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REPORT OF THE SPECIAL COMMITTEE ON THE
QUESTION OF DEFINING AGGRESSION

Report of the Sixth Committee

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I. INTRODUCTION

1. In pursuance of General Assembly resolution 2967 (XXVII) of 14 December 1972, the Special Committee on the Question of Defining Aggression met at the United Nations Office at Geneva from 25 April to 30 May 1973 to resume its work in accordance with resolution 2330 (XXII), adopted on 18 December 1967 by the General Assembly, and prepared a report on the work of its 1973 session. 1/

2. At its 2123rd plenary meeting on 21 September 1973, the General Assembly decided to include in the agenda of its twenty-eighth session the item entitled "Report of the Special Committee on the Question of Defining Aggression", which it referred to the Sixth Committee for consideration and report.

3. The Sixth Committee considered this agenda item at its 1439th to 1445th meetings, held between 15 and 23 November 1973. At the 1439th meeting on 15 November, Mr. Matey Karassimeonov, representative of Bulgaria and Rapporteur of the Special Committee on the Question of Defining Aggression, introduced the Committee's report.

4. At its 1444th meeting on 21 November, the Sixth Committee decided that its report on this agenda item would contain a summary of the main legal trends reflected during the discussion, the financial implications of such a summary having been earlier brought to its attention in accordance with General Assembly resolution 2292 (XXII).

II. PROPOSAL

5. At the 1441st meeting on 19 November, the representative of Guyana introduced a draft resolution (A/C.6/L.957) sponsored by the following States: Australia, Bulgaria, Cyprus, Czechoslovakia, Ecuador, Ghana, Guyana, Haiti, Indonesia, Jamaica, Mexico, Romania, Uruguay, Yugoslavia and Zambia, which were subsequently joined by the following States: Austria, Byelorussian Soviet Socialist Republic, Canada, Egypt, Gabon, German Democratic Republic, Guinea, India, Iran, Liberia, Madagascar, Mongolia, Nepal, Nicaragua, Panama, Senegal, Sudan, Ukrainian Soviet Socialist Republic and Union of Soviet Socialist Republics. The draft resolution read as follows:

"The General Assembly,

"Having considered the report of the Special Committee on the Question of Defining Aggression on the work of its sixth session held in Geneva from 25 April to 30 May 1973,

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 19 (A/9019).

"Noting the progress so far achieved by the Special Committee in its consideration of the question of defining aggression and on the draft definition, as reflected in its report,

"Believing that such progress makes it a practical possibility for the Special Committee to elaborate a generally acceptable draft definition of aggression at its next session,

"Considering that it was not possible for the Special Committee to complete its task at its sixth session,

"Considering that in its resolutions 2330 (XXII) of 18 December 1967, 2420 (XXIII) of 18 December 1968, 2549 (XXIV) of 12 December 1969, 2644 (XXV) of 25 November 1970, 2781 (XXVI) of 3 December 1971, and 2967 (XXVII) of 14 December 1972, the General Assembly recognized the widespread conviction of the need to expedite the definition of aggression,

"Considering the urgency of bringing the work of the Special Committee to a successful conclusion and the desirability of achieving the definition of aggression as soon as possible,

"Noting also the common desire of the members of the Special Committee to continue their work on the basis of the results achieved and to arrive with due speed at a draft definition in a spirit of mutual understanding and accommodation,

"1. Decides that the Special Committee on the Question of Defining Aggression shall resume its work, in accordance with General Assembly resolution 2330 (XXII), early in 1974 in ... with a view to completing its task and to submitting to the General Assembly at the twenty-ninth session a draft definition of aggression;

"2. Requests the Secretary-General to provide the Special Committee with the necessary facilities and services;

"3. Decides to include in the provisional agenda of its twenty-ninth session the item entitled 'Report of the Special Committee on the Question of Defining Aggression'."

