world war; and they went so far as to attribute sinister purposes to those who held that a preventive war started by one of the two great Power blocs was not the real danger. He thought that the very opposite was true, namely that those who held that view were being realistic: they realized that such a preventive war would lead to mutual destruction, and was unlikely, and they were concerned rather with the

danger of small-scale hostilities between nations which might drag the two great Power blocs into a general war. A third group of delegations wanted simply to underline the general provision contained in the Charter that the only legitimate use of force was in self-defence against armed attack. The majority was accordingly divided, and the divergences of opinion were connected principally with the current state of international relations, i.e., the cold war.

4. With regard to the delegations which were against defining aggression, the Anglo-Saxon aversion to rigid definitions might be one of the causes for that opposition. But there were weightier reasons, related to the competition between the two blocs, and based on fear and distrust of Soviet motives and purposes. At the time when the "world revolution" was proclaimed, Lenin had described a war to liberate peoples from the yoke of the capitalists as a "just war". That viewpoint had been upheld in the First Committee by Mr. Vyshinsky until 1950. According to the Soviet definition (A/C.6/L.399), the only "just war" was war against war. Did that mean a fundamental change in Soviet policy? However, the Soviet draft presented that simple truth in so complex a form that it might give an aggressor the easiest of pretexts. Even assuming that the USSR changed its attitude, many opponents of defining aggression wondered whether the Soviet Union was intending to conquer the world by some such means as indirect aggression, and whether it was wise to bind the hands of the victims of such a peaceful policy, by forbidding the use of force.

5. Many thought that there could be no definition of aggression while the cold war lasted. Admittedly the representatives of the United Kingdom and the United States had expressed opposition to a definition of aggression only as the term was used in Article 39 of the Charter; and the United Kingdom representative had even found some attraction in the idea of defining armed attack as that term was used in Article 51. But the fact remained that three permanent members of the Security Council, the United States, the United Kingdom and China, supported by countries like India, Pakistan and Japan, had declared themselves against definition. It was the Committee's task to find a "generally acceptable" definition, and the representative of France had declared (521st meeting, para.7) that that implied acceptance by all or nearly all the permanent members of the Security Council. From the discussion, therefore, it would seem that as long as the cold war lasted it would be useless to try to define aggression.

6. The indefinite postponement proposed by the United States (A/C.6/L.402) would not prevent a Member State from asking for the question to be included again in the General Assembly agenda, but it would run counter to the feelings of those delegations which felt that endeavours to define aggression should continue. He

would propose altering the operative part of the United States draft resolution to read as follows:

"Decides to postpone further consideration of the question of defining aggression until the issue is again put on the agenda because of a substantial change in the international climate."

If the United States was willing to accept that amendment, his delegation would be able to support the draft resolution.

7. The seven-Power draft resolution (A/C.6/L.403 and Corr.1) was less logical and more automatic. The two years' term was too short, and his delegation could not support the draft resolution unless the term was four or five years. Repeated discussions at too short intervals might do more harm than good.

8. With regard to the six-Power amendment (A/C.6/L.404), the Sixth Committee would be unable to discuss the findings of the Special Committee profitably until 1960, and, in any case, he doubted whether further discussion by the Special Committee would be of much use. What was needed was not new arguments but new international relations.

9. Mr. EGHBAL (Iran) observed that he had already stated the reasons why his delegation had joined with Panama in submitting a draft definition of aggression (A/C.6/L.401). He regretted that it had proved so difficult to work out an acceptable definition, but he did not think there was any justification for abandoning the attempt as the United States proposed (A/C.6/L.402). His delegation was glad that certain other delegations had proposed a compromise in submitting the joint draft resolution (A/C.6/L.403 and Corr.1), though it preferred the solution suggested in the six-Power amendment, as the Special Committee, if re-established, would be in a better position than the Secretary-General to make progress with the question.

10. Mr. CHAUMONT (France) said that he would not take up the Belgian representative's suggestion (514th meeting, para.29) since it was not to be voted upon.

11. He would be unable to support the Soviet draft resolution (A/C.6/L.399); it was not in keeping with the French delegation's idea of the definition of aggression and the purposes of such a definition. For the time being, only armed aggression should be the subject of a definition. The Soviet representative had, moreover, admitted as much when he spoke of the priority which should be given to that definition; unfortunately, however, the Soviet draft resolution had also introduced other ideas. The representative of the USSR was correct in dwelling upon the obvious principle that the person first committing an act of aggression was the aggressor, but the provisions of the Charter made it possible to adapt the principle. He cited the case of international action undertaken by virtue of a decision of the Security Council or a decision of the General Assembly, pursuant to Articles 103 or 107 of the Charter, or even of Article 106. The Soviet draft resolution would not safeguard any of those courses. Again, the representative of the USSR claimed that the Soviet draft resolution constituted a mixed definition of aggression. But paragraph 5 was not a general definition, but a simple assertion of the competence of the Security Council.

