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RESOLUTION 1181 (XII)
(QUESTION OF DEFINING AGGRESSION)

Comments by Governments on the Question
of Defining Aggression

TABLE OF CONTENTS

	Page
Note by the Secretary-General	2
Comments by Governments	
1. Afghanistan	3
2. Brazil	7
3. Bulgaria	8
4. Cambodia	8
5. Ceylon	9
6. Denmark	9
7. France	10
8. India	11
9. Indonesia	12
10. Japan	12
11. New Zealand	13
12. Norway	14
13. Poland	14
14. Sweden	14

Note by the Secretary-General

1. In pursuance of paragraph 2 of General Assembly resolution 1181 (XII) of 29 November 1957, the Secretary-General, by a letter dated 10 March 1958, invited Member States to communicate to him before 1 March 1959 any comments which they might wish to make upon the question of defining aggression.
2. The present document reproduces the texts of the comments received in response to that request prior to 31 March 1959, namely, the comments of Afghanistan, Brazil, Bulgaria, Cambodia, Ceylon, Denmark, France, India, Indonesia, Japan, New Zealand, Norway, Poland and Sweden. For the convenience of the reader the Secretariat has added, where necessary, cross-references to previous comments or statements made by the above-mentioned Governments or their representatives. Comments received after 31 March 1959 will be reproduced and circulated as addenda to the present document.
3. It will be recalled that pursuant to General Assembly resolution 688 (VII) of 20 December 1952, the Governments of Argentina, the Byelorussian Soviet Socialist Republic, Denmark, France, Greece, India, Poland, Sweden, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland had previously submitted comments on the question of defining aggression.^{1/}
4. It should also be noted that earlier comments regarding a draft code of offences against the peace and security of mankind and the question of defining aggression were submitted in pursuance of General Assembly resolution 599 (VI) of 31 January 1952 by the following Member States: Bolivia, Chile, Costa Rica, Denmark, Egypt, France, India, Indonesia, Iraq, the Netherlands, Nicaragua, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and Yugoslavia.^{2/}

^{1/} See Official Records of the General Assembly, Ninth Session, Annexes, Agenda item 51, document A/2689 and Corr.1 and Add.1.

^{2/} Ibid., Seventh Session, Agenda item 54, document A/2162 and Add.1.

1. AFGHANISTAN

Note Verbale from the Permanent Mission of Afghanistan
to the United Nations dated 5 February 1959

/Original: English/

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The opinion of the Government with regard to most of the problems involved has at several occasions^{3/} been stated by the Afghan representative at the Sixth Committee of the General Assembly.

In order to clarify further its views on the question the Government has the honour to state as follows:

1. Among the purposes of the United Nations the maintenance of peace and security is mentioned in the first place in Article 1 of the Charter. In the system established for this purpose the notion of aggression is, according to Article 39, of predominant importance. The concept of aggression is also important for the right of self-defence as laid down in Article 51 of the Charter. A Code of Offences against the Peace and Security of Mankind will hardly be possible without provisions with regard to acts of aggression.

Already these facts demonstrate the desirability of a common understanding on the meaning of the term of aggression. Those who object to the idea of defining aggression seem not to contest, in principle, that a definition would be desirable. Their objections are based on misgivings regarding the "possibility" of a definition. And again, when arguing in this respect most of them refer not to the technical possibility but to the political possibility under the present circumstances to reach an agreement on a definition which would serve its purposes. As a matter of fact, the differences in opinion which have been expressed during the discussions of this question show themselves the need for a definition.

^{3/} Official Records of the General Assembly, Seventh Session, Sixth Committee, 330th meeting, paras. 1-5; Twelfth Session, Sixth Committee, 520th meeting, paras. 10-16; 531st meeting, paras. 12-13; 534th meeting, paras. 1-4; 537th meeting, paras. 2-6.

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2. The above comments show that the Afghan Government still shares the opinion expressed in the General Assembly's resolution 599 (VI) and later on confirmed in the resolution 688 (VII) that it is desirable to define aggression with a view to ensuring international peace and security and to developing international criminal law.

In the first place, a definition would serve as a useful guide to the organs of the United Nations in their work. It has been pointed out that a definition would not be legally binding to the Security Council, which according to the Charter of the United Nations is vested with power to determine the existence of acts of aggression. Even if that is true, there could, in the opinion of the Afghan Government, be no doubt that a definition, based on a common concept of the basic criteria of aggression, would on most occasions facilitate the task of the Council and exercise an important moral pressure on the delegates of all States which have approved the definition.