6. At the 1442nd meeting on 20 November 1973, Kenya, joined subsequently by Canada, submitted an amendment (A/C.6/L.958), which was withdrawn at the 1445th meeting on 23 November 1973, that would have substituted the following wording for paragraph 1 of draft resolution A/C.6/L.957:

"1. Decides that the Special Committee on the Question of Defining Aggression shall resume its work in accordance with resolution 2330 (XXII), early in 1974 in New York, to complete its work and to submit to the General Assembly at the twenty-ninth session a draft definition of aggression;"

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III. DEBATE

A. Opinions expressed on certain preliminary questions relating to the terms of reference of the Special Committee, the status of its work and its working methods

7. All the representatives who spoke supported the resolution in which the Special Committee recommended that the General Assembly should invite it to resume its work in 1974. They pointed out that the Special Committee had made significant progress at its last session, and they believed that it would be in a position to prepare a generally acceptable draft definition of aggression at its next session. In that connexion, the report of the Special Committee on the work of its 1973 session was cited, especially paragraph 12, where it was stated that the atmosphere had been much better and that much more willingness had been demonstrated to find a generally acceptable definition of aggression. It had been observed that the Special Committee had succeeded for the first time at that session in producing, on the basis of the three main draft definitions submitted to its 1969 session, 2/ a consolidated draft text consisting of an elaborate preamble and various operative articles; it had, for the first time, been able to reach agreement or a rapprochement of views on a number of important questions; it had never before been so close to a broadly acceptable definition. It was stated that although there was as yet no consensus on the draft consolidated text, it was nevertheless a generally acceptable working document providing a basis for the elaboration of a definition of aggression. While approving the idea generally favoured by delegations that the Special Committee should be invited to hold another session in 1974, one representative felt that that session should be regarded as the last one and that delegations should come determined to reach a definition.

8. A number of representatives expressed the opinion that the working methods adopted by the Special Committee at its last session seemed to have been the best way to proceed in order to achieve constructive results. The fact that the Committee had been able to produce a consolidated draft definition was largely due to the method of unofficial consultations and negotiations that had been used, allowing for freer and broader exchanges of views than would have been possible at official meetings. Reference had also been made to the importance of operating through an informal working group and contact groups.

B. Opinions expressed on certain general aspects of the question of defining aggression

9. The importance of defining aggression was re-emphasized by several representatives. In that connexion, it was stated that a generally acceptable definition of aggression was of the utmost importance to the peoples of the world and would greatly facilitate the task of determining acts of aggression. Such a definition would not only be useful for the maintenance of international peace and security but would contribute to the unification and consolidation of the system of international security and would promote the codification and

2/ Ibid., Twenty-fourth Session, Supplement No. 20 (A/7620).

progressive development of international law. It was true that a definition would not act like magic to prevent aggression, but it would certainly exercise a restraining influence on possible aggressors. It was also said that the prevention of wars of aggression and the safeguarding of world peace were matters of great concern to all peoples and they should be the basic aim of the work of the Special Committee on the Question of Defining Aggression. On the other hand, one representative said that although he shared the view that the Special Committee should continue the work of defining aggression, it was doubtful whether a definition would have a restraining influence on a potential aggressor, would simplify the determination of acts of aggression and the implementation of measures to stop them and would facilitate the protection of the lawful rights of the victim and the rendering of assistance to the victim. It was also stated that a definition would not be useful in view of the well-known opportunism which characterized the activities of the United Nations organs which were required to determine concrete cases of aggression. Not for nothing had the San Francisco Conference decided not to attempt to define the concept of aggression.

10. With regard to the procedure to be followed in adopting a definition of aggression, a number of representatives stated that, in view of the extreme importance of defining aggression and the great complexity of some of the points involved, it was absolutely essential that agreement on the text should be reached on the basis of consensus. It was stated that a generally acceptable and workable definition of aggression could not be arrived at by voting but only by taking decisions on the basis of consensus, with due regard for the interests of all groups of States. A definition of aggression must receive general agreement if its status as an authentic and authoritative expression of the view of the international community was to be beyond doubt, and it must be consonant with the movement towards international agreement on the principles of international law. The view was also expressed that a modest compromise now was more important than continuous deliberations on a more comprehensive definition; a limited consensus could clear the way for continuing efforts to codify and progressively develop international law in some important fields. The instrument embodying the definition of aggression should take the form of a resolution of the General Assembly, as had been done in the case of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Declaration on the Strengthening of International Security.

