



Twelfth session
Agenda item 54

QUESTION OF DEFINING AGGRESSION: REPORT OF THE
1956 SPECIAL COMMITTEE

Report of the Sixth Committee

Rapporteur: Dr. A.H. TABIBI (Afghanistan)

1. The General Assembly, at its 682nd plenary meeting on 20 September 1957, included in the agenda of its twelfth session the item "Question of defining aggression: report of the 1956 Special Committee", and referred it to the Sixth Committee.
2. The Sixth Committee considered the item at its 514th to 528th meetings held between 7 October and 4 November and its 530th to 538th meetings held between 6 and 21 November 1957.
3. At the outset of the debate, the representative of the Netherlands, Mr. B.V.A. Röling, Rapporteur of the 1956 Special Committee on the Question of Defining Aggression, introduced the report of that Committee.^{1/} He stated that the Special Committee had not succeeded in fulfilling a part of the task entrusted to it by General Assembly resolution 895(IX), that is, to draw up a draft definition of aggression; however, it had fulfilled the other part, which was to study the question of aggression "having regard to the ideas expressed at the ninth session of the General Assembly and to the draft resolutions and amendments submitted".

1/ Official Records of the General Assembly, Twelfth Session, Supplement No. 16 (A/3574).

Proposals and amendments

4. Two draft resolutions containing a definition of aggression were submitted to the Committee:

- (a) By the Union of Soviet Socialist Republics (A/C.6/L.399);
- (b) By Iran and Panama (A/C.6/L.401).

5. In addition, the representative of Belgium submitted a working paper containing a definition of aggression.^{2/}

6. The representative of Afghanistan submitted an oral amendment to the USSR draft resolution (A/C.6/L.399), to add to the list of acts of aggression contained therein the closure of historical trade routes of a land-locked country or the creation of difficulty in the way of free and normal trade and commerce. He also submitted a similar amendment to the draft resolution of Iran and Panama (A/C.6/L.401).

7. Two draft resolutions relating to procedure were also submitted:

- (a) By the United States of America (A/C.6/L.402), whereby the General Assembly would decide to postpone indefinitely further consideration of the question of defining aggression. This draft resolution was later withdrawn.

- (b) By Chile, Colombia, Cuba, Ecuador, El Salvador, the Philippines and Venezuela (A/C.6/L.403 and Corr.1). Under the terms of that draft resolution, the Assembly would: (1) take note of the report of the Special Committee on the Question of Defining Aggression and express appreciation for the valuable work done; (2) ask the Secretary-General to request the views of the new States Members on the question and renew the request to States Members which have not done so to submit comments as provided in resolution 688(VII), furnishing them with the documentation produced after the adoption of that resolution; (3) ask the Secretary-General to report to the Assembly at its fourteenth session on the replies received; and (4) place the question on the provisional agenda of the fourteenth session.

8. An amendment to the seven-Power draft resolution (A/C.6/L.403 and Corr.1) was submitted by Afghanistan, Bolivia, Guatemala, Haiti, Mexico and Peru (A/C.6/L.404) to replace operative paragraphs 2 and 3 by provisions whereby

^{2/} See A/C.6/SR.514.

the Assembly would: (1) re-establish the Special Committee on the Question of Defining Aggression and increase its membership; and (2) request the Special Committee to convene in 1959 and to submit its report to the Assembly at its fourteenth session.

9. A sub-amendment to the above-mentioned amendment (A/C.6/L.404) was submitted by Ceylon, Egypt and Indonesia (A/C.6/L.406) to insert in paragraph 3 the phrase "to give priority in its work to the elaboration of the notion of armed aggression" after the words "in 1959".

10. An amendment to the seven-Power draft resolution (A/C.6/L.403 and Corr.1) was also submitted by the United States (A/C.6/L.407): (1) to delete the words "which have not done so" from operative paragraph 2; (2) to replace paragraphs 3 and 4 by the following:

"3. To ask the Secretary-General to refer the replies of the Members to a committee composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly, which committee shall study the replies for the purpose of determining when it shall be appropriate for the General Assembly to consider again the question of defining aggression and shall report to the Secretary-General when it has determined that the time is appropriate, setting forth the considerations which led to its decision;

"4. To request the Secretary-General to place the question of defining aggression on the provisional agenda of the General Assembly, not earlier than its fourteenth session, when the committee has advised him that it considers the time appropriate;

"5. To request the Secretary-General to convene the first meeting of the committee prior to the fourteenth session of the General Assembly."