If the interpretation of Article 39 of the Charter always finally is left to the discretion of the Security Council, no discretionary interpretation can be accepted with regard to the right of self-defence according to Article 51. This Article lays down a rule of legal nature. It certainly must be most desirable that a rule of this character, if it is not self-explanatory, gets an authoritative interpretation to the guidance of the States. The discussions at the United Nations show that there is no unanimity in the understanding of Article 51.

Aggression is a principal notion in international criminal law and is heading the enumeration of crimes in the draft Code of Offences against the Peace and Security of Mankind, prepared by the International Law Commission. Especially if such a Code should be accepted without provisions for the interpretation of this notion, a definition of the term aggression in the Charter would be of great significance for the application of the Code.

3. The term aggression as used in Article 39 of the Charter and the term armed attack (aggression armée) used in Article 51 are obviously not of identical meaning. The former term has a wider scope than the latter. This appears not only from the difference of the wordings used in the two Articles but also from the discussions which led to the acceptance of the Charter.

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Before dealing more in detail with the questions regarding the interpretation of the term aggression as used in Article 39 and the various types of definition, the Afghan Government wants to stress the desirability of defining separately the concept of armed attack envisaged in Article 51. This Article provides an exception from the general prohibition against the use of armed force, and it is important to eliminate as far as possible any doubt concerning the circumstances in which the use of such force is allowed under the Charter.

A State which is faced with the problem whether, in a given case, the use of force in self-defence is justified will rarely have the occasion to abide any authoritative interpretation from the competent organs of the United Nations but will have to act according to its own judgement. A clarification of the armed attack would serve the purpose of indicating to the States the limits of the right in this respect and would at the same time enlighten public opinion on that important question.

In the opinion of the Afghan Government none of the drafts submitted makes a clear distinction between armed attack as justifying self-defence and other kinds of aggression. Paragraph 1 of the USSR draft as interpreted by its sponsors during the various discussions seems to be the main attempt to solve this problem. However, the definition given in this draft is not quite satisfactory. Under paragraph 1 (d) is laid down that the landing of land forces inside the boundaries of another State shall be considered as an attack. From paragraph 6 B (j) of the same draft it appears, however, that not every incursion shall be deemed to have such character. In this paragraph it says that "frontier incidents" may not be used as justification for an attack. The implication seems to be that a frontier incident shall not in itself be considered as an attack. The importance of this exception should not be underestimated. Many wars have started by what has been called frontier incidents. The meaning of the term is far from clear. The vagueness of the term has apparently been felt by the Syrian Delegation at the Sixth Committee who has suggested the wording "Isolated frontier incidents not constituting part of a general plan of aggression."^{4/} From the point of view of defining aggression this amendment, however, forms a logical circle, and besides it is of limited use for a State, against the territory of which the incursion takes place, as it might often be extremely difficult, or even impossible, for that State to judge upon what plans there are behind such an accident.

^{4/} Ibid., Twelfth Session, Sixth Committee, 517th meeting, para. 19.

In the opinion of the Afghan Government it is almost as essential to define the notion of frontier incidents, if these should be excepted from the concept of armed attack, as to define the latter concept in itself.

4. As stated above the Afghan Government considers the term aggression in Article 39 of the Charter as wider than the term armed attack. From the discussions at the United Nations it appears that it will be extremely difficult to reach a common agreement on the definition of the term aggression as used in Article 39. Though the Afghan Government would be in favour of a more elaborate definition, it would also support a definition with a more limited direct application.

Anyhow, indirect aggression should be included in a definition at least in its especially dangerous forms, such as fomenting civil strife in a foreign country through assistance to armed bands. Certain forms of economic aggression should also be directly dealt with in a definition. The Afghan Government particularly wants to point out that kind of economic aggression which consists in blockading the trade routes of landlocked countries. Almost all the drafts include in the definition of aggression the blockading of coasts or ports or any other part of the territory of a State by the land, sea or air forces of another State. Though such blockade is carried out by means of military forces, it will often have the nature, in fact, of an economic aggression. For a land-locked country quite the same effect will occur by a closing of a border without any military support. At the 520th meeting of the Sixth Committee the Afghan delegate had drawn the attention to this problem and suggested amendments to two of the draft resolutions, documents A/C.6/L.399 and A/C.6/L.401 as such; "to add to list of acts of aggression contained therein the closure of historical trade routes of a landlocked country or the creation of difficulty in the way of free and normal trade and commerce". (see Document A/3576).