C. Opinions expressed on the consolidated text of the draft definition contained in appendix A of annex II of the Report of the Special Committee on its 1973 session 3/

1. Preamble

11. Several representatives expressed the view that the preamble of the draft consolidated text constituted, in its broad outline, an equitable compromise,

3/ Ibid., Twenty-eighth Session, Supplement No. 19 (A/9019).

carefully balanced and satisfactorily formulated from the political and legal viewpoints. It was stated that the preamble, which seemed to have been generally accepted by the Special Committee, required some slight revision, particularly if the Special Committee decided to solve minor differences of opinion by inserting in it provisions on the issues concerned. It was pointed out that the first and third preambular paragraphs departed somewhat from the language of the Charter; the text of the definition must not directly or indirectly imply surreptitious amendment of the Charter brought about in a manner inconsistent with the relevant provisions of the Charter; the Special Committee should pay special attention to that aspect. With regard to the sixth preambular paragraph, the view was expressed that the duty of States not to use armed force to deprive peoples of their right to self-determination, freedom and independence should apply to all forms of the use of force and that there should be a reference to the principle of territorial integrity in that paragraph. It was therefore proposed that the paragraph should be amended to read: "Reaffirming the duty of States not to use force to deprive peoples of their right to self-determination, freedom and independence, or against the territorial integrity of any other State". It was further suggested that the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and the Declaration on the Strengthening of International Security should be specifically recalled in a preambular paragraph.

2. General definition of aggression (article 1)

12. The general definition of aggression enunciated in article 1 of the draft consolidated text was considered generally acceptable by several representatives. Some representatives expressed misgivings about including the words in brackets "however exerted" and felt that they should be deleted, since certain acts which constituted breaches of international peace would not necessarily be acts of aggression. If retained, they would unduly broaden the concept of aggression in a manner inconsistent with the Charter. Since the general principle enunciated in article 1 was explained by the following articles, the words in brackets were not necessary and could lead to misinterpretation; in the interest of a clear general definition, it would be better to delete those words. On the other hand, some other representatives expressed the view that the general definition should not be limited to the use of armed force alone but should embrace all kinds of force that might be used against the sovereignty, territorial integrity or political independence of a State. The deletion in the general definition of the word "armed" before the word "force" and the retention of the words "however exerted" were accordingly suggested.

13. Some representatives were in favour of keeping the word "sovereignty" in the text of the general definition, since that idea constituted an essential element of the concept of the State, which as such, was the subject of flagrant violations through the use of the armed forces of another State. It was of particular importance to small countries that sovereignty should be mentioned as one of the things which could be violated by an act of aggression. The theory that "territorial integrity" and "political independence", which were mentioned in Article 2, paragraph 4, of the Charter, coincided with the concept of sovereignty should be rejected; territorial integrity and political independence seemed to be limited concepts, in view of the experience gained since the adoption of the

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Charter; moreover, it should not be forgotten that Article 2, paragraph 1, of the Charter constituted an application of the concept of sovereignty. It was stated that the phrase "inconsistent with the Charter of the United Nations" in the text of the general definition had the merit of being concise and that the proposals to refer to the "principles and purposes" or the "principles and provisions" of the Charter did not seem to add to the clarity of the article.

14. Some representatives felt that a more explicit formulation of the notion of territory was desirable in order to cover unequivocally "territorial waters" and "airspace". Some other representatives were of the opinion that the expression "territorial integrity" embraced those two concepts and that there was therefore no need to make explicit mention of them in the text. Moreover, some representatives maintained that the concept of a "group of States" mentioned in subparagraph (b) of the explanatory note on article 1 was extraneous to the definition of aggression. It was stated that in international law, a State bore the sole responsibility for its actions and could not be made responsible for the actions of another State. The concept of collective guilt or collective responsibility of a group of States was foreign to international law and could give rise to numerous complicated questions as to who should decide, and how, whether a State belonged to a group of States. In determining aggression, the decisive factor was whether the State concerned had committed certain acts which must be characterized as aggression according to articles 2, 3 and 4 of the draft definition. Therefore, the concept of a "group of States" was not justified in a definition of aggression.

3. Questions of priority and aggressive intent (article 2)

15. A number of representatives expressed the view that the text of article 2 represented a compromise which established a judicious balance between the principle of priority and aggressive intent. In the article, it was pointed out, priority was considered as constituting only prima facie evidence of an act of aggression, while aggressive intent was considered to be an evidentiary element. It should not, however, be forgotten that in fact the Security Council would have to consider all the elements of each particular case in determining whether an act of aggression had been committed. It was felt that article 2 should win general support. It was also stated that the importance of article 2 derived primarily from the fact that it recognized the right of every State to use armed force once an act of aggression had been committed; however, while there was no intention of questioning the competence of the Security Council, the article should be clarified by the addition of a sentence reading: "No consideration concerning the domestic or foreign policy of a State may serve as justification for the use of armed force against that State by any State or group of States".