12. The French delegation would be unable to endorse the draft resolution of Iran and Panama (A/C.6/L.401),

since it felt that a general formula should follow the Articles of the Charter as faithfully as possible. Operative paragraph 1 of the draft resolution did not fulfil that condition. The concept of the use of armed force was too vague. It followed from Article 1, paragraph 1, of the Charter that aggression was the use of armed force constituting a breach of the peace. Moreover, operative paragraph 1 of the draft resolution made no reference to Article 2, paragraph 4, of the Charter, which was an essential consideration. Lastly, whereas paragraph 5 of the Soviet draft resolution was not sufficiently general in character, it might be said that operative paragraph 1 of the draft of Iran and Panama was unduly general, and that one point to be specified was that the Security Council was the international organ responsible for naming the aggressor. He reserved the right to make any further detailed comment that might be appropriate in respect of the draft resolution of Iran and Panama.

13. With regard to the draft resolutions on procedure, he had no objection to the first paragraphs of the United States draft resolution (A/C.6/L.402), one of which rightly commended the report of the Special Committee to the Governments of Members of the United Nations for examination and study. He could not, however, endorse the present wording of the final paragraph. As the representative of the Netherlands had pointed out, the Government of a Member State could undoubtedly still request that the question should again be placed on the agenda of the General Assembly, and so the proposal of indefinite adjournment did not give rise to any legal objection. But the problem was less a legal one than a moral one, since the majority were in favour of a definition, even though admittedly they recognized the impossibility of arriving at the present time at a definition capable of obtaining not only a large majority of votes but the support of all the members of the Security Council. Thus the General Assembly continued to ask for a definition of aggression, while the Sixth Committee intimated that consideration of the question must be postponed in order to arrive at a useful and satisfactory definition. In those circumstances, the word "indefinitely" in the United States draft resolution (A/C.6/L.402) seemed over-categorical, and he would therefore welcome its withdrawal by the sponsor of the draft resolution.

14. He had no objection to the preamble of the seven-Power draft resolution (A/C.6/L.403 and Corr.1) which offered the particular advantage of taking into consideration the usefulness of knowing the views of the new Members on the matter, or to the first two operative paragraphs; however, he did not think the proposals contained in the two final paragraphs were satisfactory. He feared that there might be little progress made by the fourteenth session, and that the political conditions necessary to a generally acceptable definition would still not have been established. In the interests of the cause which they were defending, he asked the sponsors of the draft resolution whether they insisted absolutely on setting a definite date; if they did, he wondered whether they could not take a more remote date, which would give an opportunity for assessing more accurately factors such as disarmament, which had a bearing on the question.

15. The French delegation was not very favourable to the re-establishment of the Special Committee, as proposed in the six-Power amendment (A/C.6/L.404).

It was hard to see how even an enlarged special committee would be capable on its own of solving the complex problem before the Sixth Committee. Although the French delegation agreed that success depended on a number of circumstances, before the Special Committee was re-established it would have to be carefully decided whether those circumstances existed. The French delegation was therefore unable to support the six-Power amendment.

16. On the other hand, it had no objection to the sub-amendment submitted by Ceylon, Egypt and Indonesia (A/C.6/L.406), since only a definition of armed aggression could win general agreement.

17. In conclusion, the French delegation was prepared to give favourable consideration to any draft which would not mean abandoning a definition of aggression, but would simplify the approach to that undertaking and thus enable it to win the approval of a large majority in the General Assembly and unanimity or near-unanimity in the Security Council.

18. Mr. EGHBAL (Iran) was convinced that agreement would one day be reached on a definition of aggression, but after five weeks of discussion he felt that the atmosphere was not favourable for a vote on any draft resolution. Nevertheless, in a spirit of conciliation, the Iranian delegation would support the seven-Power draft resolution, as modified by the six-Power amendment. In so doing, however, it did not withdraw the draft resolution it had submitted together with Panama (A/C.6/L.401), but would stand by it.

19. Mr. ROSENNE (Israel) said that the views of the Israel delegation on the substance of the matter were as expressed at the ninth session at the 412th meeting of the Sixth Committee. The report of the Special Committee (A/3574) had admirably set forth the points of view of both sides that had emerged in the discussions. Unfortunately, it did not seem to indicate the appearance of new factors which would make for a generally acceptable solution now, and enable the competent organs of the United Nations to ensure the maintenance of international peace. That impression had been confirmed by the general debate at the current session.