5. With regard to the different types of definition the Afghan Government finds the mixed definition preferable to other types. As an enumeration or exemplification in such a definition should not be exhaustive, the Government cannot share the misgivings of those who think that a mixed definition should have the effect that acts not expressly mentioned should be considered as more or less recognized. If a more elaborate definition will not have sufficient support, the Afghan Government holds the opinion that the method used in the draft submitted by Iran and Panama would provide a satisfactory result.

6. Finally the Afghan Government wants to draw the attention to the desirability of a general terminology in a definition of aggression and in a Code of Offences against the Peace and Security of Mankind. As an example of possible confusion in this respect the Government wants to point out that in the draft Code of Offences against the Peace and Security of Mankind, "the organization, or the encouragement of the organization, by the authorities of a State of armed bands within its territory or any other territory for incursions into the territory of another State ... as well as direct participation in or support of such incursions" (Article 2 (4) is dealt with as a crime beside "acts of aggression" (Article 2 (1) whereas activities of the same kind are characterized, in the draft of Iran and Panama as aggression and in the draft of the USSR partly as armed attack.

7. The Afghan Government, though regretting the delay which will be a consequence of the procedure adopted at the last session of the General Assembly, considers it encouraging that there has finally been no proposal of postponing the matter indefinitely and maintains the hope that a definition will be accepted as soon as possible.

2. BRAZIL

Letter from the Permanent Mission of Brazil to
the United Nations dated 16 February 1959

/Original: English/

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In compliance with the terms of resolution 1181 (XII) of 29 November 1957, requesting comments on the question of defining aggression, the Brazilian Government wishes to state that it continues to hold the same position as that expressed by the Brazilian Delegate on the Sixth Committee in previous sessions of the General Assembly.^{5/} My Government believes, therefore, that no further comments are necessary.

5/ Official Records of the General Assembly, Seventh Session, Sixth Committee, 332nd meeting, paras. 15-28; Ninth Session, Sixth Committee, 405th meeting, paras. 39-44; Twelfth Session, Sixth Committee, 515th meeting, paras. 1-5; 533rd meeting, para. 7.

3. BULGARIA

Note Verbale from the Permanent Mission of
the People's Republic of Bulgaria to the
United Nations dated 8 January 1959

/Original: English/

..... has the honour to advise that it maintains the view on the definition of aggression as stated by the Bulgarian delegation in the Sixth Committee during the twelfth session^{6/} of the United Nations General Assembly thereby supporting the definition proposed by the delegation of the USSR.^{7/}

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4. CAMBODIA

Letter from the Minister for Foreign Affairs
of Cambodia dated 20 June 1958

/Original: French/

..... I have the honour to inform you that the Royal Cambodian Government has no comments to submit at the present time. It reserves, however, its right to submit any observations which it may deem useful at a later stage.

4. CAMBODIA

Letter from the Minister for Foreign Affairs
of Cambodia dated 20 June 1958

/Original: French/

..... j'ai l'honneur de vous faire connaître que le Gouvernement Royal du Cambodge n'a pour le moment aucune observation à présenter. Il se réserve toutefois de présenter ultérieurement toute remarque qu'il jugera utile.

^{6/} Official Records of the General Assembly, Twelfth Session, Sixth Committee, 519th meeting, paras. 3-8.

^{7/} Document A/C.6/L.399.

5. CEYLON

Letter from the Ministry of External Affairs
of Ceylon dated 12 February 1959

[Original: English]

..... I am directed by the Minister for External Affairs to inform you that the Government of Ceylon does not have any special comments to offer on the question of defining aggression.

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6. DENMARK

Note Verbale from the Permanent Mission of Denmark
to the United Nations dated 26 February 1959

[Original: English]

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Upon instruction from his Government the Permanent Representative of Denmark has the honour to inform the Secretariat that the Government of Denmark has no comments to submit in addition to its previous statements^{8/} on this question, and that the Danish authorities are still of the opinion that definition of the term aggression is neither possible nor presumably desirable at the present time.