16. In the opinion of some representatives, the principle of priority alone would not suffice to establish the existence of an act of aggression and it must be combined with the criterion of aggressive intent. The Charter did lay down certain circumstances in which the use of armed force was consistent with the Charter. The definition should be so worded that it could not be used to render illegitimate that which was permitted under the Charter and under general international law. It was observed that, although significant progress had been made on the difficult questions of priority and aggressive intent, article 2 of the consolidated text

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placed exaggerated emphasis on the element of priority. It was true that the provision now recognized to some degree that determination of an act of aggression could only be made in the light of all the relevant circumstances, but it could be further improved if it was worded in such a way as to strike the correct balance between the first use of armed force and the many other circumstances, including intent, which must be taken into account. In that connexion, a distinction should be made between a violation of Article 2, paragraph 4, of the Charter and a determination that an act of aggression had been committed under Article 39: both gave rise to international responsibility, but the function and purpose of Article 39 differed significantly from those of Article 2, and to blur that distinction could only lead to confusion.

17. Several representatives, on the other hand, considered that the principle of priority should be sufficient to justify the presumption that an act of aggression had occurred. In order for the formulation of the principle of priority to be acceptable, it must indicate unequivocally that any State which was the first to use armed force should be regarded as having committed an act of aggression (subject to the clause on minor incidents), and that such use of force justified the exercise of the right of self-defence provided for in Article 51 of the Charter. The formulation should also enable the Security Council to refuse to qualify such an act as an act of aggression, taking into account its powers under the Charter. But if the matter was not brought before the Security Council, or if the latter could not take a decision, then the objective existence of an act of aggression would be presumed to have resulted from the use of armed force by the State which took the initiative. With reference to article 2 of the consolidated text, it was stated that, in order to promote general agreement on the content, it was possible to accept a reference to the notion of aggressive intent, not as a constituent element of the offence but as one of the circumstances which the Security Council might use in determining whether or not an act should be qualified as an act of aggression. Therefore, while the substance of article 2 was acceptable, its wording should be reviewed and an attempt made to improve it by using two separate sentences making it possible to distinguish between the objective existence of an act of aggression as determined by applying the rule of priority and the Security Council's power of review of that a priori determination. Moreover, the expression "in contravention of the Charter" should be deleted to the extent that it implied that a use of armed force which was not contrary to the Charter would not constitute an act of aggression. The view was expressed that one of the deficiencies of the text of article 2 could be removed by replacing the words "in contravention of the Charter" by the words "as set out in this definition" or by including a reference to article 3 (Acts proposed for inclusion).

18. Some representatives saw no relevance whatsoever in the reference to "the purposes of the States involved" as one of the factors to be considered by the Security Council in determining that a State had committed aggression. If aggressive intent was to be made a criterion for judging aggression, it was held, that would inevitably play into the hands of the aggressors; such a definition would not protect the interests of the victims of aggression. While intent was a subjective element, it was nevertheless manifested through concrete acts of aggression. Consequently, the objective acts must be taken as the basis for judging whether a certain action constituted aggression, including whether the State committing it had aggressive intent, and definitely not the other way round, i.e. the existence of an act of aggression could not be determined on the basis of

whether it was committed with aggressive intent. In order to exclude the notion of intent from the definition, it was suggested that article 2 might be worded to read: "The first use of armed force shall constitute prima facie evidence of an act of aggression provided, however, that the Security Council may conclude that a determination to that effect would not be justified in the light of other relevant circumstances. No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression".

4. Acts proposed for inclusion (article 3)

19. The list of the acts covered by article 3 of the consolidated text was, to a considerable extent, regarded as acceptable in principle by several representatives. The near-consensus on the list was ascribed largely to the consensus on article 4, concerning the non-exhaustive character of the list and the clause on minor incidents. It was stated that the words "regardless of a declaration of war" at the beginning of article 3 put that matter in a correct perspective, were in conformity with the letter and the spirit of the Charter and corresponded to modern realities, and that, in any redrafting of those introductory words, it would be highly desirable to retain that idea in an appropriate form.