20. The two draft resolutions on the substance of the matter (A/C.6/L.399 and A/C.6/L.401) either introduced ideas which constituted far-reaching innovations in the present text of the Charter or did not go far enough in their treatment of the main issue, the relation between armed aggression and self-defence. Moreover, neither of those draft resolutions appeared to be entirely compatible with the practice which had been adopted by the Security Council. In that connexion the Israel delegation had been impressed by the remarks of the representative of the Netherlands, drawing attention to the implications of the development of the mediatory functions of the competent organs of the United Nations.

21. The Israel delegation would support the seven-Power draft resolution or any proposal on those lines, because it believed that, although a satisfactory definition of aggression was desirable, the task could only be resumed at an appropriate time and under auspicious international circumstances.

22. Mr. MOROZOV (Union of Soviet Socialist Republics) thanked the delegations that had upheld the funda-

mental principles on which the Soviet draft definition (A/C.6/L.399) was based.

23. The representative of the Netherlands had said that he favoured a definition of aggression, but at the same time he had tried solemnly to bury the very idea of a definition. However, the statement by the Netherlands representative had one positive aspect. He had abandoned the position he had taken at the ninth session, when he maintained that the Soviet Union's objective was world conquest, and he now seemed to have recognized that the USSR wanted to oppose war and enforce Article 51 of the Charter, but he had not been able to forgo the satisfaction of wondering whether the Soviet Union was not trying to conquer the world by means of indirect aggression. Yet it was obvious that the reason why the Soviet Union was prepared to set aside the question of indirect aggression temporarily was merely because the majority had expressed the desire to give priority to the question of armed aggression.

24. The Netherlands representative had said that what the world needed was not new arguments, but new international relations. But to argue that it would not be possible to define aggression while the cold war lasted would be tantamount to an attempt to draw the Committee into a vicious circle. The question was what practical steps could be taken to establish better international relations and promote friendship among nations. It could not be denied that one such step would be to adopt a definition of aggression. And if no country intended to attack its neighbour, it should be possible to reach agreement on a definition.

25. He would evaluate the discussion as the Netherlands representative had done, but he would draw very different conclusions. The discussion that had taken place in 1957 was of great importance because of the many inferences to be drawn from it.

26. First, a very large majority of delegations felt that a definition of aggression would serve the cause of peace. That conclusion was so significant that it was in itself worth all the efforts and all the time that had been devoted to the problem.

27. A second political conclusion that could be drawn from the general debate was that a definition of armed aggression should be reached as a matter of priority.

28. Third, and here he referred to the French representative's statement, any definition of aggression should embody the principle of priority. That idea was decidedly gaining ground, and an important step had thus been taken.

29. Fourth, the majority view was that any definition of aggression should state that it was impossible to justify an act of aggression on economic, political, strategic or other grounds. It was of little significance whether or not the definition went into as great detail on that point as the Soviet definition.

30. Fifth, it was recognized that the mere threat to use force did not justify recourse to force, which was only warranted in the circumstances set forth in Article 51, or pursuant to a Security Council decision.

31. Those five factors, which would receive majority support if they were put to the vote, formed to some degree the framework for a future definition of aggression. He would not try to estimate how many delegations would vote for one or other of the principles—it



would be better to express an opinion on concrete texts rather than on general principles—but no pessimism, no juggling with words, and no speech by the Netherlands representative, could conceal the tenor of the general debate. The Sixth Committee had not laboured in vain.

32. The Soviet delegation was prepared to consider any amendment to its draft resolution. If what the French delegation had to criticize was no more than what the French representative had indicated in his latest statement, the positions of the two countries were not so far apart. Unfortunately, the French representative had not wished to consider the Soviet draft in detail; he had not submitted any amendment, and had merely stated that he could not vote for the Soviet draft. The French representative's statement contained many positive points which indicated a difference between the attitude of the French delegation and that of the United Kingdom delegation. In general, the political balance sheet of the debates was significant and favourable.

33. The Netherlands representative had stated that the endless repetition of the same arguments was harmful, and had proposed that consideration of the matter should be postponed for four or five years. Why not ten years? The Netherlands representative had said himself that progress had been made, thus contradicting himself. The vital question of peace and war surely deserved repeated efforts, and consideration of that question in the United Nations was fully justified and could not be harmful or dangerous. Viewpoints were drawing closer together year by year.