8/ See Official Records of the General Assembly, Seventh Session, Annexes, Agenda item 54, document A/2162; ibid., Ninth Session, Agenda item 51, document A/2689. Also statements by the representatives of Denmark in the Sixth Committee: Ibid., Seventh Session, Sixth Committee, 335th meeting, paras. 34-37; 343rd meeting, paras. 38-39; Ninth Session, Sixth Committee, 419th meeting, para. 29; Twelfth Session, Sixth Committee, 524th meeting, paras. 23-25.

7. FRANCE

Transmitted by a note verbale from the Permanent Mission
of France to the United Nations dated 6 March 1959

[Original: French]

.....

I have the honour to inform you that the French Government does not intend to submit any further comments: It maintains the position stated in its letters of 28 February 1950, 25 June 1952 and 16 June 1954,^{9/} and expressed by its representatives during the discussions in the General Assembly^{10/} and in the 1953 and 1956 Special Committees on the Question of Defining Aggression.^{11/}

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7. FRANCE

Transmitted by a note verbale from the Permanent Mission
of France to the United Nations dated 6 March 1959

[Original: French]

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J'ai l'honneur de vous faire savoir que le Gouvernement français n'a pas l'intention de présenter de nouvelles observations: il s'en tient à celles qui ont été formulées dans ses lettres des 28 février 1950, 25 juin 1952 et

9/ Document A/CN.4/19; Official Records of the General Assembly, Seventh Session, Annexes, Agenda item 54, Document A/2162; Ibid., Ninth Session, Agenda item 51, Document A/2689.

10/ Ibid., Seventh Session, Sixth Committee, 330th meeting, paras. 22-30; 336th meeting, paras. 50-51; 342nd meeting, paras. 9-11; 344th meeting, paras. 39-45; Ninth Session, Sixth Committee, 405th meeting, paras. 13-26; 416th meeting, paras. 1-5; Twelfth Session, Sixth Committee, 521st meeting, paras. 7-13; 525th meeting, paras. 37-39; 532nd meeting, paras. 10-17; 533rd meeting, paras. 23-26; 536th meeting, paras. 9-15.

11/ Document A/AC.66/SR.3; SR.7; SR.8; SR.10; SR.11; SR.13; SR.15; SR.18 to SR.21; A/AC.77/SR.1 and 2.

16 juin 1954^{9/} et exposées par ses représentants tant au cours des débats de l'Assemblée générale,^{10/} que devant le Comité spécial pour la question de la définition de l'agression de 1953 et devant celui de 1956.

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8. INDIA

Note Verbale from the Permanent Mission of India
to the United Nations dated 18 March 1959

[Original: English]

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The position of the Government of India on this matter has been explained at length in previous meetings of the General Assembly^{12/} particularly in the 520th meeting of the Sixth Committee held on the 22nd October 1957. The Government of India does not desire to make any comments beyond what has already been stated by their representatives in the General Assembly on those occasions.

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9/ Document A/CN.4/19; Documents officiels de l'Assemblée générale, septième session, Annexes, point 54 de l'ordre du jour, document A/2162; Ibid., neuvième session, point 51 de l'ordre du jour, document A/2689.

10/ Ibid., septième session, Sixième Commission, 330ème séance, paras. 22-30; 336ème séance, paras. 50-51; 342ème séance, paras. 9-11; 344ème séance, paras. 39-45; neuvième session, Sixième Commission, 405ème séance, paras. 13-26; 416ème séance, paras. 1-5; douzième session, Sixième Commission, 521ème séance, paras. 7-13; 525ème séance, paras. 37-39; 532ème séance, paras. 10-17; 533ème séance, paras. 23-26; 536ème séance, paras. 9-15.

11/ Documents A/AC.66/SR.3; SR.7; SR.8; SR.10; SR.11; SR.13; SR.15; SR.18; SR.19; SR.20; SR.21; SR.22; A/AC.77/SR.1 and 2.

12/ Official Records of the General Assembly, Seventh Session, Sixth Committee, 341st meeting, para. 24; Ninth Session, Sixth Committee, 411th meeting, paras. 20-30; 418th meeting, paras. 1-3, 8; Twelfth Session, Sixth Committee, 520th meeting, paras. 47-54.