11. Another amendment to the seven-Power draft resolution (A/C.6/L.403 and Corr.1) was submitted by Egypt (A/C.6/L.409):

(1) To replace the third and fourth paragraphs of the preamble by the following:

"Having considered the report of the 1956 Special Committee on the Question of Defining Aggression";

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(2) To replace operative paragraphs 2, 3 and 4 by the following:

"2. To postpone further consideration of the question of defining aggression during the present session of the General Assembly;

"3. To place the question on the provisional agenda of the fourteenth session of the General Assembly."

Poland later joined Egypt as a co-sponsor of this amendment.

12. An oral amendment to the seven-Power draft resolution (A/C.6/L.403 and Corr.1) was submitted by the representative of India, to replace in the second paragraph of the preamble the words "other aspects of the definition of aggression" by the words "other aspects of a definition of aggression".

13. The sponsors of the draft resolution accepted the amendments of India and the United States (A/C.6/L.407) and issued a revised text incorporating the United States amendment (A/C.6/L.403/Rev.1).

14. An oral amendment to this revised text was submitted by the representative of Ceylon (also on behalf of Egypt and Indonesia) to insert a new third preambular paragraph as follows:

"Considering that the debate on the question of defining aggression at the twelfth session of the General Assembly has revealed the desire of a great number of delegations that priority should be given to the elaboration of the notion of armed aggression."

General debate

15. Many delegations were of the opinion that the importance of a definition of aggression was becoming steadily greater. At a time when the international atmosphere remained tense and alarming and the armaments race was gathering speed, public opinion was calling for a definition of aggression. Such a definition should take its place among the measures designed to eliminate the threat of a new war, for it would serve as a warning to aggressors and would make it harder to justify aggression. A definition of aggression would reduce international tension, serve to develop international criminal law and provide guidance for the competent organs of the United Nations responsible for maintaining peace and security.

16. On the other hand, a number of delegations held that a definition of aggression would hardly facilitate the task of the Security Council or of the General Assembly since it would restrict the discretion which those organs possessed under the Charter. Moreover, the practical importance of a definition was very limited because, however worded, it would be easily evaded. In case of aggression, the main thing was not to have a definition but to ensure that the system of collective security should be applied. In the past, the achievements of the United Nations in maintaining international peace and security had been accomplished without the aid of a definition of aggression; its failures could hardly be attributed to the absence of such a definition.

17. Another argument against defining aggression was that the international situation had placed greater emphasis on the functions of conciliation and mediation of the United Nations rather than on the coercive function. Member States were reluctant to undertake collective military action for fear of provoking a third world war. Consequently, it might be a sound policy to refrain from branding as an aggressor one of the parties to a dispute which might be settled by mediation.

18. It was also felt by some delegations that any hasty attempt to define aggression would not promote international peace but would only accentuate the existing international tension. In addition, international law at the present time could not foresee all the problems created by the possible use of nuclear and thermonuclear weapons and by experiments made to promote their further development.

19. Many delegations stated that no definition of aggression would be really useful unless it was accepted by a large majority of Member States. Some expressed the opinion that the majority should include the permanent members of the Security Council.

20. It was said that the General Assembly should limit itself, at least for the time being, to assembling and, if possible, interpreting the most serviceable and pertinent provisions of the Charter on the matter, and only thereafter attempt to analyse what exactly constituted armed attack and the other forms of aggression which various States considered definable.

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21. With regard to the type of definition to be adopted, the delegations that favoured a definition of aggression recommended a mixed definition, that is, one in which a general description would precede and govern a list of definite acts of aggression, which would be included merely to illustrate and not to restrict the general description.

22. With regard to content, several delegations stated that there was no need to define aggression within the meaning of Article 39 of the Charter, but that the definition should be confined to the notion of armed attack, in the sense of Article 51 of the Charter. It was conceivable that certain acts other than aggression might be declared illegal in an international convention, but it would only lead to confusion if they were included in the notion of aggression.

23. On the other hand, many delegations pointed out that under the Charter aggression was not confined to the use of armed force, and that the notion of "armed attack" mentioned in Article 51 of the Charter was but a special case of armed aggression in the sense of Article 39. Article 39 authorized the Security Council to take measures in the event of a threat to the peace, and in modern times it was indisputable that certain economic or ideological measures might constitute such a threat. Attempts to deprive a State of economic resources or to endanger its trade or trade routes should be considered acts of aggression.