34. In conclusion, he would like to make a general statement on the procedural proposals. The Soviet delegation had observed that most of the Member States were not prepared to state their views immediately on a definition of aggression, and preferred to seek a procedural solution. The Soviet delegation would vigorously oppose proposals, such as that of the United States (A/C.6/L.402), designed to quash any attempt to define aggression; it would support any draft resolution or amendment which would lead to as rapid and as thorough a consideration of the matter as possible. His delegation expressed the hope that all the resources of the United Nations would be used, so that at the next stage of the work agreement could be reached on a definition, that would be in accordance with the Charter and would further contribute to the maintenance of international peace and security.

35. Mr. DE THIER (Belgium) recalled that, during the previous debates, his delegation had been among those which had pointed out the difficulty of finding a definition applicable to all possible contingencies, and had questioned whether a large majority of Member States could be found to agree upon a text. In spite of those difficulties, the Belgian representative, without making a formal proposal, had suggested (514th meeting, para. 29) a definition which would be limited to aggression within the meaning of Articles 39 and 51 of the Charter, in the hope that that compromise would enable the Committee to round off its work with a positive contribution, however modest, to the development of international law, rather than with an admission of failure. Unfortunately, his hopes had not been justified by the course taken by the general debate, and it must be admitted that it was highly doubtful whether even a limited

definition of the type indicated by the Belgian delegation would muster general support.

36. For that reason, the Belgian delegation considered that any new efforts along that line were fruitless, and preferred, for the time being, that consideration of the question should be abandoned. It would, therefore, vote in favour of any draft resolution aimed at postponing consideration of a definition of aggression until circumstances were more favourable.

37. Mr. VAZQUEZ CARRIZOSA (Colombia) refused to take a pessimistic view, and persisted in thinking that it would one day be possible to define aggression. The international community constituted an association of States linked to one another by legal ties which were designed to replace pragmatic relationships by juridical relationships. The Committee should therefore not postpone consideration of the question indefinitely, but, on the contrary, ought to continue its efforts to define at least armed attack, the most serious of all crimes.

38. The Colombian delegation would be unable to vote in favour of the Soviet draft definition, first because it was based on the principle of priority, and secondly, because it extended the concept of aggression to include ideological aggression.

39. The principle of priority was not a new one. It had been proposed at the Disarmament Conference in 1933 by Nicolas Politis, but the rules laid down by International Military Tribunal at Nuremberg had since gone beyond it. The idea of State responsibility under international law had been altered by the charter and judgement of the Tribunal, under which the State was responsible to the international community for criminal acts, and the persons guilty of carrying out such acts must be punished. It should not be forgotten, too, that to adopt the automatic principle of priority would amount to prejudging the results of the discussions which would begin soon on the subject of the draft Code of Offences against the Peace and Security of Mankind.

40. The Colombian delegation was opposed to extending the concept of aggression to ideological aggression, because in order to do so it would be necessary to define the different political systems, and it would be impossible to reach any agreement on such definitions by mentioning a specific concept of the past, such as nazism or fascism, which could no longer be applied to any specific current political movement.

41. Nor could the Colombian delegation vote for the draft submitted by Iran and Panama (A/C.6/L.401), which was inconsistent with a substantive rule of American law contained in the Treaty of Rio de Janeiro of 1947. That Treaty established a distinction between armed attack and other forms of aggression, although it did not indicate precisely what constituted the other forms, namely indirect aggression and economic aggression.

42. The Colombian delegation had associated itself with six other delegations in submitting a draft resolution (A/C.6/L.403 and Corr.1), since it felt that the United Nations could not abandon the study of the definition of aggression without depriving the Charter of its juridical scope. It was aware of the complex nature of the task, which was largely due to the fact that the Organization consisted of many States having

different systems of government, but it was convinced that the obstacle to the adoption of a definition was political rather than legal. Jurists the world over had at all times recognized that a legal definition of aggression was possible, and, although it had been decided at the Conference at San Francisco in 1945 not to include a definition of aggression in the Charter, the reason for the decision had been to leave the Security Council free to form its own opinion. Political conditions were not favourable for drawing up a definition of aggression.

43. The Colombian delegation sincerely hoped that

the United Nations would continue to consider the question. He thought that, before proceeding with the examination of the seven-Power draft resolution, and in order to secure the support of the majority, it would be advisable to await a new text which was being drafted and which would take into account the various procedural proposals.

44. The CHAIRMAN invited the authors of the draft resolutions and amendments to consult together with a view to presenting, if possible, a joint text at the next meeting.

The meeting rose at 5.25 p.m.