20. It was proposed that there should be an express reference to weapons of mass destruction in article 3 (b). With regard to the reference to "blockade" in subparagraph (c), it was argued that it could not, in that context, imply the traditional concept of blockade; that type of blockade had virtually gone out of use, so that the reference could only be understood as having any relevance to present-day realities if it embraced direct and indirect blockade in whatever form and extent, i.e., blockade not only in the traditional sense but also all forms of economic warfare, boycott and blockade, by whatever name they were called. Doubts were expressed as to whether to retain the words "marine and air fleets" in subparagraph (d), which, it was argued, would allow countries possessing modern fishing fleets to deplete at will the fishing resources of less advanced countries, which would be deprived of the right to defend themselves. On the other hand, it was contended that those words should be retained to take account of cases involving a country whose economic survival depended on its foreign trade, which could be destroyed by an attack on its merchant marine fleet. Moreover, the words "marine and air fleets" implied a massive attack and not isolated acts.

21. It was pointed out that subparagraph (e) did not reveal any new characteristic of an aggressive act and was fully covered by subparagraph (a) of the same article. With regard to subparagraph (f), it was stated that, according to its literal meaning, the responsibility for the aggression rested exclusively with the State which placed its territory at the disposal of another State. It was argued that a State which had agreed to the stationing in its territory of the armed forces of another State should not be held liable for the latter's acts if it was not in a position to do anything about them. In other words, to be classified as an aggressor, the receiving State must be a willing accomplice, a fact which was reflected in the text of the subparagraph in the reference to the "acquiescence and agreement" of that State. It was further stated that subparagraph (f) should not in any way affect the right of peoples to struggle for self-determination.

22. Some representatives pointed out with regard to subparagraph (g) that, as currently formulated, it was open to a broad interpretation according to which not only the sending of armed bands but also the rendering of assistance to such bands might be regarded as an act of aggression. In practice, it was said, that might legitimize the right to make a pre-emptive strike and would also deny the generally recognized right to assist national liberation movements. Indirect aggression required the presence of a direct link between the sending of the armed bands and the State sending them and a certain degree of intensity of the actions of such bands if it was to be comparable to the other acts of aggression listed in the definition. In the view of other representatives, the text of subparagraph (g) dealt with the problem of the indirect use of force in an appropriate manner, for it specified that only the sending of armed bands by or on behalf of a State constituted an act of aggression, provided, of course, that the gravity of the attack was comparable to that of the acts mentioned in the preceding subparagraphs. Furthermore, if subparagraph (g) was read carefully, in conjunction with article 5 on the right of peoples to self-determination, it was clear that it imposed no limitation on the liberation movements and should therefore be accepted as a fair compromise. While, in a spirit of compromise, readiness was expressed to support the current text of the subparagraph in principle, it was found unacceptable that the mere fact that the receiving State organized, helped to organize or encouraged the formation of armed bands should constitute an act of aggression independently of whether or not it also participated in sending them on the incursions. Nor was it acceptable, a fortiori, that by making its territory available to such armed bands a State could be considered as committing an act of aggression.

23. While satisfaction was expressed that indirect aggression was placed on the same level as direct aggression, attention was drawn to the all too common attitude of passivity towards acts of indirect aggression and terrorism, an attitude which might be found not to have been adequately treated. Indirect aggression, which was one of the most dangerous and provocative forms that naked aggression could assume, was still the most important part of the draft definition on which a consensus had yet to be reached. The viability of the whole endeavour would depend on the successful outcome of the deliberations on that point. On the other hand, it was argued that subparagraph (g) as it stood was too narrow. It should be worded so as to be applicable to a State which organized or encouraged acts of civil strife or terrorist acts in the territory of another State. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States provided useful formulations on that question which the Special Committee should be able to use in drafting the text on the question of indirect aggression. In addition, to cover cases of indirect aggression perpetrated by armed bands of dissidents organized and supported by external Powers, it was proposed that the words "or its support" should be inserted in subparagraph (g).

24. While it was recognized that the list of acts in article 3 was not exhaustive, it was stated that specific reference should be made to economic aggression, either in the list or in a separate provision. It was further pointed out that aggression was not necessarily territorial but could also be political, as in cases where a State provoked a coup d'état in another country or conducted an international propaganda campaign against another State. The Special Committee should take that aspect of aggression into account. Reference was also made to the need to take cultural aggression into account.