9. INDONESIA

Letter from the Permanent Mission of Indonesia
to the United Nations dated 26 February 1959

[Original: English]

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Having studied the records of proceedings of the General Assembly during its twelfth session, regarding the question of defining aggression, the Indonesian Government takes the view that, in principle, its position on the matter remains in conformity with the statement made by Mr. Nugroho, the Indonesian representative on the Sixth Committee, on 25 October 1957.^{13/}

In brief, the above statement points out that the Indonesian Government should like to see the establishment of a definition of aggression that may serve as a guide for action by the competent United Nations bodies in future cases of aggression.

The Indonesian Government favours the formulation of a general definition which would cover the widest possible variety of aggression and would be followed by an enumeration which should not be restrictive but rather should serve as illustrations, to enable the competent United Nations bodies automatically to determine when a case of a clear-cut, forthright aggression occurs.

At the present time, the Indonesian Government reserves its right to dwell in detail on the articles on the definition of aggression submitted by the 1956 Special Committee.

10. JAPAN

Letter from the Permanent Mission of Japan
to the United Nations dated 13 March 1959

[Original: English]

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I. Views on the question of defining aggression.

The Government of Japan has no objection, in principle, to making a definition of aggression. It considers it highly desirable, if there actually

^{13/} Ibid., Twelfth Session, Sixth Committee, 522nd meeting, paras. 13-21.

exists the prospect of reaching an agreement of views among the Member States on the definition of aggression.

In fact, however, there are still wide divergence of opinion on the matter among the Member States, although the question has been under consideration in the United Nations since 1950.

Under such circumstances, it is apparent that even if a definition of aggression should be adopted by the Assembly by virtue of a majority decision, overriding oppositions, such a definition would neither be binding upon those Member States who have opposed it nor could it eliminate, under the present international situation, the possibility of arbitrary interpretations being made of such a definition by those Member States who have favoured it.

In view of the above considerations, it is considered inappropriate at the present stage to try to reach hasty conclusions on the matter, and it is believed that no useful purpose will be served by discussion of the substance of the question until there has been an improvement of atmosphere in international relations and unless a good prospect is in sight for reaching an agreement on the contents of such a definition among the Member States.

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11. NEW ZEALAND

Letter from the Department of External Affairs
of New Zealand dated 6 February 1959

[Original: English]

..... I have the honour to state that the New Zealand Government considers it unlikely that a further discussion of the question of defining aggression would be fruitful if it were held in the near future. At the twelfth regular session of the General Assembly, when this question was last considered, the New Zealand representative expressed the view that it would not be appropriate to resume discussion until there had been a change in the attitudes of a substantial number of Member States towards the question of defining aggression.^{14/} The New Zealand Government is not aware of any developments which would give grounds for believing that such a change has taken place.

^{14/} Ibid., Twelfth Session Sixth Committee, 520th meeting, paras. 10-16.

12. NORWAY

Letter from the Permanent Mission of Norway
to the United Nations dated 3 March 1959

/Original: English/

..... I have the honour to inform you that the Norwegian authorities at this time have no comments to offer on the question of defining aggression.

13. POLAND

Letter from the Permanent Mission of the Polish People's Republic
to the United Nations dated 12 March 1959

/Original: English/

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The position of the Polish Government on the question of defining aggression did not change since the adoption of the above mentioned resolution^{15/} and therefore the submission of new comments on this subject seems to be superfluous.

Taking into account the position of the Polish delegation at the twelfth session of the General Assembly,^{16/} the Polish Government considers the inclusion of the question of defining aggression on the provisional agenda of the fourteenth session of the General Assembly most appropriate.

14. SWEDEN

Letter from the Permanent Mission of Sweden
to the United Nations dated 9 February 1959

/Original: English/

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Through its representative on the Sixth Committee of the twelfth General Assembly, the Swedish Government in an intervention delivered on 16 October 1957

^{15/} Resolution 1181 (XII).

^{16/} Official Records of the General Assembly, Twelfth Session, Sixth Committee, 527th meeting, paras. 1-11.

as well as in an explanation of vote made on 21 November 1957 made fully known its views on the subject and has at the present time no further comments to add to these statements.^{17/}

^{17/} Ibid., 518th meeting, paras. 1-5; 538th meeting, paras. 4-6.