24. Some delegations, however, which thought that under the Charter indirect aggression, economic aggression and ideological aggression might be included in the definition, pointed out that it would be better for the time being to confine the definition to armed attack, without prejudice to the recognition of other forms of aggression.

25. One delegation held the view that particular attention should be paid to the practical functions that a definition of aggression might be called upon to serve. Since the main purpose of the definition was to assist the competent organs of the United Nations in performing their functions, it was necessary to decide at what point in a dispute those organs would need such a definition: the beginning of the dispute, its development leading to intervention by United Nations organs, the decision or recommendation of those organs, the

attitude of the parties towards such a decision and, finally, the reaction of the United Nations to that attitude. Accordingly, the problem would only have to be faced if any of the States concerned refused to accept the decision of the United Nations, and only at that point would it be necessary to determine who was the aggressor.

26. In the opinion of some delegations, the chronological order of events was an important criterion and would be decisive in determining who was responsible for aggression. It was maintained that it would be necessary, when preparing a definition of aggression, to explain that the aggressor State would be that which first committed any of the acts enumerated in the definition. A definition which neglected that principle of priority would not only be ambiguous, but might also be used as a justification for preventive war.

27. For other delegations, the definition could not be based on the chronological order of events because that would lead to dangerous consequences. The aggressor would not necessarily be the State which first committed an act considered as an act of aggression. Whether or not the State was the aggressor would depend on the circumstances peculiar to each particular case.

28. It was also proposed to include in the definition a certain number of circumstances which in no case should serve as a justification for aggression. That proposal was criticized by some delegations as likely to give the impression that other circumstances, not included in the definition, might justify aggression. Furthermore, some critics contended that it would be illogical to give various pretexts which could not serve as justification for aggression when the basic principle was that nothing justified aggression.

Procedural debate

29. During the general debate, it appeared that a majority of delegations were not in favour of defining aggression at the present session, but wanted the question to be postponed. Some delegations wished to postpone the question indefinitely; others were in favour of placing the question on the provisional agenda of the fourteenth session of the General Assembly.

30. Among the latter group, many delegations suggested that the States newly admitted to the United Nations, as well as those other Members which had not submitted their comments as provided in resolution 688 (VII) of 20 December 1952, should be given the opportunity to do so between the present and the fourteenth sessions. They also wanted the Secretary-General to report at the fourteenth session on the observations received.

31. Several other delegations considered such a procedure insufficient. They were in favour of re-establishing the Special Committee on the Question of Defining Aggression established by resolution 895 (IX) of 4 December 1954 and to increase its membership, in particular by adding some Member States newly admitted to the Organization. The Special Committee should report to the General Assembly at its fourteenth session.

32. Towards the end of the discussion, another proposal presented as a compromise solution found considerable support, namely, that the Secretary-General should refer the replies of Member States to a committee composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the Assembly, and that this new committee should study the replies with a view to determining when it would be appropriate for the Assembly again to consider the question of defining aggression. This proposal was incorporated in the amendments submitted by the United States (A/C.6/L.407, see para. 10 above).

33. Several delegations strongly opposed that proposal on the ground that it was not a compromise solution but would, in fact, amount to an indefinite postponement of the question, because it would be left to a small political body to decide when the time was appropriate for reconsidering the matter. Some feared that the adoption of the United States proposal would restrict the right of Member States to propose an item for inclusion in the General Assembly's agenda and would set a dangerous precedent.

34. Many delegations which favoured the adoption of the United States proposal stated that their attitude should not be construed as meaning that they were against a definition of aggression. Indeed, they were of the opinion that a postponement of the question until circumstances were more favourable would, in fact, enhance the possibilities of achieving a definition of aggression.

Voting

35. At its 537th meeting, on 20 November 1957, the Committee decided to vote first on the revised draft resolution of Chile, Colombia, Cuba, Ecuador, El Salvador, the Philippines and Venezuela (A/C.6/L.403/Rev.1) and the amendments thereto. The results of the vote were as follows:

Operative paragraph 1 of the draft resolution was adopted by 61 votes to none, with 9 abstentions.