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5. Provision on the non-exhaustive character of the list and the clause on minor incidents (article 4)

25. Several representatives expressed support for article 4. Any rule which reaffirmed and strengthened the ample powers of the Security Council with regard to the maintenance of international peace and security, it was said, deserved full support. It was also stated that the article was particularly necessary in view of the fact that many countries considered that there were other possible forms of expression. The comment was also made that more express emphasis on the Security Council's powers under Chapter VII of the Charter would seem to be in order. Seeking to determine the identity of the aggressor, it was pointed out, was not necessarily the best way of obtaining the required results. The real need was to implement the collective security machinery rather than to apportion blame. With any other approach, the Committee's work could hinder rather than further the cause of peace. On the other hand, some representatives expressed serious reservations as to the advisability of including in the definition a provision leaving the Security Council with the absolute power to decide whether a specific act constituted an act of aggression. Any definition containing such a provision would serve no useful purpose.

6. The right of peoples to self-determination (article 5)

26. Several representatives considered that article 5 constituted an essential element of the definition. It set forth the principle that the definition of aggression should not infringe upon the right of peoples to self-determination. The efforts of oppressed peoples to regain their independence and national territory and to struggle against foreign domination, it was pointed out, could not be considered a form of aggression. Acts committed in order to realize the right to self-determination and independence in a struggle against foreign occupation or domination were clearly legitimate exercises of the right of self-defence, as proclaimed in Article 51 of the Charter; under no circumstances could such acts be considered acts of aggression. It was also argued that the right to self-determination was an inherent right of all peoples recognized under the Charter and under international law; any form of colonialism, military occupation or any form of foreign domination constituted in itself an act of continuing aggression which gave rise to the right to self-defence by the peoples affected. Article 5 was of fundamental importance, and it was not enough simply to reflect in the preamble the principles which it proclaimed.

27. Some representatives, although they agreed in principle that the definition should contain a reaffirmation of the provisions of the Charter concerning the right of peoples to self-determination, considered that the right should be exercised only by peaceful and non-violent means. Reference to that right should not lead to the weakening either of the prohibition of aggression in the narrower sense or of the prohibition of the use of force in the wider sense. The definition should be regarded, above all, as an instrument designed to restrain violence and not to encourage it, and wherever the language was not absolutely clear on that point, it must be modified.

28. In order to overcome the difficulties encountered in drafting article 5, some

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representatives suggested that the Special Committee should try to agree on a carefully worded and well-balanced provision based on the corresponding clause of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States.

7. Legal consequences of aggression (article 6)

29. Several representatives supported in principle the provisions of article 6, which they regarded as constituting an extremely important element of the definition. They considered that the first paragraph of the article should include, in the space left blank between the square brackets, the most appropriate expression to bring out clearly the principle that aggression constituted a "crime" against international peace giving rise to responsibility under international law. Contemporary international law, it was pointed out, accepted that principle, which derived from many international instruments, such as the Charters of the Nuremberg and Tokyo International Military Tribunals, the basic principles of which had been widely accepted. The blank left in the first paragraph of article 6, it was said, could be filled by using words borrowed from the fifth preambular paragraph; a formulation on the lines of that used in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States could also be used. It was suggested that the first paragraph of article 6 might be worded to read:

"Aggression constitutes a crime against international peace giving rise to responsibility under international law". The view was also expressed that aggression in any form was a crime against humanity which must be punished as such. The second paragraph of article 6 was, it was observed, a natural corollary to the prohibition and condemnation of aggression. The comment was made that it was in conformity with provisions of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and the Declaration on the Strengthening of International Security, both of which stipulated that the territory of a State should not be the object of military occupation or acquisition by another State resulting from the threat or use of force and that no such territorial acquisitions should be recognized as legal; those fundamental principles had also been reaffirmed in many General Assembly and Security Council resolutions.