Paragraph 2 of the amendment submitted by Afghanistan, Bolivia, Guatemala, Haiti, Mexico and Peru (A/C.6/L.404) was rejected by a roll-call vote of 34 to 28, with 11 abstentions, as follows:

In favour: Afghanistan, Albania, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Czechoslovakia, Egypt, Ethiopia, Guatemala, Haiti, Hungary, Indonesia, Iran, Iraq, Mexico, Panama, Peru, Poland, Romania, Saudi Arabia, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Against: Australia, Belgium, Brazil, Canada, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Honduras, Iceland, Israel, Italy, Japan, Liberia, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Philippines, Portugal, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Argentina, Austria, Cambodia, Chile, Costa Rica, Greece, India, Malaya (Federation of), Nepal, Thailand, Uruguay.

In view of this result, paragraph 3 of the amendment and the sub-amendment submitted by Ceylon, Egypt and Indonesia (A/C.6/L.406) were not voted upon.

Paragraph 2 of the amendment submitted by Egypt and Poland (A/C.6/L.409) was rejected by a roll-call vote of 35 to 28, with 10 abstentions, as follows:

In favour: Afghanistan, Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Czechoslovakia, Egypt, Ethiopia, Greece, Guatemala, Haiti, Hungary, India, Indonesia, Iran, Iraq, Mexico, Panama, Poland, Romania, Saudi Arabia, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Against: Argentina, Australia, Belgium, Brazil, Canada, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, France, Honduras, Iceland, Israel, Italy, Japan, Liberia, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Philippines, Portugal, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Austria, Bolivia, Cambodia, Chile, Finland, Malaya (Federation of), Nepal, Peru, Thailand, Uruguay.

Paragraph 1 of the amendment, as well as the Ceylon oral amendment, were not voted upon.

Operative paragraphs 2 to 5 of the draft resolution (A/C.6/L.403/Rev.1) were adopted by 41 votes to 23, with 9 abstentions.

The second preambular paragraph of the draft resolution was adopted by 54 votes to none, with 16 abstentions.

The preamble as a whole was adopted by 43 votes to none, with 27 abstentions.

The draft resolution as a whole was adopted by a roll-call vote of 41 to 21, with 11 abstentions, as follows:

In favour: Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Honduras, Iceland, Israel, Italy, Japan, Liberia, Luxembourg, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Philippines, Portugal, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Afghanistan, Albania, Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Czechoslovakia, Egypt, Guatemala, Haiti, Hungary, Indonesia, Mexico, Poland, Romania, Saudi Arabia, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia.

Abstaining: Austria, Bolivia, Burma, Cambodia, Greece, India, Iran, Iraq, Malaya (Federation of), Panama, Peru.

36. As the procedural draft resolution had been adopted, the draft resolutions relating to the substance of the question (A/C.6/L.399 and A/C.6/L.401) were not put to the vote.

Recommendation of the Sixth Committee

37. The Sixth Committee therefore recommends to the General Assembly the adoption of the following resolution:

Question of defining aggression

The General Assembly,

Recalling its resolutions 599 (VI) of 31 January 1952, 688 (VII) of 20 December 1952 and 895 (IX) of 4 December 1954, all referring to a definition of aggression,

Considering that, in spite of the progress made in the study of the question, the discussion at the present session shows the need for the elucidation of other aspects of a definition of aggression,

Considering that the report presented by the 1956 Special Committee on the Question of Defining Aggression^{1/} is an important study based on the views expressed by States Members of the United Nations up to the date of the reports's preparation,

Considering that since then twenty-two additional States have joined the Organization and that it would be useful to know their views on the matter,

Resolves:

1. To take note of the report of the 1956 Special Committee on the Question of Defining Aggression and to express appreciation for the valuable work done;
2. To ask the Secretary-General to request the views of the new States Members on the question, and to renew the request to States Members to submit comments as provided in resolution 688 (VII) of 20 December 1952, furnishing them with the documentation produced after the adoption of that resolution;
3. To ask the Secretary-General to refer the replies of the Members to a Committee composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General

^{1/} Official Records of the General Assembly, Twelfth Session, Supplement No. 16 (A/3574).

Assembly, which Committee shall study the replies for the purpose of determining when it shall be appropriate for the General Assembly to consider again the question of defining aggression, and shall report to the Secretary-General when it has determined that the time is appropriate, setting forth the considerations which led to its decisions;

4. To request the Secretary-General to place the question of defining aggression on the provisional agenda of the General Assembly, not earlier than its fourteenth session, when the Committee has advised him that it considers the time appropriate;

5. To request the Secretary-General to convene the first meeting of the Committee prior to the fourteenth session of the General Assembly.