30. On the other hand, some representatives expressed grave doubts regarding the necessity for an article on the legal consequences of aggression, at least in the form envisaged. It was observed that there could be no doubt that an established act of aggression would ipso facto engage the international responsibility of the State concerned. It was, however, extremely doubtful whether any useful purpose was served by mere repetition of that truism. That aspect of the legal consequences of aggression belonged in the law of State responsibility - which, the International Law Commission was currently engaged in codifying - and not in the search for a definition of aggression. Moreover, it was, to say the least, curious and probably inadmissible for the article to ignore the one major consequence of aggression specifically mentioned in Article 51 of the Charter. The view was also expressed that the argument for including in the definition provisions relating to the legal consequences of aggression was unconvincing. Such provisions were in fact redundant in view of the wealth of relevant international instruments, such as the Charter of the International Military Tribunal, Nuremberg, the Charter of the International

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Military Tribunal, Tokyo, the General Assembly resolutions affirming the principles recognized by the Charter of the International Military Tribunal, Nuremberg, and the judgement of that Tribunal, as well as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States. Similarly, the inclusion of the provision on territorial acquisition was an unnecessary complication in view of the existence of a more explicit provision on the subject in that Declaration.

8. Legal uses of force, including the question of centralization (article 7)

31. Some representatives expressed the view that article 7 was satisfactory. In that connexion, it was observed that, since the Charter was one of the fundamental international legal instruments for combating threats to the peace, it would be desirable to include in the text of the definition a provision along the lines of that article, according to which all of the relevant provisions of the Charter should be taken into account in determining cases of aggression. It was further stated that it should be recalled that Article 51 of the Charter had been interpreted differently by a number of States, which had taken irreconcilable positions on the matter; in those circumstances, article 7 should be generally acceptable. While recognizing that that article logically restricted the legal uses of force to those covered by the relevant provisions of the Charter, other representatives considered that the proposed extension of the article was extremely important; it was observed that legal justification of aggression was a contradiction in terms; all forms of aggression, whether overt or covert, flagrant or concealed, must be condemned, without any possibility of a posteriori justification by fallacious and specious arguments. It was also stated that article 7 should be so worded as to limit the use of force by regional organizations, thereby putting an end to the abusive interpretation of Chapter VIII of the Charter. The definition should not include ambiguous formulas which did not dispel the doubts raised about the interpretation of the clear provisions of Article 53 of the Charter.

IV. VOTING

32. At its 1445th meeting on 23 November, the Sixth Committee decided, by 52 votes to none, with 46 abstentions, that the Special Committee's 1974 session would be held in New York. By 102 votes to none, the Sixth Committee adopted draft resolution A/C.6/L.957, with the addition of "New York" in paragraph 1 (see paragraph 33 below).

V. RECOMMENDATION OF THE SIXTH COMMITTEE

33. The Sixth Committee recommends that the General Assembly should adopt the following draft resolution:

Report of the Special Committee on the Question of Defining Aggression

The General Assembly,

Having considered the report of the Special Committee on the Question of Defining Aggression on the work of its sixth session 4/ held in Geneva from 25 April to 30 May 1973,

Noting the progress so far achieved by the Special Committee in its consideration of the question of defining aggression and on the draft definition, as reflected in its report,

Believing that such progress makes it a practical possibility for the Special Committee to elaborate a generally acceptable draft definition of aggression at its next session,

Considering that it was not possible for the Special Committee to complete its task at its sixth session,

Considering that in its resolutions 2330 (XXII) of 18 December 1967, 2420 (XXIII) of 18 December 1968, 2549 (XXIV) of 12 December 1969, 2644 (XXV) of 25 November 1970, 2781 (XXVI) of 3 December 1971, and 2967 (XXVII) of 14 December 1972, the General Assembly recognized the widespread conviction of the need to expedite the definition of aggression,

Considering the urgency of bringing the work of the Special Committee to a successful conclusion and the desirability of achieving the definition of aggression as soon as possible,

Noting also the common desire of the members of the Special Committee to continue their work on the basis of the results achieved and to arrive with due speed at a draft definition in a spirit of mutual understanding and accommodation,

1. Decides that the Special Committee on the Question of Defining Aggression shall resume its work, in accordance with General Assembly resolution 2330 (XXII), early in 1974 in New York, with a view to completing its task and to submitting to the General Assembly at the twenty-ninth session a draft definition of aggression;

2. Requests the Secretary-General to provide the Special Committee with the necessary facilities and services;

3. Decides to include in the provisional agenda of its twenty-ninth session the item entitled "Report of the Special Committee on the Question of Defining Aggression".

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 19 (A/9019).